

立法會
Legislative Council

Ref : CB2/PL/CA

LC Paper No. CB(2)869/11-12
(These minutes have been seen
by the Administration)

Panel on Constitutional Affairs

Minutes of meeting
held on Friday, 18 March 2011, at 4:15 pm
in the Chamber of the Legislative Council Building

Members present :

- Hon TAM Yiu-chung, GBS, JP (Chairman)
- Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP (Deputy Chairman)
- Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
- Dr Hon Margaret NG
- Hon CHEUNG Man-kwong
- Dr Hon Philip WONG Yu-hong, GBS
- Hon WONG Yung-kan, SBS, JP
- Hon LAU Kong-wah, JP
- Hon LAU Wong-fat, GBM, GBS, JP
- Hon Miriam LAU Kin-ye, GBS, JP
- Hon Emily LAU Wai-hing, JP
- Hon Timothy FOK Tsun-ting, GBS, JP
- Hon Abraham SHEK Lai-him, SBS, JP
- Hon Audrey EU Yuet-mee, SC, JP
- Hon WONG Kwok-hing, MH
- Hon LEE Wing-tat
- Hon Jeffrey LAM Kin-fung, SBS, JP
- Hon CHEUNG Hok-ming, GBS, JP
- Hon WONG Ting-kwong, BBS, JP
- Hon CHIM Pui-chung
- Prof Hon Patrick LAU Sau-shing, SBS, JP
- Dr Hon LAM Tai-fai, BBS, JP
- Hon CHAN Kin-por, JP
- Dr Hon Priscilla LEUNG Mei-fun
- Hon WONG Kwok-kin, BBS
- Hon IP Kwok-him, GBS, JP
- Hon Mrs Regina IP LAU Suk-ye, GBS, JP
- Hon Paul TSE Wai-chun
- Dr Hon Samson TAM Wai-ho, JP
- Hon Alan LEONG Kah-kit, SC

Hon LEUNG Kwok-hung
Hon WONG Yuk-man

**Members
absent** : Hon Albert HO Chun-yan
Hon Ronny TONG Ka-wah, SC
Hon Cyd HO Sau-lan
Hon Tanya CHAN

**Public Officers
attending** : Item III

Mr Stephen LAM
Secretary for Constitutional and Mainland Affairs

Mr Arthur HO
Deputy Secretary for Constitutional and Mainland
Affairs

Mr Freely CHENG
Principal Assistant Secretary (Constitutional and
Mainland Affairs)

Mrs Vivian TING
Chief Electoral Officer, Registration and Electoral Office

Item IV

Mr Arthur HO
Deputy Secretary for Constitutional and Mainland
Affairs

Ms Anne TENG
Principal Assistant Secretary (Constitutional and
Mainland Affairs)

Mr Freely CHENG
Principal Assistant Secretary (Constitutional and
Mainland Affairs)

Mrs Vivian TING
Chief Electoral Office, Registration and Electoral Office

Clerk in attendance : Miss Flora TAI
Chief Council Secretary (2)3

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Ms Wendy KAN
Assistant Legal Adviser 6

Miss Ivy LEONG
Senior Council Secretary (2)3

Ms Wendy LO
Council Secretary (2)3

Mrs Fanny TSANG
Legislative Assistant (2)3

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I. Information papers issued since the last meeting

Members noted that no information paper had been issued since the last meeting.

II. Items for discussion at the next meeting

[LC Paper Nos. CB(2)1270/10-11(01) and (02)]

2. Members agreed to discuss at the next regular meeting to be held on 18 April 2011 the following items proposed by the Secretary for Constitutional and Mainland Affairs ("SCMA") -

- (a) Review of various election expenses limits and adjustments to free mailing arrangements for candidates; and
- (b) Report on Further Public Discussions on Review of the Personal Data (Privacy) Ordinance.

III. 2011 Voter Registration Campaign

[LC Paper Nos. CB(2)1270/10-11(03) and (04)]

Briefing by the Administration

3. SCMA briefed members on the main features for the 2011 voter registration ("VR") campaign running from early June to 16 July 2011 for

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the 2011 District Council ("DC") election and the Election Committee ("EC") Subsector elections and the timetable for VR, updating of particulars of registered electors and publication of registers of electors as detailed in the Administration's paper [LC Paper No. CB(2)1270/10-11(03)]. Members also noted the background brief prepared by the Legislative Council ("LegCo") Secretariat on the subject matter [LC Paper No. CB(2)1270/10-11(04)].

Discussion

Practices of VR and updating of registers

4. Noting that the deadline for registration for the 2011 VR campaign was set on 16 July 2011, Mr WONG Yuk-man expressed concern about the time gap between the deadline for VR and the polling day of the coming 2011 DC election which would be held in early November 2011. Referring members to paragraphs 3.2 to 3.6 of the Information Note on "Practices of Voter Registration in Selected Overseas Jurisdictions" [LC Paper No. IN12/03-04] prepared by the Research Division of the LegCo Secretariat for the Panel meeting held on 21 June 2004, Mr WONG pointed out that there was no time gap between the deadline for application for VR and the polling day in Canada as electors could choose to register at an Elections Canada Office or at polling stations on polling day. He enquired whether immediate registration on polling day could be arranged in Hong Kong having regard to the overseas experiences. Noting that the Administration had undertaken to look into the VR procedures of overseas jurisdictions at the Panel meeting held on 19 April 2010, Mr WONG enquired whether the Administration had drawn any conclusion in that regard.

5. SCMA replied that the Administration was aware of the different practices of VR adopted in overseas jurisdictions. While compulsory VR was adopted in Australia, VR was voluntary in Hong Kong and Canada. Under the existing practice in Hong Kong, registers for electors were published annually to facilitate candidates liaising with electors. The Administration considered that the existing arrangement for VR had been functioning well as the number of registered electors had increased some hundreds of thousands over the past eight to nine years.

6. SCMA further said that in response to the views raised by LegCo Members a few years ago, the Administration had already postponed the deadline for registration of electors in a DC election year to allow more time

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for VR and the working schedule was very tight. After the completion of VR and the updating of registration particulars of electors, the preparation work of the 2011 DC election, such as nomination and campaigning activities, would have to commence immediately.

7. Mr WONG Yuk-man also enquired about the removal of the names of deceased persons from the registers and whether the family members of the deceased person had to notify the Registration and Electoral Office ("REO"). SCMA replied that REO had kept in contact with the Immigration Department to collect relevant information for that purpose.

8. Mr LEE Wing-tat and Mr IP Kwok-him asked whether on-line VR was currently available. Mr LEE suggested that the procedures of on-line application, if available, should be streamlined to facilitate voter registration, particularly by young people. The Chief Electoral Officer ("CEO") of REO advised that on-line VR was currently available by way of using the Hong Kong Post personal e-certificate. SCMA supplemented that on-line registration had to be processed with a digital certificate as the signature of an applicant was required by law. Mr LEE suggested that if an applicant was required by law to sign on the application form to register as an elector, consideration should be given by amending relevant legislation or practical guidelines to ensure that the whole procedure of VR could be processed through electronic means for the applicants' convenience.

Publicity for VR and communication with electors

9. Pointing out that the result of the VR exercise conducted by part-time VR assistants was far from satisfactory and that the registration rates of young people at the 18 to 25 age groups remained low, Mr LEE Wing-tat considered that the Administration should devise innovative publicity initiatives to promote VR among young people. SCMA advised that a launching ceremony with the participation of LegCo Members and mini-concerts in shopping malls would be organized to promote VR. The Administration was aware that the existing registration rates among young people at the 18 to 25 age groups (i.e. 50%) was not satisfactory compared with the overall registration rate of all eligible persons (i.e. 73%). To enhance the registration rate among young people, the Administration would reach out to young people through new media such as Facebook and YouTube.

10. Ms Emily LAU enquired about the registration rate of ethnic minorities as electors and the measures taken by the Administration in

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promoting VR among them. She also expressed concern that some polling stations were not provided with barrier free access to facilitate access to polling stations by persons with disabilities ("PWDs").

11. SCMA advised that there was no specific information on the number of ethnic minorities registered as electors as applicants were not required to specify their ethnic origin in their application forms. To promote VR among ethnic minorities, REO would publish promotional leaflets in different ethnic minority languages and free interpretation services would also be provided by one of the four support service centres for ethnic minorities for enquiries on VR matters made by the ethnic minorities. CEO of REO supplemented that REO was in the process of arranging polling stations for the coming 2011 DC election. Best effort had been made to identify polling stations which were easily accessible to PWDs. If necessary, suitable ramps would be provided at polling stations to facilitate access of PWDs. She assured members that REO would continue its effort in that aspect.

12. Dr LAM Tai-fai asked how the Administration would promote VR among prisoners who could not be easily reached out by electronic media. SCMA replied that promotional leaflets and registration forms would be distributed to prisoners through the Correctional Services Department. In response to Dr LAM's further enquiry about the strategy of the Administration in encouraging the public to register as functional constituency ("FC") electors, SCMA advised that the number of FC electors would increase substantially from the existing 225 000 to over 3.2 million under the "one-person-two-votes" model for returning the five new DC (second) FC seats in 2012. He envisaged that the number of geographical constituencies ("GCs") electors and FC electors could approach 3.4 million in 2012. He hoped that the 2011 VR campaign could attract about 180 000 eligible persons to register and the total number of registered electors would further increase. He added that the Administration had maintained liaison with professional bodies and organizations in relation to registration of electors under the traditional FCs. REO would write directly to newly registered members of such organizations and professional bodies to remind them to apply for registration.

13. The Chairman asked whether the Administration would distribute promotional leaflets at the Registration of Persons Offices to young people turning 18 and new arrivals who had resided in Hong Kong for seven years to promote VR. SCMA replied that the Administration would set up

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registration counters at all Registration of Persons Offices and in areas with high pedestrian flow.

14. Referring to paragraph 13 of the Administration's paper, Ms Emily LAU expressed support for the Administration's plan to encourage registered electors and eligible electors to provide their email addresses with a view to facilitating candidates to send election advertisements ("EAs") through electronic means. She asked whether electors would continue to receive printed copy of election materials if their email addresses were provided.

15. CEO of REO said that the REO would furnish email addresses so collected from electors to the candidates of the constituencies concerned so that the candidates could use the email addresses for sending EAs in electronic format. Such arrangement had been clearly stated in the VR form. VR assistants stationed at the registration counters at all Registration of Persons Offices would also explain the arrangement to applicants. SCMA added that REO would provide candidates with address labels of electors who did not provide email addresses, for sending election materials in printed copy to these electors.

16. Mr IP Kwok-him considered that the Administration should strengthen its effort to inform applicants of the arrangement of receiving EAs. He asked if electors could switch back to receiving EAs in printed copy after they had provided their email addresses. The Chairman enquired about the procedure of updating email addresses of electors.

17. SCMA responded that email addresses of electors had been collected in the past few years and was not a new initiative. The Administration would consider adding relevant messages in Announcements of Public Interest ("APIs") to encourage electors to provide their email addresses during registration. He advised that electors could inform REO if they would like to receive EAs in printed copy again. Irrespective of the channel for receiving EAs, all electors would receive a printed copy of the information on candidates concerned and a poll card issued by REO. CEO of REO added that electors would be encouraged to update their registration particulars including their residential addresses and email addresses, and they could do so through the GovHK website.

18. Noting that the deadlines for VR and for registered electors to update their registration particulars were set on 16 July and 29 August 2011 respectively, Mr IP Kwok-him cautioned that the Administration should alert

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electors of the arrangements so that they would not miss the respective deadlines. SCMA assured members that two separate APIs would be broadcast in the electronic media to remind the public of the deadlines for VR and update of registration particulars. While the API on VR would be broadcast more frequently to encourage the eligible public to register, another API on changes of registration particulars would be broadcast at a later stage. The API on VR would cease to be broadcast upon the deadline for registration (i.e. 16 July 2011).

19. Noting that household visits would be conducted at new residential developments completed for intake in recent years, Mr IP Kwok-him asked about the number of new residential developments involved and whether household visits would also be conducted at other housing estates. SCMA affirmed that household visits would only be conducted at new residential developments. CEO of REO added that as a usual practice, REO would write to all households which had moved into new private developments to remind them to report changes in address before the statutory deadline of updating of registration particulars and, if they were not already registered electors, to register early.

Expenditure for the VR campaign

20. Dr LAM Tai-fai enquired about the breakdown of the \$27 million to be spent to encourage the public to register as GC electors and FC electors respectively. SCMA replied that \$14 million and \$11 million were spent on promoting VR for the 2007 DC election and the 2006 EC Subsector elections respectively. Since a DC election and EC Subsector elections would be held in 2011, the Administration had allocated up to \$27 million for the publicity and administrative costs for conducting the 2011 VR campaign. It would be spent on the overall promotion of VR for both GC and FC elections.

21. Mr LEUNG Kwok-hung enquired about the expenditure on the publicity campaign for the 2012 constitutional reform package conducted by the Government. He considered that more resources should be allocated to the 2011 VR campaign. Mr WONG Yuk-man also considered that \$27 million was insufficient for conducting a VR campaign.

22. SCMA replied that it was not appropriate to compare the publicity campaign for the 2012 constitutional reform package and the publicity for the 2011 VR campaign as the two exercises were different in nature. He

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advised that the expenditure on publicity for the 2012 constitutional reform package was about \$6 to \$7 million. As the Administration could have free airtime for broadcasting APIs in the electronic media, its cost was not included in the total expenditure on the publicity campaign for the 2012 constitutional reform package. Similarly, free airtime for broadcasting APIs would also be arranged for the 2011 VR campaign. He reiterated that as the DC election and the EC Subsector elections would be held in 2011, the Administration considered it appropriate to earmark \$27 million for the promotion of VR.

IV. Amendments to subsidiary legislation under the Electoral Affairs Commission Ordinance on electoral procedures, voter registration and practical arrangements for the elections in 2011 and 2012

[LC Paper No. CB(2)1270/10-11(05)]

Briefing by the Administration

23. Deputy Secretary for Constitutional and Mainland Affairs ("DSCMA") and CEO of REO briefed members on the scope of proposed amendments to be made by the Electoral Affairs Commission ("EAC") to the subsidiary legislation under the EAC Ordinance (Cap. 541) ("EACO") on electoral procedures, VR and other practical arrangements to cater for the coming DC, EC Subsector, Chief Executive and LegCo elections to be held during the period from November 2011 to September 2012 as set out in the Administration's paper [LC Paper No. CB(2)1270/10-11(05)].

Discussion

Allocation of designated spots for displaying publicity materials/signboards

24. Referring to the creation of the new DC (second) FC under which five seats would be returned from the whole territory as a single constituency, Mr WONG Yuk-man expressed concern about the allocation of designated spots for candidates standing for GC and DC (second) FC elections to display their election-related publicity materials in the coming 2012 LegCo election. Mr WONG enquired whether there was a need to amend the subsidiary legislation on arrangements relating to allocation of designated spots for displaying publicity materials or it could be dealt with by revising the relevant guidelines.

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25. DSCMA responded that the Administration would formulate guidelines on the allocation of designated spots for candidates standing for GC, FC and DC (second) FC elections to display their publicity materials/signboards in a fair manner and such arrangement would not require amendments to the subsidiary legislation under the EACO. He added that in line with the established practice, the Administration would launch publicity programmes before the coming DC and LegCo elections to be held in November 2011 and September 2012 respectively to encourage electors to vote in these elections. The Administration would brief the Panel on the details of the relevant publicity programmes at a later stage.

Submission and distribution of election materials

26. Referring to paragraph 6(f) of the Administration's paper on the proposed amendments to allow candidates to submit a declaration and a copy of electronic EA to the Returning Officer ("RO") electronically, Ms Emily LAU enquired whether candidates would also be allowed to submit other election materials by electronic means. She also enquired whether the Administration would provide assistance to facilitate candidates to adopt more environmental friendly means to distribute their election-related materials to electors on a household basis.

27. DSCMA and CEO of REO responded that as an initial step, REO had focused on the submission of electronic EAs and the required declaration to ROs electronically, in the manner and format as specified by the EAC. The Administration and REO had actively pursued the use of electronic means for the submission of other electoral documents with a view to facilitating candidates in elections.

28. DSCMA further advised that REO was considering the feasibility of providing address labels to candidates for sending election-related publicity materials to electors on a household basis. In facilitating candidates in the reduction of paper used for printing EAs, the Administration had to ensure that the rights of individual electors to access election-related materials must be respected and protected. The Administration would continue to listen to views of members on this issue, including whether candidates could decide on whether to send their election publicity materials on a household or an individual basis.

29. CEO of REO supplemented that under the existing arrangement, each candidate was provided with the address labels of all electors in the constituencies concerned on an individual basis. There was a marker on

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the address labels of electors residing in the same address to facilitate candidates who wished to send out election-related materials on a household basis. REO had explored the feasibility of providing address labels of electors to candidates on a household rather than an individual basis. However, there were practical difficulties which needed to be resolved, including the way to ascertain whether electors residing in an address belonged to the same family or they were only residents sharing a communal address, for example, in the case of an elderly home.

Election returns

30. Ms Emily LAU expressed dissatisfaction that despite the long standing calls from members, the Administration had not proposed any arrangement for handling election returns ("ERs") with minor errors or omissions. She considered that most of the alleged breaches of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) ("ECICO") only involved a trivial amount of election expenses and did not involve any corrupt conduct. The Chairman and Mr IP Kwok-him shared a similar view. The Chairman suggested that such minor irregularities should be exempted and a dedicated unit could be set up to handle election related complaints. Ms LAU and Mr IP strongly urged the Administration to introduce appropriate legislative amendments within the current legislative session so that candidates running for the coming elections in 2011 and 2012 would not have to deal with investigation of trivial breaches under the ECICO by the Independent Commission Against Corruption ("ICAC").

31. DSCMA explained that the proposed amendments as set out in the Administration's paper were to be made by the EAC to the subsidiary legislation under the EACO. Should the Administration propose any arrangement to deal with minor errors or omissions in ERs, amendments would have to be made to the ECICO. DSCMA advised that the Administration had been discussing with the ICAC, the enforcement agent of the ECICO, on the feasibility of making special arrangements to deal with minor errors or omissions in ERs. While the Administration had to ensure that elections would continue to be held in a fair, open and honest manner, the Administration would work closely with the ICAC and REO to improve the existing mechanism. The Administration would seek members' views on its proposal in due course.

Polling hours

32. Mr IP Kwok-him was of the view that the polling hours which lasted for 15 hours (from 7:30 am to 10:30 pm) of past elections were too long, as

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compared with many nearby countries or regions. He suggested that the Administration should consider shortening the polling hours. Ms Emily LAU shared a similar view. She considered that long polling hours would discourage civil servants from working at polling stations on the polling day. She recalled that the EAC had once proposed to shorten the polling hours from 15 to 12 hours (from 7:30 am to 7:30 pm). However, it had aroused much public concern. She stressed that the Administration should conduct public consultation when reviewing the polling hours. The Chairman considered that the public might be receptive to a slight adjustment in the polling hours. He suggested that the Administration should consider a more moderate revision.

33. CEO of REO responded that the proposal to shorten the polling hours was not well-received in the past on the grounds that it would reduce some electors' desire for voting as they would prefer to vote after dinner. As there would be a substantial increase in the number of votes cast for the 2012 LegCo election, REO would review the time required for vote counting and the duration of polling having regard to past experience. REO would also review the remuneration of polling staff and encourage experienced civil servants to continue to work as polling staff in the coming elections.

Vote counting arrangements

34. Ms Emily LAU considered that the time taken to convert a polling station into a counting station was too long. She urged the Administration to streamline the work procedures so that the election results could be announced earlier.

35. DSCMA and CEO of REO said that REO had endeavoured to compress the time required for the conversion and training had been provided to polling staff with a view to expediting the conversion. The actual time taken for individual polling station to convert into a counting station would depend on the circumstances and its physical constraints.

36. There being no other business, the meeting ended at 5:50 pm.