

立法會
Legislative Council

LC Paper No. CB(2)1881/11-12
(These minutes have been seen
by the Administration)

Ref : CB2/BC/5/11

**Bills Committee on
Electoral Legislation (Miscellaneous Amendments) Bill 2012**

**Minutes of meeting
held on Monday, 19 March 2012, at 10:45 am
in Conference Room 1 of the Legislative Council Complex**

Members present : Hon IP Kwok-him, GBS, JP (Chairman)
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon LAU Kong-wah, JP
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP
Hon WONG Ting-kwong, BBS, JP
Hon Cyd HO Sau-lan

Members absent : Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon CHEUNG Hok-ming, GBS, JP
Hon Ronny TONG Ka-wah, SC
Dr Hon Priscilla LEUNG Mei-fun, JP
Hon Paul TSE Wai-chun, JP
Dr Hon Samson TAM Wai-ho, JP

Public Officers attending : Item I
Mr Arthur HO Kin-wah, JP
Deputy Secretary for Constitutional and Mainland
Affairs

Mr Freely CHENG Kei
Principal Assistant Secretary for Constitutional
and Mainland Affairs 3

Ms Anne TENG Yu-yan
Principal Assistant Secretary for Constitutional
and Mainland Affairs 2

Mr LI Pak-hong
Chief Electoral Officer
Registration and Electoral Office

Mr Anthony CHAN Shiu-lun
Principal Electoral Officer
Registration and Electoral Office

Mr Gilbert MO Sik-keung
Deputy Law Draftsman (Bilingual Drafting and
Administration)
Department of Justice

Miss Emma WONG
Senior Government Counsel
Department of Justice

**Clerk in
attendance** : Ms Alice LEUNG
Chief Council Secretary (2) 1

**Staff in
attendance** : Ms Wendy KAN
Assistant Legal Adviser 6

Miss Josephine SO
Senior Council Secretary (2) 7

Miss Lulu YEUNG
Clerical Assistant (2) 1

Action

I. Meeting with the Administration

(CMAB C1/30/5/4, LC Paper Nos. CB(2)1250/11-12(02) to (03), CB(2)1388/11-12(01) to (03), CB(3)403/11-12 and LS 28/11-12)

The Bills Committee deliberated (index of proceedings attached at **Annex**).

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2. The Administration was requested to consider the following views and concerns raised by members -

- (a) in respect of the requirement for candidates to obtain permission for the display or affixing of printed election advertisements ("EAs") in private premises/shops, whether there was room for improvement to facilitate the smooth conduct of electioneering activities of candidates (e.g. simplification of forms or procedures);
- (b) provision of technical support and advice to candidates who encountered problems in uploading the EA particulars/submissions (e.g. IT support hotline services during elections), and the need for the Registration and Electoral Office ("REO") to provide timely and effective response to candidates;
- (c) in respect of the content layout standard to be drawn up by REO for candidates to follow in designing and setting up their platforms, whether creativity, flexibility and innovation in the design and development of candidates' platforms would be allowed;
- (d) having regard to the various problems relating to the existing arrangements for counting Geographical Constituency ("GC") and Functional Constituency ("FC") ballot papers, in particular, the delay in the compilation of voter turnout statistics due to ballot discrepancies and the consequential delay in the counting of ballot papers as well as the announcement of election results, the measures, if any, to be taken to speed up the counting process without compromising the principle of protecting the secrecy of votes;

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- (e) measures to speed up the sorting and separation of ballot papers cast at dedicated polling stations and the delivery of these ballot papers to the relevant counting stations for counting; and
 - (f) in anticipation of a large number of GC ballot papers misplacing in FC ballot boxes, or vice versa, due to the large number of ballot papers involved in GCs and District Council (second) FC, whether it was legally in order to proceed with the counting of GC ballot papers at the counting stations when the number of GC ballot papers cast in the GC ballot boxes did not tally with the number of ballot papers issued.
3. The Chairman said that the Bills Committee would commence clause-by-clause examination of the Bill at its next meeting.

II. Any other business

4. The Chairman reminded members that the next meeting of the Bills Committee would be held on Friday, 23 March 2012, at 3:00 pm or immediately after the House Committee meeting, whichever was later.

(Post-meeting note: The meeting was subsequently re-scheduled for 26 March 2012 at 10:45 am. With the concurrence of the Chairman, the re-scheduled meeting was cancelled as the number of members who had indicated their availability for the meeting was less than the required quorum.)

5. There being no other business, the meeting ended at 12:33 pm.

**Proceedings of meeting of the
Electoral Legislation (Miscellaneous Amendments) Bill 2012
held on Monday, 19 March 2012, at 10:45 am
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action Required
000000 - 001234	Chairman	Opening remarks.	
<i>Consent of support in election advertisements ("EAs")</i>			
001235 - 001543	Chairman Admin	The Administration's response to issues raised by members at the meeting on 2 March 2012 in respect of the obtaining of consent of support in EAs (para. 2 of LC Paper No. CB(2)1388/11-12(01)).	
001544 - 002201	Ms Cyd HO Chairman Admin	<p>Ms HO's enquiry about the inclusion of photographs provided by a candidate's supporters out of their own volition in EAs published by the candidate.</p> <p>The Administration responded that the candidate was required to obtain consent of support if the photographs included in an EA had the effect of implying, or causing electors to believe, that the candidate had the support of the persons or organizations in the photographs.</p> <p>Ms HO's concern about the existing rules governing the display of printed EAs, e.g. posters, in shops, and whether the procedural requirements for display of printed EAs could be streamlined.</p> <p>The Administration advised that to avoid any possible dispute in future, candidates who wished to display their printed EAs, including posters, in private premises such as shops must obtain the prior consent or authorization of the shop owners/occupiers.</p> <p>Members' enquiry on whether a sample form was in place for use by candidates to notify the Registration and Electoral Office ("REO") of their obtaining of shop owners' or occupiers' consent for display of election posters.</p>	

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		<p>The Administration advised that every candidate was required to deposit a copy of each of the completed consent forms with the relevant Returning Officer ("RO") before the display, distribution or otherwise use of any EAs. While REO had provided a standard form of "Consent of Support", there was no prescribed form of permission for display of EAs.</p> <p>Guiding principles for shop owners'/ occupiers' consideration of whether individual candidates' requests for display/ posting of printed EAs in their premises should be acceded to, which included, among others, fairness and equality for conducting election-related activities.</p>	
002202 - 002538	Ms Emily LAU Admin Chairman	<p>In respect of the requirement for candidates to obtain permission for the display or affixing of printed EAs in private premises/shops, whether there was room for improvement to facilitate the smooth conduct of electioneering activities of candidates (e.g. simplification of forms or procedures).</p> <p>The Administration clarified that display and exhibition of advertisements, including EAs, in public places were governed by the relevant provisions in the Public Health and Municipal Services Ordinance (Cap. 132).</p>	Admin to consider members' concern (para. 2(a) of the minutes refers)
002539 - 002707	Chairman Admin	<p>The Administration's response on whether prior written consent of support had to be obtained from those persons appeared in photos published in a candidate's EAs which mentioned and displayed past activities organized by the candidate involving participation of members of the public (para. 3 of LC Paper No. CB(2)1388/11-12(01)).</p>	

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<i>Central portal operated and maintained by REO ("Central Platform"), and operation and maintenance of candidates' own election websites ("Candidate's Platform")</i>			
002708 - 003447	Chairman Admin Ms Emily LAU	<p>The Administration's response on the specifications of the information system for supporting the Central Platform (including the size of files allowed and time taken for uploading, and user capacity), both the hardware and the manpower resources required for the management and maintenance of the portal site (para. 5 of LC Paper No. CB(2)1388/11-12(01)).</p> <p>The Administration's elaboration on the relevant public inspection requirement governing EAs under the new regulatory regime (para. 4 of LC Paper No. CB(2)1388/11-12(01)).</p> <p>Software requirement for uploading EAs to the Central Platform; REO's plan to draw up a simple content layout standard for candidates to follow in designing and setting up their own platforms.</p> <p>Provision of technical support and advice to candidates who encountered problems in uploading the EA particulars/ submissions (e.g. IT support hotline services during elections), and the need for REO to provide timely and effective response to candidates.</p>	Admin to consider members' concern (para. 2(b) of the minutes refers)
003448 - 004149	Ms Cyd HO Chairman Admin	<p>The Administration advised that the reasons for REO to specify a content layout standard for candidates to follow in designing and setting up their platforms were to facilitate public inspection and for the sake of consistency. Candidates were only required to make available on their websites very basic and essential information, including the election referred to in the candidates' platforms, the names of the candidates, the electronic copies of EAs published and their size etc, for public inspection.</p> <p>Ms HO's view that the Administration should, in drawing up a content layout standard, allow creativity and innovation in the design and development of candidates' platforms.</p>	Admin to consider members' view (para 2(c) of the minutes refers)

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		<p>Detection of fake election websites; whether and how the Administration would help the public authenticate the identity of candidates who set up election websites; measures to prevent intrusion by hackers to the Central Platform operated and maintained by REO and to safeguard the security of candidates' election websites.</p> <p>The Administration explained that the requirements would only spell out the basic format for displaying the required EA particulars so as to facilitate public inspection. In this regard, candidates would enjoy a large degree of freedom in using their creativity to develop and design candidates' platforms. The Administration further advised that if a candidate chose to post EAs onto his election website, the candidate was required to provide the website address to the relevant RO who would then publicize such information.</p>	
004150 - 004332	Mr WONG Ting-kwong Admin Chairman	Security and backup arrangements in respect of the Central Platform operated by REO.	
<i>Amendments relating to organizations which were constituents of functional constituencies ("FCs")</i>			
004333 - 004502	Chairman Admin	The Administration's proposal to update the names of certain bodies which were registered or were eligible to be registered as electors of several FCs. The updating was technical and was required because those bodies were not operating under their old names. The updating did not change the composition of the FCs concerned. Those organizations which had ceased operation were also deleted from the register.	
<i>Central counting arrangement for the District Council (second) functional constituency ("DC (second) FC")</i>			
004503 - 005233	Chairman Admin	The Administration's elaboration on the reasons for adopting central counting arrangement, instead of polling-cum-counting, for DC (second) FC (para. 7 & 8 of LC Paper No. CB(2)1388/11-12(01)).	

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005234 - 010330	Ms Emily LAU Admin Chairman	<p>Ms LAU's concern about whether the time required for completing the counting of DC (second) FC ballot papers would be unduly long, if the central counting arrangement was adopted; and whether it would increase the risk of confusion or misplacement of ballot papers during the delivery of DC (second) FC ballot papers from polling stations to the central counting station.</p> <p>The Administration's response that -</p> <p>(a) based on its preliminary estimate, the counting of DC (second) FC ballot papers would likely be completed by noon of the following day;</p> <p>(b) given the large number of ballot papers involved in Geographical Constituencies ("GCs") and DC (second) FC, it was unlikely that two consecutive rounds of counting, including the consolidation of counting results, could be completed before 6 am of the following day, so that the polling stations could be returned to the venue management for provision of normal services on weekdays;</p> <p>(c) the adoption of a two-shift system in the counting process would pose risks and other operational difficulties; and</p> <p>(d) under central counting, counting of FC and DC (second) FC ballot papers could be arranged in parallel, and could continue on the following day.</p> <p>Other concerns raised by Ms LAU included working hours of polling-cum-counting staff at individual polling stations, counting arrangement and staff deployment at the central counting station.</p>	
010331 - 012244	Mr LAU Kong-wah Admin Chairman	Mr LAU's concern about the large number of ballot papers involved in DC (second) FC, the effort and time required to deliver the DC (second) FC ballot boxes from polling stations to the central counting	

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		<p>station, and whether the late delivery of ballot boxes from dedicated polling stations ("DPSs") or the need to separate GC ballot papers from DC (second) FC ballot papers, due to voters' mistake in dropping GC ballot papers into ballot boxes for collection of DC (second) FC ballot papers (or vice versa), would cause delay to the counting process.</p> <p>The Administration's advice that -</p> <ul style="list-style-type: none">(a) to enable registered electors who were imprisoned by the Correctional Services Department ("CSD") on the polling day to vote, 22 DPSs were set up in the penal institutions of CSD. Owing to security reasons, the poll at these DPSs was conducted from 9 am to 4 pm. Three DPSs were also set up at police stations for registered electors who were detained by the Police on the polling day and expressed their wish to vote to do so. Since the Police might arrest persons who happened to be registered electors on the polling day, these three DPSs opened from 7:30 am to 10:30 pm as with other ordinary polling stations;(b) the arrangement for mixing ballot papers of main polling stations with those from ballot paper sorting stations or DPSs before counting was an important principle which should be upheld for protection of the secrecy of votes cast;(c) for GC ballot papers deposited by mistake into ballot boxes for collection of another type of ballot papers, the existing arrangements for separating and verifying ballot papers account for the five GCs could be implemented at the central counting station; and(d) the central counting arrangement for DC (second) FC had both merits and drawbacks. It was considered as a	

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		<p>more viable, prudent and effective option having regard to its comparative advantages over the decentralized counting arrangement.</p> <p>Mr LAU's concern over various problems relating to the existing arrangements for counting GC and FC ballot papers, in particular, the delay in the compilation of voter turnout statistics due to ballot discrepancies and the consequential delay in the counting of ballot papers as well as the announcement of election results; whether and what measures would be taken to speed up the counting process without compromising the principle of protecting the secrecy of votes.</p> <p>Measures to speed up the sorting and separation of ballot papers cast at DPSs, the delivery of these ballot papers to the relevant counting stations for counting.</p>	<p>Admin to consider the scenario cited by Mr LAU and to address members' concern (para. 2(d) of the minutes refers)</p> <p>Admin to consider and to advise on measures to be adopted (para. 2(e) of the minutes refers.)</p>
012245 - 013130	Mrs Sophie LEUNG Admin Chairman Mr LAU Kong-wah	<p>Mrs LEUNG's concern about the need to protect secrecy of votes and to improve the vote counting arrangements to minimize delay in the counting of ballot papers.</p> <p>In anticipation of a large number of GC ballot papers misplacing in FC ballot boxes, or vice versa, due to the large number of ballot papers involved in GCs and DC (second) FC, whether it was legally in order to proceed with the counting of GC ballot papers at the counting stations when the number of GC ballot papers cast in the ballot boxes did not tally with the number of ballot papers issued.</p>	<p>Admin to consider whether it was legally permissible under the existing legislation (para. 2(f) of the minutes refers.)</p>
013131 - 013808	Ms Emily LAU Chairman Admin	<p>Ms LAU's concern about certain acts of voters at the polling stations, e.g. photo-taking, which might infringe the secrecy of votes during the polling process.</p> <p>The Administration's response that -</p>	

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		<p>(a) it was an offence for any person to undertake photographing, filming and video or audio recording within a polling station;</p> <p>(b) the ballot was secret. The existing legislation prohibited a number of acts which might infringe the secrecy of the vote during the polling and counting process; and</p> <p>(c) polling notices and related information would be displayed inside polling stations and voting compartments informing electors of acts prohibited.</p> <p>The electoral arrangements for the 2012 Chief Executive Election on 25 March 2012.</p>	
013809 - 014424	Mrs Sophie LEUNG Chairman Ms Emily LAU Admin	<p>In response to members' concern about the drawbacks of the central counting arrangement and the need to speed up the counting process, the Administration advised that it would consider measures to speed up the counting of ballot papers.</p> <p>As regards the location of the central counting station, Ms LAU's view that in anticipation that the counting process would take a long time, there should be food and beverage facilities in the vicinity.</p>	
014425 - 014755	Ms Cyd HO Chairman Admin	Estimated manpower to be involved in the counting of ballot papers respectively for the central and decentralized counting arrangements.	
014756 - 014849	Chairman	<p>Commencement of clause-by-clause examination of the Bill at the next meeting.</p> <p>Date of next meeting.</p>	