

Bills Committee on District Councils Bill

Ref: CB2/BC/11/98

Summary of Proposed Committee Stage amendments (CSAs)

Second version

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
<p>Clause 2 Interpretation</p>	<p>The Administration</p>	<p>In the definition of "prescribed public officer" by adding –</p> <p>"(ea) the Privacy Commissioner for Personal Data and any person employed or engaged by the Commissioner under the Personal Data (Privacy) Ordinance (Cap. 486); or</p> <p>(eb) the Chairperson of the Equal Opportunities Commission and any person employed or whose service is engaged by the Commission under the Sex Discrimination Ordinance (Cap. 480); or".</p>	<p>The Administration proposes to amend the existing clause on disqualification to cover the Privacy Commissioner and the chairperson of the Equal Opportunities Commission in view of the nature of their functions and duties and the need for them to be, and seen to be, acting free of conflict of interests. Their staff are to be covered on ground of conflict of interests. The Administration has made the same proposal for the 2000 LegCo election.</p>	<p>CB(2)1053/98-99(01) & CB(2)1147/98-99(01)</p>

<p>Clause 2 Interpretation</p>	<p>Democratic Party</p>	<p>By deleting the definitions of "appointed member", "ex officio member" and "Rural Committee".</p> <p>In the definition of "member", by deleting ", appointed member or an ex officio member".</p>	<p>The slow progress in the development of democracy in Hong Kong's political system is evident particularly in the pace of the democratization of District Boards (DBs). DBs were first established in 1982, with elected members accounting for some 30%. It was only in 1994 that over 90% of the DB seats were elected by using the one person one vote system.</p> <p>The people of Hong Kong are greatly disappointed by the Chief Executive's proposal to resume the appointment system, which represents a retrogression of democracy. The Government also proposed that members of the new District Councils may elect among themselves their representatives to sit on the Legislative Council and to select the Chief Executive. It enables members who are appointed by the Chief Executive to exert influence on the Legislative Council and the outcome of the selection exercise of the Chief Executive.</p>	<p>CB(2)1158/98-99(01)</p>
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			While Article 39 of the Basic Law provides that the provisions of the International Covenant on Civil and Political Rights (ICCPR) as applied to Hong Kong shall remain in force, the resumption of appointed and ex officio seats as proposed in the Bill undoubtedly runs counter to the spirit and principle of universal and equal suffrage in Article 25 of ICCPR.	
Clause 2 Interpretation	Democratic Party	By adding the definition of "Clerk to the District Council" – " "Clerk to the District Council" (區議會秘書) includes any person appointed under section 67 or appointed to act in place of the Clerk when the Clerk is absent or when the office of Clerk is vacant".	An independent secretariat can assist in the work of DCs more effectively. The proposed amendments have made reference to the Legislative Council Ordinance.	CB(2)1158/98-99(03)
Clause 2 Interpretation	Hon Andrew WONG	In the definition of "by-election", by adding "a Chairman or" before "an elected member". In the definition of "candidate", by adding "a Chairman or" before "an elected member".	District Council Chairman should be elected by electors in each District constituency.	CB(2)1158/98-99(06)

		<p>In the definition of "Chairman", by deleting "the person holding the office of Chairman of that Council under Part VI" and substituting "the person who is elected as the Chairman of that Council under Part V".</p> <p>After the definition of "District", by adding –</p> <p>"District constituency (地方行政區選區) means the entire area of a District declared to be a District constituency under section 6(1A);".</p> <p>In the definition of "elected member", by adding "the Chairman or" before "a member of a District Council".</p> <p>By deleting the definition of "Vice Chairman".</p>		
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Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Part II Declaration of District, establishment of District Councils, declaration of number of elected members and appointed members and declaration of constituencies	Democratic Party	By deleting "AND APPOINTED MEMBERS".	The explanation is the same as for Clause 2.	CB(2)1158/98-99(01)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
<p>Clause 5 Number of members to be elected to a District Council and the number of members to be appointed to it</p>	<p>Democratic Party</p>	<p>By deleting "and the number of members to be appointed to it".</p> <p>By deleting subclause (2).</p>	<p>The explanation is the same as for Clause 2.</p>	<p>CB(2)1158/98-99(01)</p>
<p>Clause 5 Number of members to be elected to a District Council and the number of members to be appointed to it</p>	<p>Hon Andrew WONG</p>	<p>In subclause (1), by adding "column 3A and" before "column 3".</p>	<p>District Council Chairmen should be elected by electors in each District constituency.</p>	<p>CB(2)1158/98-99(06)</p>

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 6 Declaration of constituencies	Hon LAU Chin-shek	In subclause (2), by deleting "When making an order under subclause (1), the Chief Executive in Council must have regard to" and substituting "An order under subclause (1) must be made on".	Constituencies shall be declared by the Chief Executive in Council <i>in accordance with</i> the recommendations made by the Electoral Affairs Commission.	CB(2)1118/98-99(04)
Clause 6 Declaration of constituencies	Hon Andrew WONG	By adding under the heading "Declaration of Constituencies" and before sub-clause (1) – "(1A) The Chief Executive in Council shall, by order published in the Gazette, declare the entire area of a District declared under section 3 to be a District constituency for the purposes of an election to elect the Chairman of the District Council established for that District."	District Council Chairmen should be elected by electors in each District constituency.	CB(2)1158/98-99(06)
Clause 6 Declaration of constituencies	Democratic Party	By deleting "Designated Officer" and substituting "Clerk to the District Council".	An independent secretariat can assist in the work of DCs more effectively. The proposed amendments have made reference to the Legislative Council Ordinance.	CB(2)1158/98-99(03)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
<p>Clause 8 Chief Executive in Council may amend Schedule 1, 2 or 3</p>	<p>Hon LAU Chin-shek</p>	<p>(a) In the heading, by deleting "Chief Executive in Council" and substituting "Legislative Council".</p> <p>(b) In subclause (1), by deleting "Chief Executive in Council may, by order published in the Gazette" and substituting "Legislative Council may, by resolution".</p> <p>(c) In subclause (2), by deleting "Chief Executive in Council" and substituting "Legislative Council".</p> <p>(d) In subclause (2), by deleting "an order" where it twice appears and substituting "a resolution".</p> <p>(e) In subclause (3), by deleting "An order" and substituting "A resolution".</p> <p>(f) In subclause (3), by deleting "the order" and substituting "the resolution".</p>	<p>Future amendments to the number and details of Districts, details of District Councils, and the number of members shall be made by the Legislative Council by resolution.</p>	<p>CB(2)1118/98-99(04)</p>

<p>Clause 8 Chief Executive in Council may amend Schedule 1, 2 or 3</p>	<p>Democratic Party</p>	<p>In subclause (2), by deleting paragraph (d) and substituting – "(d) to specify the number of members to be elected to a District Council; and".</p>	<p>The explanation is the same as for Clause 2.</p>	<p>CB(2)1158/98-99(01)</p>
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Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 9 District Councils to consist of elected members, appointed members and ex officio members	Democratic Party	By deleting the clause and substituting – "9. Composition of a District Council A District Council is to consist of elected members.".	The explanation is the same as for Clause 2.	CB(2)1158/98-99(01)
Clause 9 District Councils to consist of elected members, appointed members and ex officio members	Hon Andrew WONG	By adding after "is to consist of -" and before "(a)" – "(aa) a Chairman; or".	District Council Chairmen should be elected by electors in each District constituency.	CB(2)1158/98-99(06)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 10 An elected member or appointed member taken to have resigned on becoming an ex officio member	Democratic Party	By deleting the clause.	The explanation is the same as for Clause 2.	CB(2)1158/98-99(01)
Clause 10 An elected member or appointed member taken to have resigned on becoming an ex officio member	Hon Andrew WONG	By adding "a Chairman or" before "an elected member".	District Council Chairmen should be elected by electors in each District constituency.	CB(2)1158/98-99(06)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
PART IV Membership of a District Council	Democratic Party	<p>By deleting Division 1 - Appointed Members (Clauses 11 - Clauses 16).</p> <p>By deleting Division 2 - Ex Officio Members (Clauses 17 - Clauses 19).</p> <p>In Division 3, by deleting "3" and substituting "1".</p>	The explanation is the same as for Clause 2.	CB(2)1158/98-99(01)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 11 Chief Executive to appoint members and how long appointed members are to hold office	Hon Andrew WONG	In subclause (2), by deleting "subsection (3) and". By deleting subclause (3).	Restriction on the qualifications of appointed members.	CB(2)1158/98-99(06)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 13 Appointed members to accept office	Democratic Party	By deleting "Designated Officer" and substituting "Clerk to the District Council".	An independent secretariat can assist in the work of DCs more effectively. The proposed amendments have made reference to the Legislative Council Ordinance.	CB(2)1158/98-99(03)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 14 Disqualification of appointed members	Hon Andrew WONG	<p>In subclause (1), by adding after "(d)" –</p> <p>"(da) is or becomes a member of a political body; or</p> <p>(db) in the opinion of the Chief Executive, is or becomes actively engaged in politics; or</p> <p>(dc) within the 6 years before the date of appointment (were he to be appointed), has been nominated as a candidate in an election of any District Council or any previous District Board or the previous Urban Council or Regional Council and failed to be elected; or".</p>	Restriction on the qualifications of appointed members.	CB(2)1158/98-99(06)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 15 How an appointed member can resign	Democratic Party	By deleting "Designated Officer" and substituting "Clerk to the District Council".	An independent secretariat can assist in the work of DCs more effectively. The proposed amendments have made reference to the Legislative Council Ordinance.	CB(2)1158/98-99(03)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 16 When appointed member's office becomes vacant and appointment of a substitute	Hon Andrew WONG	In subclause (3), by deleting "subsection (4) and". By deleting subclause (4).	Restriction on the qualifications of appointed members.	CB(2)1158/98-99(06)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 17 Ex officio members to accept office	Democratic Party	By deleting "Designated Officer" and substituting "Clerk to the District Council".	An independent secretariat can assist in the work of DCs more effectively. The proposed amendments have made reference to the Legislative Council Ordinance.	CB(2)1158/98-99(03)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 20 Who is eligible to be nominated as a candidate	Democratic Party	By deleting subclause (3).	Chairmen of Rural Committees have the right to join DCs by contesting the election for they have the right to be elected.	CB(2)1111/98-99(01)
Clause 20 Who is eligible to be nominated as a candidate	Democratic Party	By deleting subclause (1)(e).	Legal provisions on the eligibility of candidates should be lenient in order to enable more people to become eligible for candidature. Moreover, it is unfair that the statutory requirement regarding the years of residence is applicable only to elected members.	CB(2)1158/98-99(04)
Clause 20 Who is eligible to be nominated as a candidate	Hon Andrew WONG	In subclause (2), (a) By deleting "A person who holds office" and substituting "Subject to subsection (2A), a person who holds office";	District Council Chairmen should be elected by electors in each District constituency.	CB(2)1158/98-99(06)

		<p>(b) By adding "for a constituency" after "as a candidate";</p> <p>(c) By adding after (2) –</p> <p>"(2A) A person who holds office as a member of a District Council is eligible to be nominated in a by-election as a candidate for the District constituency of the District Council which he is a member for the purpose of electing the Chairman of the District Council concerned."</p> <p>In subclause (4),</p> <p>(a) By deleting "A person is not eligible" and substituting "Subject to subsection (4A), a person is not eligible";</p> <p>(b) By adding after (4) –</p> <p>"(4A) A person is eligible to be concurrently nominated as a candidate for a District constituency and as a candidate for a constituency within the District concerned.</p>		
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		(4B) A person is not eligible to be nominated as a candidate for a District constituency if the person is currently nominated as a candidate for another District constituency or as a candidate for a constituency in another District."		
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Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
<p>Clause 21 When person is disqualified from being nominated as a candidate and from being elected as an elected member</p>	<p>Hon Andrew WONG</p>	<p>In subclause (1), by adding "a Chairman or" before "an elected member".</p> <p>In subclause (3), By adding "a Chairman or" before "an elected member".</p>	<p>District Council Chairmen should be elected by electors in each District constituency.</p>	<p>CB(2)1158/98-99(06)</p>

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
<p>Clause 22 How long elected member is to hold office</p>	<p>Hon Andrew WONG</p>	<p>In subclause (1), by deleting "An elected member" and substituting "A Chairman or an elected member".</p> <p>In subclause (2), by adding –</p> <p>(a) "a Chairman's (first elected Chairman)" before "an elected member's";</p> <p>(b) "the first elected Chairman" before "the first elected member";</p> <p>(c) "Chairman or" before "member served the final term".</p>	<p>District Council Chairmen should be elected by electors in each District constituency.</p>	<p>CB(2)1158/98-99(06)</p>

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 23 Elected members to accept office	Democratic Party	By deleting "Designated Officer" and substituting "Clerk to the District Council".	An independent secretariat can assist in the work of DCs more effectively. The proposed amendments have made reference to the Legislative Council Ordinance.	CB(2)1158/98-99(03)
Clause 23 Elected members to accept office	Hon Andrew WONG	In subclause (1), by adding "a Chairman or" before "a member".	District Council Chairm ³ n should be elected by electors in each District constituency.	CB(2)1158/98-99(06)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 24 Disqualification of elected members	The Frontier	In subclause (5), by deleting "6" and substituting "4" where it appears twice.	It is too lenient to provide for the disqualification of a member who is absent from meetings for six consecutive months. It is more reasonable to revise it to four months.	CB(2)1158/98-99(02)
Clause 24 Disqualification of elected members	Hon Andrew WONG	<p>In subclause (1),</p> <p>(a) By deleting "An elected member" and substituting "A Chairman or an elected member";</p> <p>(b) By adding "Chairman or" before "member".</p> <p>In subclause (3), by deleting "An elected member" and substituting "A Chairman or an elected member".</p> <p>In subclause (5), by deleting "An elected member" and substituting "A Chairman or an elected member".</p>	District Council Chairmen should be elected by electors in each District constituency.	CB(2)1158/98-99(06)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 25 How an elected member can resign	Democratic Party	By deleting "Designated Officer" and substituting "Clerk to the District Council".	An independent secretariat can assist in the work of DCs more effectively. The proposed amendments have made reference to the Legislative Council Ordinance.	CB(2)1158/98-99(03)
Clause 25 How an elected member can resign	Hon Andrew WONG	<p>In subclause (1),</p> <p>(a) By deleting "An elected member" and substituting "A Chairman or an elected member";</p> <p>(b) By adding "a Chairman or" before "a elected member".</p> <p>In subclause (2), by adding "the Chairman or" before "the member".</p>	District Council Chairmen should be elected by electors in each District constituency.	CB(2)1158/98-99(06)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 26 When elected member's office becomes vacant	Democratic Party	In subclause (b), by deleting "10 or".	The explanation is the same as for Clause 2	CB(2)1158/98-99(01)
Clause 26 When elected member's office becomes vacant	Hon Andrew WONG	By deleting "An elected member's" and substituting "A Chairman's or an elected member's".	District Council Chairmen should be elected by electors in each District constituency	CB(2)1158/98-99(06)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 27 Chief Executive to specify dates for holding ordinary elections	The Administration	By deleting subclause (3) and substituting- "The Chief Executive must determine a date for holding an ordinary election under this section and give notice of that date in the Gazette.".		CB(2)1158/98-99(07)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
New Clause 27A	The Administration	<p>27A. Suspension of operation of District Councils to enable ordinary election to be held</p> <p>(1) After the Chief Executive determines a date for an ordinary election under section 27(3), the Designated Officer may, to facilitate the holding of such election, determine a date with effect from which the operation of the District Councils are to be suspended until the commencement of the term of office of the members elected at that ordinary election.</p> <p>(2) The Designated Officer must give notice in the Gazette of the date determined by that Officer under subsection (1).</p>		CB(2)1158/98-99(07)

		<p>(3) Subject to subsection (4), the operation of all District Councils and their committees stand suspended with effect from the date determined by the Designated officer under subsection (1).</p> <p>(4) If the Designated Officer is of the opinion that circumstances so warrant, that Officer may permit or request a District Council or a committee to hold one or more meetings during the period of suspension.</p> <p>(5) Nothing in this section is to be construed as affecting the term of office of a person who is a member of a District Council when the operation of that District Council is suspended under this section.</p>		
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Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
<p>Clause 30 Electoral Registration Officer to publish register for the first ordinary election</p>	<p>Hon Andrew WONG</p>	<p>In subclause (1)(a), by deleting "a constituency" and substituting "a District constituency and a constituency within the District".</p> <p>In subclause (1)(b), by deleting "the constituency" and substituting "a District constituency and a constituency within the District".</p>	<p>District Council Chairmen should be elected by electors in each District constituency.</p>	<p>CB(2)1158/98-99(06)</p>

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 31 Vacancy in membership of elected members of a District Council to be declared	Democratic Party	By deleting "Designated Officer" and substituting "Clerk to the District Council".	An independent secretariat can assist in the work of DCs more effectively. The proposed amendments have made reference to the Legislative Council Ordinance.	CB(2)1158/98-99(03)
Clause 31 Vacancy in membership of elected members of a District Council to be declared	Hon Andrew WONG	In subclause (1), by adding "a Chairman or" before "an elected member".	District Council Chairmen should be elected by electors in each District constituency.	CB(2)1158/98-99(06)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
<p>Clause 32 By-election to be held to fill vacancy in membership of District Councils</p>	<p>The Administration</p>	<p>For subclause (1)</p> <p>(a) In paragraph (b) by deleting "37" and substituting "38A(1)".</p> <p>(b) In paragraph (c) –</p> <p>(i) by deleting "無法進行" and substituting "[未能完成]";</p> <p>(ii) by deleting the full stop and substituting "; and".</p> <p>(c) By adding –</p> <p>"(d) on the making of a declaration under <u>section 38A(3)</u> that an election for a constituency has failed because of the death or disqualification of the successful candidate at the election."</p>		<p>CB(2)1053/98-99(01) & CB(2)1147/98-99(01)</p>

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
<p>Clause 33 What requirements are to be complied with by persons nominated as candidates</p>	<p>Democratic Party</p>	<p>By deleting "uphold the Basic Law and".</p>	<p>It is unnecessary to impose the requirement regarding upholding the Basic Law on DCs which are advisory organs only as there is no such requirement in the Basic Law and other advisory organs do not need to comply with such a requirement.</p>	<p>CB(2)1158/98-99(04)</p>

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
New Clause 34A	The Administration	<p>By adding –</p> <p>"34A. Who are validly nominated candidates</p> <p>(1) The Returning Officer must, as soon as practicable after receiving a nomination form that complies with regulations in force under the Electoral Affairs Commission Ordinance (Cap. 541), decide in accordance with those regulations whether or not a person is validly nominated as a candidate.</p> <p>(2) If, after the Returning Officer has made a decision under <u>subsection (1)</u> that a candidate is validly nominated for election for a constituency but before the date specified for holding the election, it comes to the knowledge of the Returning Officer that the candidate has died, that Officer must, in accordance with regulations in force under the</p>		CB(2)1053/98-99(01) & CB(2)1147/98-99(01)

		<p>Electoral Affairs Commission Ordinance (Cap. 541) –</p> <p>(a) publicly declare that the candidate has died; and</p> <p>(b) further declare which candidate is or candidates are validly nominated for election for that constituency.</p> <p>(3) <u>Subsection (2)</u> does not apply if the Returning Officer has publicly declared under section 38(1) that the candidate was duly elected as an elected member.</p> <p>(4) If, after the Returning Officer has made a decision under <u>subsection (1)</u> that a candidate is validly nominated for election for a constituency but before the date specified for holding the election, it comes to the knowledge of the Returning Officer that the candidate is disqualified from being nominated as a candidate, the Returning Officer must, in accordance with regulations in force under the Electoral Affairs Commission</p>		
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		<p>Ordinance (Cap. 541), vary the decision to the effect that the candidate is not validly nominated and, if the Returning Officer so varies the decision, that Officer must, in accordance with those regulations –</p> <p>(a) publicly declare that the decision has been varied; and</p> <p>(b) further declare which candidate is or candidates are validly nominated for election for that constituency.</p> <p>(5) Despite subsection (4), the Returning Officer may not vary a decision on the validity of nomination of a candidate if that Officer has, under section 38(1), publicly declared that candidate to be duly elected as an elected member."</p>		
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Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 37 When election proceedings are terminated	The Administration	By deleting the clause.	The Administration proposes to amend the existing clause which requires the election proceedings to be terminated and start afresh in order to reduce the risk of disruption to the electoral process. The effect of the proposed changes will include, for example, if the Returning Officer becomes aware of the death or disqualification of a validly nominated candidate after the close of nomination but before the polling day, the Returning Officer will be empowered to invalidate the latter's nomination and the electoral process can continue without disruption. The Administration has made the same proposal for the 2000 LegCo election.	CB(2)1053/98-99(01) & CB(2)1147/98-99(01)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 38 What is to happen if insufficient candidates are nominated	The Administration	In subclause (2), by deleting “無法進行” and substituting “〔未能完成〕”.		CB(2)1053/98-99(01) & CB(2)1147/98-99(01)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
New Clause 38A	The Administration	<p>By adding –</p> <p>"38A. When election proceedings are terminated or when an election fails</p> <p>(1) If, on the day specified for the holding of an election but before the close of polling for the election, it comes to the knowledge of the Returning Officer that a validly nominated candidate for election for a constituency has died or is disqualified from being elected, that Officer must, in accordance with regulations in force under the Electoral Affairs Commission Ordinance (Cap. 541), publicly declare that the proceedings for the election for the constituency are terminated.</p>	<p>The Administration proposes to amend the existing clause which requires the election proceedings to be terminated and start afresh in order to reduce the risk of disruption to the electoral process. The effect of the proposed changes will include, for example, if the Returning Officer becomes aware of the death or disqualification of a validly nominated candidate after the close of nomination but before the polling day, the Returning Officer will be empowered to invalidate the latter's nomination and the electoral process can continue without disruption. The Administration has made the same proposal for the 2000 LegCo election.</p>	<p>CB(2)1053/98-99(01) & CB(2)1147/98-99(01)</p>

		<p>(2) If, after the close of polling for an election but before declaring the result of the election, it comes to the knowledge of the Returning Officer that a candidate for election for a constituency has died or is disqualified from being elected, the proceedings for the election for the constituency are not to be terminated at that stage and, where the counting of votes in respect of the election has not commenced or is being conducted, the counting of votes is to commence or to continue, as the case may be, as if the death or disqualification had not occurred.</p> <p>(3) If, after the counting of votes is finished, the candidate referred to in <u>subsection (2)</u> is found to be successful at the election, the Returning Officer must, in accordance with regulations in force under the Electoral Affairs Commission Ordinance (Cap. 541), publicly declare the election to have failed."</p>		
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Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 39 System of voting and counting of votes	The Administration	<p>By adding –</p> <p>"(5) Despite subsection (4), if, before declaring the result of an election for a constituency, it comes to the knowledge of the Returning Officer that the candidate who was successful at the election has died or is disqualified from being elected, that Officer –</p> <p>(a) must not declare that candidate as elected; and</p> <p>(b) must publicly declare, under <u>section 38A(3)</u>, that the election has failed."</p>	<p>The Administration proposes to amend the existing clause which requires the election proceedings to be terminated and start afresh in order to reduce the risk of disruption to the electoral process. The effect of the proposed changes will include, for example, if the Returning Officer becomes aware of the death or disqualification of a validly nominated candidate after the close of nomination but before the polling day, the Returning Officer will be empowered to invalidate the latter's nomination and the electoral process can continue without disruption. The Administration has made the same proposal for the 2000 LegCo election.</p>	<p>CB(2)1053/98-99(01) & CB(2)1147/98-99(01)</p>

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 53 Court to determine election petition	Democratic Party	By adding ", the Clerk to the District Council" in front of "and the Director of Home Affairs".	An independent secretariat can assist in the work of DCs more effectively. The proposed amendments have made reference to the Legislative Council Ordinance.	CB(2)1158/98-99(03)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 57 Acts of person not invalid if declared not to be elected	Democratic Party	By deleting "Designated Officer" and substituting "Clerk to the District Council".	An independent secretariat can assist in the work of DCs more effectively. The proposed amendments have made reference to the Legislative Council Ordinance.	CB(2)1158/98-99(03)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 59 Functions of a District Council	The Frontier	<p>(a) In paragraph (ii), by deleting the full stop at the end and substituting "; and".</p> <p>(b) By adding –</p> <p>"(c) to receive and handle complaints from Hong Kong residents."</p>	Receiving complaints from citizens has, in fact, constituted a major part of the work of elected DC members. This should be clearly provided for in law in recognition of members' efforts in providing citizens with such services and should be expressly defined as a function of DCs.	CB(2)1158/98-99(02)
Clause 59 Functions of a District Council	Democratic Party	In subclause (a)(i), by deleting "including matters relating to food and environmental hygiene services".	It is unnecessary to set out rigidly in legislation the subject matters on which DCs are required to provide advice.	CB(2)1158/98-99(05)

<p>Clause 59 Functions of a District Council</p>	<p>Hon Andrew WONG</p>	<p>By deleting the clause and substituting –</p> <p>"59. Functions and powers of a District Council</p> <p>The functions and powers of a District Council are –</p> <p>(a) to exercise such powers and perform such duties as are conferred or imposed on it by this or any other Ordinance;</p> <p>(b) to undertake such other functions within the District as the Chief Executive play from time to time direct;</p> <p>(c) to advise the Government –</p> <p>(i) on matters affecting the well-being of the people in the District; and</p> <p>(ii) on the provision and use of public facilities and services within the District; and</p>	<p>Proposal on the functions and powers of a District Council.</p>	<p>CB(2)1158/98-99(06)</p>
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		<p>(iii) on the adequacy and priorities of Government programmes for the District;</p> <p>(d) where funds are made available for the purpose –</p> <p>(i) to undertake local public works and environmental improvements within the District;</p> <p>(ii) to establish and maintain places and facilities for recreation, relaxation, the performance of sports of any kind and the conduct of literary, artistic, musical or other cultural activities of any kind;</p> <p>(iii) to provide, promote, sponsor, assist or collaborate with any other person or group of persons whether incorporated or not in the organizing or providing of recreational, sports and cultural activities whether entirely within the District or jointly within two or more Districts."</p>		
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Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 60 Election of first Chairman and Vice Chairman	Democratic Party	By deleting "District Officer" and substituting "Clerk to the District Council".	An independent secretariat can assist in the work of DCs more effectively. The proposed amendments have made reference to the Legislative Council Ordinance.	CB(2)1158/98-99(03)
Clause 60 Election of first Chairman and Vice Chairman	Hon Andrew WONG	By deleting the clause.	District Council Chairmen should be elected by electors in each District constituency.	CB(2)1158/98-99(06)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 61 Resignation of Chairman or Vice Chairman	Democratic Party	By deleting "District Officer" and substituting "Clerk to the District Council".	An independent secretariat can assist in the work of DCs more effectively. The proposed amendments have made reference to the Legislative Council Ordinance.	CB(2)1158/98-99(03)
Clause 61 Resignation of Chairman or Vice Chairman	Hon Andrew WONG	By deleting the clause.	District Council Chairmen should be elected by electors in each District constituency.	CB(2)1158/98-99(06)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 62 When office of Chairman or Vice Chairman becomes vacant	Democratic Party	By deleting "District Officer" and substituting by "Clerk to the District Council".	An independent secretariat can assist in the work of DCs more effectively. The proposed amendments have made reference to the Legislative Council Ordinance.	CB(2)1158/98-99(03)
Clause 62 When office of Chairman or Vice Chairman becomes vacant	Hon Andrew WONG	<p>In subclause (1), by deleting "or Vice Chairman" where it appears and by deleting "or Vice Chairman, as the case may be,".</p> <p>In subclause (2),</p> <p>a) By deleting "or Vice Chairman" and "or Vice Chairman, as the case may be,";</p> <p>(b) By deleting "Chairman" and substituting "Temporary Chairman";</p> <p>(c) By adding at the end of the sentence "pending a by-election of the office of Chairman".</p>	District Council Chairmen should be elected by electors in each District constituency.	CB(2)1158/98-99(06)

		<p>In subclause (3), by deleting the subclause and substituting –</p> <p>"(3) If the office of Chairman becomes vacant, the District Officer must preside at the meeting held for the purpose of electing the Temporary Chairman."</p> <p>By deleting the subclause (4).</p>		
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Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 63 Election of Chairman or Vice Chairman to be in accordance with Schedule 5	Hon Andrew WONG	By deleting the clause.	District Council Chairmen should be elected by electors in each District constituency.	CB(2)1158/98-99(06)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 64 Duties of Chairman and Vice Chairman	Hon Andrew WONG	By deleting the sub-clause (2). In subclause (3), by deleting "If both the Chairman and Vice Chairman are absent" and substituting "If the Chairman is absent".	District Council Chairmen should be elected by electors in each District constituency.	CB(2)1158/98-99(06)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 65 Chairman or other person presiding to have a casting vote	The Administration	In subclause (2), by replacing "member" with "person".	The Administration proposes to replace "member" with "person" since a District Officer can also preside at a meeting for electing a Chairman or Vice Chairman.	CB(2)1053/98-99(01) & CB(2)1147/98-99(01)
Clause 65 Chairman or other person presiding to have a casting vote	Hon Andrew WONG	a) In (1), by deleting "section 64(2) or (3)" and substituting "section 64(3)"; and (b) By deleting sub-clause (2).	District Council Chairmen should be elected by electors in each District constituency.	CB(2)1158/98-99(06)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 67 District Council may appoint secretary	Democratic Party	By deleting "a public officer to act as the secretary of that District Council" and substituting "a person to act as the Clerk to the District Council".	An independent secretariat can assist in the work of DCs more effectively. The proposed amendments have made reference to the Legislative Council Ordinance.	CB(2)1158/98-99(03)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 68 Quorum	The Administration	In the heading by adding " of a District Council " after " Quorum ".	The Administration proposes to amend the heading to make it clear that the clause relates to meeting of a District Council.	CB(2)1053/98-99(01) & CB(2)1147/98-99(01)
Clause 68 Quorum	Democratic Party	By deleting "half" and substituting "one third of".	Each DC can determine its own meeting proceedings so long as it meets the minimum requirement.	CB(2)1158/98-99(05)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 69 District Council may appoint committees	Democratic Party	By deleting subclause (2) and substituting – "(2) A District Council may appoint to a committee any person who is not a member."	DCs should has flexibility in making appointment to their committees in order to ensure a greater diversity of professionals.	CB(2)1158/98-99(05)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 70 Proceedings of a District Council not affected by vacancy or defect in membership	The Administration	(a) In the heading by adding " or a committee " after " Council ". (b) By adding – "(2A) The validity of proceedings of a committee are not affected by a defect in the appointment of or eligibility of a person to be a member of the committee."	The Administration proposes to amend the existing clause to cover committees of the District Councils.	CB(2)1053/98-99(01) & CB(2)1147/98-99(01)
Clause 70 Proceedings of a District Council not affected by vacancy or defect in membership	Democratic Party	In subclause (2)(b), by deleting "appointment or". In subclause (3)(a), by d By deleting subclause (3)(b).	The explanation is the same as for Clause 2	CB(2)1158/98-99(01)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
New Clause 70A	The Frontier	<p>By adding –</p> <p>"70A. Audit</p> <p>(1) The Chairman of each District Council shall within the period of 4 months, or such longer period as the Chief Executive may determine, after the close of each financial year, transmit to the Director of Audit –</p> <p>(a) the statement of the receipts and payments of each District Council for that financial year;</p> <p>(b) the statement of the assets and liabilities of each District Council on the last day of that financial year; and</p> <p>(c) such other statements as the Director of Accounting Services may specify from time to time.</p>	The accounts of DCs should be audited by the Director of Audit separately.	CB(2)1158/98-99(02)

		<p>2) The Director of Audit shall be entitled at any time to have access to all books of account, vouchers and other financial records of each Councils and to require such information and explanations thereon as he thinks fit.</p> <p>(3) On receipt of the statements referred to in subsection (1), the Director of Audit –</p> <p>(a) shall examine and audit the statements; and</p> <p>(b) shall within a period of 6 months after the close of the financial year, or such longer period as the Chief Executive may determine, prepare and submit to each District Council a report in respect of his examination and audit of the statements together with –</p> <p>(i) a copy of the statement of assets and liabilities duly certified by him; and</p>		
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		<p>(ii) a copy of the statement of receipts and payments duly certified by him.</p> <p>(4) The Chairman of each District Council shall send copies of the audited statements and of the report of the Director of Audit to the Chief Executive.</p>		
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Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 77 Proceedings against members on grounds of disqualification	The Administration	In the heading by deleting " members " and substituting " persons ".	The Administration proposes to improve the wording in the heading by replacing "members" with "persons".	CB(2)1053/98-99(01) & CB(2)1147/98-99(01)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 79 Chief Executive in Council may make regulations	Hon LAU Chin-shek	By adding – "(5) It is hereby declared that a regulation under this section is subsidiary legislation."	The Chief Executive in Council may make regulations for the better carrying out of the purposes of the Ordinance, <i>and such regulations are subsidiary legislation which shall be subject to the scrutiny of the Legislative Council.</i>	CB(2)1118/98-99(04)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 80 Chief Executive in Council may amend Schedule 4 or 5	Hon LAU Chin-shek	(a) By renumbering the clause as section 80(1). (b) By adding – "(2) It is hereby declared that an order under this section to amend Schedule 5 is subsidiary legislation."	Future amendments to the election procedure of the Chairman and Vice Chairman of a District Council shall be made by the Chief Executive in Council by order published in the Gazette, <i>and such an order is subsidiary legislation which shall be subject to the scrutiny of the Legislative Council.</i>	CB(2)1118/98-99(04)
Clause 80 Chief Executive in Council may amend Schedule 4 or 5	Democratic Party	By deleting "4 or".	The explanation is the same as for Clause 2.	CB(2)1158/98-99(01)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 81 Designated Officer to give notice of membership	Democratic Party	By deleting the clause.	The explanation is the same as for Clause 2.	CB(2)1158/98-99(01)
Clause 81 Designated Officer to give notice of membership	Democratic Party	By deleting "Designated Officer" and substituting "Clerk to the District Council".	An independent secretariat can assist in the work of DCs more effectively. The proposed amendments have made reference to the Legislative Council Ordinance.	CB(2)1158/98-99(03)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 82 Designated Officer to give notice of vacancy	Democratic Party	By deleting the clause.	The explanation is the same as for Clause 2.	CB(2)1158/98-99(01)
Clause 82 Designated Officer to give notice of vacancy	Democratic Party	By deleting "Designated Officer" and substituting "Clerk to the District Council".	An independent secretariat can assist in the work of DCs more effectively. The proposed amendments have made reference to the Legislative Council Ordinance.	CB(2)1158/98-99(03)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 83 Directions by Chief Executive to a District Council	Hon LAU Chin-shek	By deleting the clause.		CB(2)1118/98-99(04)
Clause 83 Directions by Chief Executive to a District Council	The Administration	In subclause (1), by deleting "in relation to the performance of its functions" and substituting ", in the performance of its functions, in relation to matters which appear to the Chief Executive to affect the public interest". s		CB(2)1053/98-99(01) & CB(2)1147/98-99(01)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
New Clause 84A	The Administration	<p>By adding –</p> <p>84A. Transitional: application of section 27A to first ordinary election</p> <p>In relation to the first ordinary election to be held under this Ordinance, section 27A is to have effect as if "Provisional District Board" and "Provisional District Boards" respectively were substituted for "District Council" and "District Councils".</p>		CB(2)1158/98-99(07)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Clause 86 Consequential and miscellaneous amendments	Democratic Party	In subclause (3), by deleting "11, 12, 13(b), (c), and (d), 18,".	The explanation is the same as for Clause 2.	CB(2)1158/98-99(01)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Schedule 3 Number of elected members and appointed members	Democratic Party	By deleting "[ss. 5, 8 & 11" and substituting "[ss. 5 & 8]". By deleting the third column.	The explanation is the same as for Clause 2.	CB(2)1158/98-99(01)
Schedule 3 Number of elected members and appointed members	Hon Andrew WONG	Between columns 2 and 3, by adding column 3A with "Chairman" as heading and the column to read "1" for each District Council.	District Council Chairmen should be elected by electors in each District constituency.	CB(2)1158/98-99(06)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Schedule 4 Forms of acceptance of office	Democratic Party	By deleting the schedule.	The explanation is the same as for Clause 2.	CB(2)1158/98-99(01)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Schedule 5 Voting procedure under section 63 of this Ordinance	Hon Andrew WONG	By deleting the Schedule.	District Council Chairmen should be elected by electors in each District constituency.	CB(2)1158/98-99(06)

Clause	Proposed by	Proposed CSAs	Explanation	Paper No. of CSAs
Schedule 6 Consequential and miscellaneous amendments	The Administration	<p>By adding under the heading "Electoral Affairs Commission Ordinance" –</p> <p>"17A. Long title amended</p> <p>In the long title to the Electoral Affairs Commission Ordinance (Cap. 541) is amended by adding "and District Council constituencies" after "constituencies".</p> <p>In section 18, by deleting "of the Electoral Affairs Commission Ordinance (129 of 1997)".</p> <p>By adding –</p> <p>"19A. Functions of Commission</p> <p>Section 4(a) is amended by adding "or District Council constituencies, as the case may be," after "constituencies".</p>	<p>(i) The Administration proposes to delete item 24(b)(3)(a) in Schedule 6 of the Bill dealing with general election of the LegCo which has no relevance to the District Councils.</p> <p>(ii) The Administration proposes to add further reference to the District Council constituencies in relevant sections of EACO to clarify that the Commission is responsible for delineating District Council constituencies.</p>	CB(2)1053/98-99(01) & CB(2)1147/98-99(01)

		<p>In section 24,</p> <p>(a) by adding –</p> <p style="padding-left: 40px;">"(aa) in subsection (2)(a) by adding "or District Council constituency, as the case may be" after "constituency";".</p> <p>(b) by deleting paragraph (b) and substituting –</p> <p style="padding-left: 40px;">"(b) by repealing subsection (3)(b) and substituting –</p> <p style="padding-left: 80px;">"(b) in respect of –</p> <p style="padding-left: 120px;">(i) the first ordinary election to be held under the District Councils Ordinance (of 1998), not later than 31 May 1999; and</p>		
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		<p>(ii) subsequent ordinary elections, at intervals of not more than 36 months from the preceding ordinary election.";"</p> <p>In section 26, by adding –</p> <p>"(ee) in subsection (6)(b) by repealing "or the geographical constituency" and substituting ", the geographical constituency or the District Council constituency";"</p>		
Schedule 6 Consequential and miscellaneous amendments	Democratic Party	<p>In section 11, by deleting paragraph (a) and substituting –</p> <p>"(a) by repealing paragraph (b) in the definition of "Designated Officer" (指定人員) and substituting –</p> <p>"(b) in relation to, or a matter arising from an election to the District Council, the Clerk to the District Council;"</p>	An independent secretariat can assist in the work of DCs more effectively. The proposed amendments have made reference to the Legislative Council Ordinance.	CB(2)1158/98-99(03)

Note: This summary is based on the Committee Stage amendments to be proposed by the Administration, the Frontier, the Democratic Party, Hon Andrew WONG, JP and Hon LAU Chin-shek, JP as at 25 January 1999.

Legislative Council Secretariat
26 January 1999