

**Administrations Response to Points raised on 5 March 1999 by
Members of the Bill Committee on
Legislative Council (Amendment) Bill 1999**

C(a): To provide a list of proposed effective dates of the various provisions of the Bill.

A(a): We are compiling the relevant list, and will present it to the Committee as soon as possible.

C(b): To provide information on overseas countries which have adopted “advance postal voting” and/or “overseas polling arrangement”, whether these countries have encountered difficulties (similar to those explained by the Administration at the meeting) in implementing the arrangements and if so, how they have resolved these difficulties.

A(b): We have gathered the following information on overseas countries which provide postal voting and/or overseas polling arrangements:-

Canada

Electors who are unable to attend polling stations on polling day for the purpose of casting votes may vote by post. Electors must apply to the relevant authority for the postal voting arrangement, and must cause the marked ballot papers to reach the authority before the close of polls. Any ballots received after the close of polls will not be counted towards the election results.

To ensure the secrecy of vote, an elector must put the marked ballot paper into an anonymous envelop, enclose this envelop with an outer envelop which bears the elector’s information and mail them back to the relevant authority. This is to ensure that the elector’s information would not be disclosed during the counting of votes. However, we are not aware of any special measures adopted to prevent vote buying, or to ensure the timeliness and secrecy of the mail.

Australia

Electors who, for specified reasons such as work commitment, cannot attend polling stations on polling day may vote by post. They must apply to the returning officers for the postal voting arrangement, mark the ballot papers upon receipt and mail them back to the returning officers by the close of polls. Returning officers are required to include all ballots received within 13 days after the polling day in the calculation of election results.

To ensure the secrecy of vote, an elector must put the marked ballot paper into an envelop which bears the elector's information and mail them back to the relevant returning officer. The returning officer will take the ballot out from the envelop, put the ballot into a ballot box immediately and begin to count only after a substantial number of ballots have been accumulated. However, we are also not aware of any special measures adopted to prevent vote buying, or to ensure the timeliness and secrecy of the mail.

In addition, electors staying overseas on polling day may choose to vote at Australian embassies, consulates or trade offices which provide voting facilities. They can attend the above places to cast their votes starting from one or two days after the close of nomination. All ballots must be sent back to Australia after the close of polls for counting by the relevant returning officers. Since formal election results need to be obtained after all these ballots have been sent to Australia and counted, the relevant results can only be declared sometime after the close of polls. At present, around 100 Australian embassies, consulates and trade offices provide such voting facilities.

C(c): To respond to a member's query that in the 1995 LegCo election, candidates and their agents were not allowed to participate in the delivery of the ballot boxes in part of the journey upon arrival at the central counting station because the area concerned was restricted to polling staff only.

A(c): We have checked the relevant records but cannot find any showing that the incident described happened. The then Boundary and Election Commission did not receive any complaint relating to the alleged incident.

In the 1998 LegCo election, the Electoral Affairs Commission took appropriate steps to ensure that candidates or their agents were allowed to monitor the whole process of delivering ballot boxes to the central counting station. The Electoral Affairs Commission did not receive any complaints in relation to the delivery of ballot boxes.

C(d): To give the Administration's view on whether the provision in Section 11 of the Ordinance (regarding the emergency session of the LegCo) is in conformity with Article 69 of the Basic Law which stipulates that the first term of LegCo shall be two years.

A(d): We are searching through the records and will revert to the Committee later.

C(e): To consult the Electoral Affairs Commission on members' proposal to amend the period of 21 days referred to in Section 35(1) to 14 days, instead of adopting the Administration's proposal to amend the 14-day period in section 13(4) to 21 days.

A(e): Our proposal to amend the 14-day period referred to in Section 13(4) of the Legislative Council Ordinance to a period of 21 days aims at reconciling the requirement with that in Section 35(1) of the Ordinance, which requires the Clerk to the LegCo to declare the existence of a vacancy in the membership of the LegCo within 21 days after he becomes aware of such vacancy. The proposal is agreed by the Electoral Affairs Commission. In this connection, Members are invited to note that the period allowed in similar provisions in the District Councils Bill is also 21 days. As to members' proposal made at the meeting, we have consulted the Electoral Affairs Commission and it does not have any comment on the proposal.