

立法會
Legislative Council

LC Paper No. CB(2)893/99-00

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seen by the Administration)

Ref : CB2/SS/3/99

Legislative Council
Subcommittee on subsidiary legislation
Relating to 2000 Legislative Council election

Minutes of meeting
held on Tuesday, 7 December 1999 at 10:45 am
in Conference Room A of the Legislative Council Building

Members Present : Hon Ronald ARCULLI, JP (Chairman)
Hon Cyd HO Sau-lan
Hon Martin LEE Chu-ming, SC, JP
Hon NG Leun-sing
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon CHAN Yuen-han
Hon Jasper TSANG Yok-sing, JP
Hon YEUNG Yiu-chung
Hon CHOY So-yuk

Members Absent : Hon David CHU Yu-lin
Hon LEE Wing-tat
Hon Howard YOUNG, JP
Hon Emily LAU Wai-hing, JP

Public Officers Attending : Mr Robin IP
Deputy Secretary for Constitutional Affairs

Mr Bassanio SO
Principal Assistant Secretary for Constitutional Affairs

Mr James O'NEIL
Deputy Solicitor General (Constitutional)

Mr Lawrence PENG
Senior Assistant Law Draftsman

Mr Rayne CHAI
Government Counsel

Mr LI Wing
Chief Electoral Officer

Clerk in Attendance : Mrs Percy MA
Chief Assistant Secretary (2)3

Staff in Attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Mrs Eleanor CHOW
Senior Assistant Secretary (2)7

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I. Election of Chairman

Miss Cyd HO, the member of the highest precedence in the Subcommittee, presided the meeting and called for nominations for the chairmanship of the Subcommittee.

2. Mr Ronald ARCULLI was nominated by Miss CHAN Yuen-han and the nomination was seconded by Mr TSANG Yok-sing and Miss CHOY So-yuk. As there were no other nominations, the Presiding Member declared Mr Ronald ARCULLI elected as Chairman of the Subcommittee.

II. Meeting with the Administration

Declaration of Geographical Constituencies (Legislative Council) Order 1999 (L.N. 283)

(LegCo Brief File Ref : CAB C1/30/8 and LC Paper No. LS 30/99-00)

3. Members noted that the Order sought to declare areas of Hong Kong to be geographical constituencies (GCs) for the purposes of an election to elect Members for the second term LegCo, give names to those constituencies, and specify the number of LegCo Members to be returned for each of those constituencies. The process of boundary delineation was subject to prescribed procedures under the Electoral Affairs Commission (EAC) Ordinance and the Legislative Council Ordinance. Members also noted that in accordance with the Basic Law, the number of GC seats for the second term LegCo would be increased from 20 to 24.

4. Deputy Secretary for Constitutional Affairs (DSCA) said that in the delineation exercise, EAC adopted a working principle that the boundaries of the existing five GCs should be maintained as far as possible. EAC's recommendations on delineation of GCs for the 2000 LegCo election were set out in Annex B to the LegCo Brief. In gist, the four additional seats would be allocated to each existing GC except the New Territories East, and the deviation of population in each GC was well within the maximum deviation of $\pm 15\%$ as prescribed in the EAC Ordinance.

5. The meeting then went through the Order clause by clause. Assistant Legal Adviser said that the Order should come into operation on 1 January 2000 and that the drafting was legally in order. Members agreed to support the Order in principle.

Electoral Affairs Commission (Registration of Electors) (Geographical Constituencies) (Legislative Council) (Amendment) Regulation 1999 (L.N. 284)

(LegCo Brief File Ref : REO 14/30/1(CR) and LC Paper No. LS 30/99-00)

6. Chief Electoral Officer (CEO) said that following the enactment of the Legislative Council (Amendment) Ordinance 1999 (LC(A)O) which set out the arrangements for the 2000 LegCo election, certain provisions of the principal regulation need to be correspondingly amended to tie in with the changes introduced. He highlighted the amendments as follows -

- (a) The cycle of voter registration would be revised to tie in with the new timetable for the 2000 LegCo election;
- (b) The scope of the principal regulation would be expanded to cover the District Councils (DC);
- (c) The format of the register would be revised to show only the name and principal residential address of an elector, but not his identity document number and sex in order to enhance protection of the privacy of electors' personal data. In addition, each section of the register would be further divided into subsections for the purpose of a DC election;
- (d) The Electoral Registration Officer (ERO) would also accept application by a person for registration in a provisional register sent through facsimile transmission; and
- (e) Since the voter register published under the regulation would also be used for DC elections, conviction of offences by a person resulting in disqualification as specified in section 22 of the principal regulation would also be an offence prescribed for the purposes of DC Ordinance.

Format of voter register

7. The Chairman asked whether the format of the register published for public inspection would be different from the one used in the polling station. CEO advised that the register used in the polling station on the election day would show also the identity document number and sex of registered electors so as to facilitate the polling staff to check the eligibility of the electors.

8. Mrs Selina CHOW asked whether the ERO would accept an application sent through e-mail. CEO replied that such an application would be accepted if the signed application form was attached to the e-mail. Since the register for public inspection would excise an elector's identity document number and sex, Mrs CHOW asked whether the register would also be made available on the Internet for public inspection in order to enhance transparency.

9. CEO responded that publication of the register on the Internet was not provided for in law. Deputy Solicitor General (Constitutional) (DSG) said that there were privacy implications in doing so as the names and addresses of electors could be downloaded by anybody and used in conjunction with other information for purposes not connected with the election. Under the Regulation, it was an offence for a person to use the information obtained from the registers for purposes not connected with the election. The physical means of checking the hardcopy of the register did impose a natural barrier against misuse of such information.

10. Mrs Selina CHOW said that the Administration's argument was not balanced. On one hand the Administration had advocated transparency, yet on the other hand it refused to make available the register on the Internet for public inspection. The Chairman pointed out that in any event, the names and addresses of electors would be made available to all candidates in CD-ROM.

11. DSCA responded that the purpose of the CD-ROM was to facilitate candidates to carry out electioneering activities, such as sending election related materials to electors. CEO added that in the recent DC elections, some electors had complained about intrusion of privacy as a result of publicity materials placed outside their flats by agents of candidates. He stressed that the privacy of the electors' personal data must be protected. It would be very difficult to control the use of these information once they could be downloaded from the Internet and manipulated by any person through the Internet for his own use.

12. The Chairman said that there were pros and cons for making public the register on the Internet. He requested and the Administration undertook to gather information on overseas practices for members' information.

(Post-meeting note : The Administration's response was circulated to members vide LC Paper No. CB(2)752/99-00(01) on 4 January 2000.)

Voter registration cycle

13. DSCA advised that the LC(A)O provided that the ERO must publish a provisional register and a final register of electors not later than 15 April and 25 May respectively each year. To tie in with the new timetable, the various dates concerning different steps in the compilation of the registers as set out in the principal regulation were consequentially postponed as summarized in the Annex to the LegCo Brief.

14. Referring to the deadline for application for registration as an elector which was proposed to be 16 March every year, Mrs Selina CHOW pointed out that the date would fall on different days of the week every year, e.g. 16 March 2000 was Thursday and 16 March 2001 was Friday. She said that for the convenience of the public and for the purpose of promoting voter registration, it would be better to fix the deadline on a specified day of the month, say last Saturday of March, instead of a particular date in a year.

15. CEO responded that it had been the past practice to specify a date rather than a day of the month as the deadline. From the public point of view, a deadline which fell on the same date of every year was easier to remember.

16. In response to Mrs Selina CHOW's question on computation of time, Assistant Legal Adviser said that in accordance with Section 71(1) of the Interpretation and General Clauses (Cap.1), where any act or proceeding was directed to be done on a certain day, then if that day was a public holiday, the act or proceeding should be considered as done on the next following day, not being a public holiday. He also clarified that while the statutory deadline for voter registration must be adhered to, the provisional and final registers could be published on any date before the specified deadline stated in law.

17. Pointing out that the period between the deadline for voter registration and the 1998 LegCo election was only four months, Mr Martin LEE questioned why the same period was extended to six months for the 2000 LegCo election. He held the view that the deadline for voter registration should be scheduled as close to the election day as possible, so as to allow more time for eligible persons to register as electors and to maintain the interest of the public in voting. His views were supported by the majority members present at the meeting.

18. DSCA explained that the timetable for LegCo elections was usually drawn up by working backwards, i.e. after the election day was set, the Administration would list out the steps of preparatory work and the time required for these steps. The various arrangements for the 1998 LegCo election had been made under a very tight timetable. The Administration hoped to improve the electoral arrangements in the coming 2000 LegCo election by allowing adequate time for nomination of candidates, electioneering activities and voter registration, etc. In addition, as six Members would be returned by the Election Committee (EC) in the second term LegCo election, EC subsector

elections must be conducted before holding of the LegCo election in mid-September 2000. As a result, the final register must be published before the EC subsector elections which would be held in July 2000. It was also necessary to allow adequate time for nomination and canvassing for the EC subsector elections and LegCo election. The proposed deadline of 16 March 2000 for voter registration was considered to be appropriate.

19. Miss CHOY So-yuk suggested that different dates be set for the publication of registers for GC, FC and EC elections. DSCA responded that it was inappropriate to do so as the eligibility for registration in GC, FC and EC subsectors were interrelated, for example, a person must be a GC elector in order to be qualified as an FC and EC elector.

20. Mr Martin LEE said that since the Administration had the experience of making electoral arrangements for the 1998 LegCo election within a very short period, he found it difficult to understand why the period between the deadline for voter registration and the election day could not be shortened for the 2000 LegCo election. He asked the Administration to consider postponing the deadline for voter registration, and if not, he would consider introducing amendments to limit the period between the deadline for voter registration and the 2000 LegCo election to two months. He also asked whether the Bills Committee on LC(A)O had raised concern on the same issue.

21. DSCA responded that similar concerns had been raised by members of the Bills Committee on LC(A)O. After the Administration had explained about the timetable for the 2000 LegCo election, the LC(A)O was passed without any changes to the voter registration cycle. He said that it was not possible to postpone the deadline for voter registration now given that the deadlines for publication of the registers were provided for in the LC(A)O passed by LegCo in the last session. He assured members that as there was no need to conduct EC subsector elections for the third term LegCo in 2004, the Administration would consider putting back the deadline for publication of the final register to a date nearer to the election day as far as practicable.

22. The Chairman pointed out that amending the statutory deadlines for the publication of the provisional and final registers would fall outside the jurisdiction of the Subcommittee and would involve the introduction of a Private Member's Bill. Having regard to the constraint imposed by the statutory deadlines, Mr Martin LEE asked the Administration to advise how far could the deadline for voter registration be put back.

23. CEO said that there was only one month between the deadline for voter registration (16 March) and the publication of the provisional register (15 April). During that month, much work had to be done before the provisional register was published. For example, additional information would be sought by ERO from applicants when required, and personal particulars of registered electors would be input into the computer for the purpose of compiling the voter register. He pointed out

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that the printing of the provisional register which involved about 3 million registered electors would alone take two to three weeks to complete. There was not much room for postponement of the deadline for voter registration.

24. Members were in general dissatisfied with the existing arrangements. They reiterated their concerns and requested the Administration to take into account their views in setting the cycle of voter registration for future LegCo elections. Mr Martin LEE suggested and members agreed that the matter be followed up by the Panel on Constitutional Affairs.

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System of voting and voter registration

25. Miss CHAN Yuen-han expressed concern about the accuracy of the provisional and final registers. Some members echoed the view that in the past, it was not uncommon for the registers to contain outdated information such as wrong addresses of electors and names of deceased electors, etc.

26. In response, CEO explained the procedure for preparation and publication of the registers. He said that the particulars of an eligible person who had applied for registration would be entered into a provisional register. He would be notified in writing after registration. An applicant found not eligible for registration would also be informed in writing. The provisional register would be published for public inspection. Objections and claims in relation to a provisional register might be lodged during a specific period. Any rulings on claims and objections would be reflected in the final register which would be published and made available for public inspection. In addition, all appellants would be advised of the result of their appeals in writing.

27. Miss CHAN Yuen-han said that some of the complaints about inaccurate information in the registers were raised by persons who applied for registration during household visits. The Chairman asked whether these persons had been issued with an acknowledgement card in respect of their applications so that they could make inquiries if necessary. He said that the Administration should consider implementing this arrangement if the reply was negative.

28. CEO confirmed that under the existing practice, no acknowledgement card would be issued to such persons. He said that alteration to particulars recorded in the electoral register would only be made in response to requests made to ERO. Miss CHAN Yuen-han responded that it was unrealistic for the Administration to expect that all registered electors would inspect the provisional register. Members generally considered that the Administration should take proactive actions to ensure the accuracy of the registers.

29. Mr Martin LEE criticized that the systems of voting and voter registration in Hong Kong were very outdated, compared to many overseas countries. Mrs Selina CHOW requested the Administration to consider two proposals which had been raised

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by Members on previous occasions. One proposal was the introduction of a computerized voting system to allow for cross-station polling. Another proposal was the introduction of automatic registration of electors. Miss CHOY So-yuk said that technically, the first proposal could be implemented in time for the 2000 LegCo election if the Administration wished to do so. She said that she had attended a seminar in USA in 1997. It had come to her attention that even rural areas in Brazil had adopted computerised voting system. Upon her return from the trip, she had passed the relevant information to the Administration for consideration.

30. DSCA and CEO said that the Administration and EAC had considered the first proposal. It would involve the setting up of a computerized network between the polling stations and the central command centre. To tie in with the number of polling stations, a large number of computer equipment would need to be installed for use on the election day. The fact that most of the polling stations were not government premises would make it even more difficult for the network to be set up prior to the election day. In addition, the maintenance and storage of the computers after the election day would also pose a problem. The Administration was of the view that the proposal could not be implemented at this stage in view of the financial implications and the technical problems involved. On the second proposal, DSCA said that the main difficulty encountered by the Administration was that any automatic registration system would require the up-to-date address of all eligible persons so that they could be registered automatically and assigned to the correct constituency and polling station. Many Hong Kong residents still did not report change of address to the Government although it was a statutory requirement to do so.

31. On the first proposal, the Chairman pointed out that Members had previously suggested that off-course betting centres of the Hong Kong Jockey Club could be used as polling stations with the Club's computer system modified for voting purpose. On the second proposal, the Chairman said that allocation of wrong polling stations as a result of the failure of electors to report change of address was unlikely to affect the voting result significantly, in view of the small number of such instances vis a vis an electorate base of over 2.8 million. He said that the problems mentioned by the Administration were not insurmountable. Mrs Selina CHOW said that the electoral arrangements should be voter friendly as far as practicable. She suggested and members agreed that the matter should be followed up by the Panel on Constitutional Affairs for further discussion.

32. Members raised no more queries on the Regulation.

Legislative Council (Registration of Electors) (Appeals) (Amendment) Regulation 1999 (L.N. 282)

(LegCo Brief File Ref. CAB C1/30/5/1 and LC Paper No. LS30/99-00)

33. Assistant Legal Adviser said that the Regulation was legally in order. Members did not raise any queries on the Regulation.

Clerk

Conclusion

34. The Chairman concluded that the Subcommittee supported the three items of subsidiary legislation. As the scrutiny period would expire on 15 December 1999 unless extended by resolution, and the next meeting of the House Committee would be held on 17 December 1999, the Chairman suggested and members agreed that the report of the Subcommittee should be made to the House Committee by circulation.

(Post-meeting note : In order to allow Members adequate time to consider the three items of subsidiary legislation, the Chairman moved a motion to extend the scrutiny period to 5 January 2000. A report of the Subcommittee was made to the House Committee on 17 December 1999.)

35. The meeting ended at 12:43 pm.

Legislative Council Secretariat
18 January 2000