

立法會
Legislative Council

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by the Administration and
cleared with the Chairman)

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

Minutes of seventh meeting
held on Monday, 14 February 2000 at 10:45 am
in Conference Room B of the Legislative Council Building

- Members Present** : Hon Ronald ARCULLI, JP (Chairman)
Hon LEE Wing-tat
Hon NG Leung-sing
Hon Jasper TSANG Yok-sing, JP
Hon YEUNG Yiu-chung
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
- Members Absent** : Hon David CHU Yu-lin
Hon Cyd HO Sau-lan
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon CHAN Yuen-han
Hon Howard YOUNG, 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 Sunny CHAN
Senior Government Counsel

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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The Chairman advised that Mr Martin LEE had withdrawn from the Subcommittee. The Subcommittee now comprised 12 members.

2. The Chairman advised that the four items of subsidiary legislation relating to 2000 LegCo election to be studied by the Subcommittee would come into operation on 3 March 2000.

I. Maximum Scale of Election Expenses (Legislative Council) Order 1997 (Amendment) Order 2000
(LegCo Brief File Ref: CAB C1/30/10, LC Paper Nos. LS 69/99-00 and CB(2) 1031/99-00(04))

3. The Chairman advised that the Panel on Constitutional Affairs had been consulted on the Order.

4. Members noted that the election expense limits for geographical constituencies (GCs), functional constituencies (FCs) and for the election by the 800-member Election Committee (EC) proposed in the Order for the 2000 LegCo election basically followed that of the 1998 LegCo election. Members focused their discussion on the election expense limits for GC elections.

Number of GC seats

5. The Chairman pointed out that the election expense limit for each GC list in the 1998 LegCo election was set having regard to the number of seats in a GC (i.e. \$1,500,000 for a 3-seat constituency, \$2,000,000 for a 4-seat constituency and \$2,500,000 for a 5-seat constituency). As an additional seat had been allocated to each GC except the New territories East in the 2000 LegCo election, he asked why no corresponding increase had been proposed for the election expense limit for the GCs concerned. He reckoned that the increase in the number of GC seats would incur additional expenses on the part of the Government in terms of free postage of elections advertisements for GC candidates.

6. Deputy Secretary for Constitutional Affairs (DSCA) explained that the number of Members returned by GC elections in the second term of LegCo would be increased to 24 having regard to the provisions in Annex II of the Basic Law. However, the increase in the number of GC seats was unlikely to have any significant implications on election expenses incurred by candidates as electioneering activities would be conducted on the basis of GC lists instead of individual candidates. In addition, of the 34 lists of candidates in the 1998 LegCo GC elections, 32 lists spent less than 75% of the maximum limit, while two lists spent less than 90%. It was therefore considered appropriate for the same election expense limit for each of the GCs in the 1998 LegCo election to be adopted for the 2000 LegCo election. As to whether the Government had to spend more on the 2000 LegCo election, the budget for the 2000 LegCo would soon be presented for consideration by the Finance Committee.

7. Ms Emily LAU expressed concern that election expense limit on a GC list basis would create unfairness in an election because a political party with affluent resources could spend millions of dollars in electioneering activities, hence putting independent candidates and political parties that were less resourceful in a disadvantageous position. Ms LAU said that the Administration should provide information on the population size and number of registered electors in each GC in order for members to ascertain whether the expense limits proposed by the Administration was reasonable.

Population size

8. DSCA said that in setting the expense limit, the Administration had taken into account the unchanged geographical size of the five GCs, the slight increase in population and the experience in the 1998 LegCo election. He advised that since the 1998 LegCo election, the total population of Hong Kong was estimated to have increased by only 3.2% by 2000. In response to members' request, he provided the following information -

1998 LegCo Election

| <u>Constituency</u> | <u>Estimated Population</u> | <u>Seats</u> | <u>Election Expense Limits (\$)</u> |
|---------------------|---------------------------------|--------------|---|
| KE | 1 046 200 | 3 | 1,500,000 (1.43) |
| KW | 1 026 000 | 3 | 1,500,000 (1.46) |
| HKI | 1 360 700 | 4 | 2,000,000 (1.47) |
| NTE | 1 411 000 | 5 | 2,500,000 (1.77) |
| NTW | 1 682 800 | 5 | 2,500,000 (1.49) |

2000 LegCo Election

| <u>Constituency</u> | <u>Estimated Population</u> | <u>Seats</u> | <u>Election Expense Limits (\$)</u> |
|---------------------|---------------------------------|--------------|---|
| KE | 1 016 100 | 4 | 1,500,000 (1.47) |
| KW | 1 029 000 | 4 | 1,500,000 (1.46) |
| HKI | 1 343 400 | 5 | 2,000,000 (1.49) |
| NTE | 1 543 500 | 5 | 2,500,000 (1.62) |
| NTW | 1 804 900 | 6 | 2,500,000 (1.39) |

() Limit per person

KE : Kowloon East

KW : Kowloon West

HKI : Hong Kong Island

NTE : New Territories East

NTW : New Territories West

9. Mr TSANG Yok-sing asked whether it was more logical to peg the election expense limit of NTE to that of HKI (\$2,000,000) than NTW (\$2,500,000) because both NTE and HKI had five seats and comparable population size. DSCA responded that it was more appropriate to maintain the 1998 election expense limit for NTE because comparatively speaking, its geographical size and estimated population were larger than HKI. He pointed out that candidates of a GC with large geographical size had to spend more on electioneering activities, for example, more posters were required to ensure coverage of the entire GC.

10. In response to Mr LEE Wing-tat's suggestion that the election expense limit for GC elections should be set on the basis of the population size of each GC (i.e. limit per person x population size of a GC), DSCA agreed that the situation should be reviewed in the 2004 LegCo election when the number of Members returned by GC elections would be increased to 30. He pointed out that the election expense limit per person in respect of the 1998 and 2000 elections, as indicated in paragraph 7 above, was considered comparable among the five GCs.

Number of registered electors

11. Members considered that it was important to consider the question of election expense limit in the light of the number of registered electors. DSCA advised that the number of registered electors for the 2000 LegCo election would not be available until the final register was published, and the deadline for its publication was 25 May 2000. As for the 1998 LegCo election, about 2.8 million persons had registered as electors and a breakdown by GCs was as

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follows -

| <u>Constituency</u> | <u>No of registered electors</u> |
|---------------------|----------------------------------|
| KE | 483 876 |
| KW | 411 466 |
| HKI | 596 244 |
| NTE | 595 341 |
| NTW | 708 444 |

12. The Chairman said that KE and HKI had the highest voter registration rate. Mr NG LEUNG-sing reckoned that distribution of age groups in GCs was one of the factors affecting the registration rate. DSCA concurred and said that the increase in the population of a GC did not necessarily imply that the number of registered electors of the GC would be increased correspondingly as certain persons such as children were not eligible to be registered as electors.

13. The Chairman asked whether a 10% increase in the number of registered electors for the 2000 LegCo election would affect the Administration's thinking on the proposed election expense limit for GC elections. DSCA replied that, in his view, the proposed limit was considered adequate as the majority of the GC lists in the 1998 LegCo election had incurred less than 75% of the same limit.

14. Given that the majority of the candidates had not incurred up to the prescribed limit in the 1998 LegCo GC elections, Ms Emily LAU considered that the proposed election expense limit for GC elections excessive. In addition, the proposed limit would not provide a level playing field for all candidates as those who were financially better-off would be at an advantage by spending more in their electioneering campaign. She said that she would consider proposing amendments to lower the expense limits.

15. DSCA said that given the population size of each GC, the Administration considered that the proposed election expense limit which was equivalent to about \$1.50 per head was reasonable.

II. Legislative Council (Formation of Election Committee) (Appeals) (Amendment) Regulation 2000
(LegCo Brief File Ref: CAB C1/30/5/2, LC Paper Nos. LS 69/99-00 and CB(2) 1031/99-00(01))

16. DSCA advised members that the Amendment Regulation sought to amend the existing Regulation to revise the appeal procedures in relation to the

registration of ex-officio membership of the Election Committee (EC) and nomination of members from the Religious subsector. The proposed amendments took into account the revised arrangements under the Legislative Council (Amendment) Ordinance 1999 (48 of 1999).

Registration of ex-officio membership of the EC

17. DSCA explained that under the previous arrangement, a person who was registered as an elector for an FC as well as an ex-officio member of the EC could object to his registration as an ex-officio member of the EC on the ground that he had declined registration as an ex-officio member. Under the new mechanism for registering the ex-officio membership of the EC as provided in the Legislative Council (Amendment) Ordinance 1999, LegCo Members and Hong Kong Deputies to the National People's Congress holding office on 30 June 2000 would be automatically registered as ex-officio members of the EC, although they might choose not to vote in the EC election. Ex-officio members who were also registered electors for FCs would be allowed to choose to vote in either the relevant FC or the EC. Their choice would be marked in the register of members of the EC to indicate their voting rights. They might lodge an appeal to the Revising Officer if their choices were wrongly marked. The Amendment Regulation sought to give effect to the proposal in relation to appeals on the voting rights of ex-officio members.

18. The Chairman asked why there was a change in the drafting in section 3(1), given that the policy to allow ex-officio members who were registered electors for FC to choose to vote in either the relevant FC or EC remained unchanged for the 2000 LegCo election. DSCA explained that the amendment was necessary because under the proposed system, ex-officio members of the EC could no longer decline registration as an ex-officio member of the EC.

Nomination of members from the Religious subsector

19. DSCA said that the Legislative Council (Amendment) Ordinance 1999 also introduced a new arrangement in relation to the process of nomination by the Religious subsector. If the number of persons nominated by a designated religious body in the religious subsector was greater than the number of seats assigned to it, and the body did not indicate preferences as to which of the nominees should become its representatives on the EC, the Returning Officer might determine which of the nominees should become members of the EC by drawing lots.

20. In response to Ms Emily LAU, DSCA explained that proposed section 4(d) provided that any material irregularity in the process of drawing lots should become a ground for appeal. The Amendment Regulation sought to

provide for this additional ground for appeal.

21. In response to the Chairman, DSCA said that in the 1998 LegCo election, the number of nominees for whom each religious body in the religious subsector assigned priorities was exactly the same as the number of seats assigned to it. Ms Emily LAU supplemented that the proposed amendment was necessary because the Catholic Diocese of Hong Kong had indicated that it would not assign preference to its nominees in the 2000 LegCo election.

III. Legislative Council (Subscribers and Election Deposit for Nomination) (Amendment) Regulation 2000

(LegCo Brief File Ref: CAB C1/30/11, LC Paper Nos. LS 69/99-00 and CB(2) 1031/99-00(02))

22. The Chairman advised that the Panel on Constitutional Affairs had been consulted on the Amendment Regulation.

23. DSCA said that the present Legislative Council (Subscribers and Election Deposit for Nomination) Regulation prescribed the numbers and qualifications of subscribers and the amounts of election deposit required for nomination in the 1998 LegCo election. It also set the thresholds for forfeiture of election deposits. As the arrangements for the 1998 LegCo elections and the election of the EC subsectors had worked well, the Administration proposed to keep the subscriber and election requirements unchanged. The Amendment Regulation only sought to introduce a number of technical changes to take into account the revised arrangements for termination of election proceedings. There was no change in policy.

24. Members did not raise any queries on the Amendment Regulation.

IV. Distribution of Number of Members Among Designated Bodies (Election Committee) (Legislative Council) Order 2000

(LegCo Brief File Ref: CAB C1/30/4(99)pt.4, LC Paper Nos. LS 69/99-00 and CB(2) 1031/99-00(03))

25. DSCA said that the Order specified the number of EC seats distributed to each of the designated bodies. It also repealed the previous Order made for the purpose of the 1998 LegCo election. The Religious subsector of the EC which was composed of six designated bodies was to return 40 members of the EC by nomination for the purpose of the 2000 LegCo election. In response to Ms Emily LAU, DSCA advised that the distribution of the 40 members of the Religious subsector of the EC for the 2000 LegCo election would be revised as follows -

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| | <u>1998</u> | <u>2000</u> |
|---|-------------|-------------|
| Catholic Diocese of Hong Kong | 7 | 7 |
| Chinese Muslim Cultural and Fraternal Association | 7 | 6 |
| Hong Kong Christian council | 7 | 7 |
| The Hong Kong Taoist Association | 6 | 6 |
| The Confucian Academy | 7 | 7 |
| The Hong Kong Buddhist Association | 6 | 7 |

26. Compared to the 1998 LegCo election, Ms Emily LAU asked why the number of EC seats to be returned by the Chinese Muslim Cultural and Fraternal Association was reduced by one and that by the Hong Kong Buddhist Association was increased by one for the 2000 LegCo election. DSCA advised that in line with the previous practice, the Administration had consulted the Hong Kong Colloquium for Religious Leaders (in which the six designated bodies were all members) on the manner in which the 40 seats should be distributed. It was understood that the bodies had resolved among themselves the number of seats to be assigned to each body by way of drawing lots. In response to Ms Emily LAU, DSCA said that the Administration had not received any opposing views from any other religious bodies on the proposed composition.

V. Conclusion

27. The Chairman concluded that the majority of members of the Subcommittee present at the meeting supported the above four items of subsidiary legislation. Ms Emily LAU said that she opposed the proposed maximum scale of election expenses for GC elections and would consider amending the Maximum Scale of Election Expenses (Legislative Council) Order 1997 (Amendment) Order 2000. She also opposed the Legislative Council (Formation of Election Committee) (Appeals) (Amendment) Regulation 2000 and the Distribution of Number of Members Among Designated Bodies (Election Committee) (Legislative Council) Order 2000 because she did not support in principle "small circle" type of elections.

28. In order to allow adequate time for Members to consider the subsidiary legislation, the Chairman suggested and members agreed that the period for scrutiny should be extended to the Council meeting on 1 March 2000 and a report should be made to the House Committee on 18 February 2000. The Chairman said that he would move a motion to that effect at the Council meeting on 23 February 2000. In view of the progress made by the Subcommittee, members agreed that the meeting originally scheduled for 15 February 2000 should be cancelled.

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29. The meeting ended at 9:37 am.

Legislative Council Secretariat
26 June 2000