

立法會
Legislative Council

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seen by the Administration)

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

Minutes of meeting
held on Friday, 17 December 1999 at 8:30 am
in Conference Room A of the Legislative Council Building

- Members Present** : Hon Ronald ARCULLI, JP (Chairman)
Hon David CHU Yu-lin
Hon NG Leun-sing
Hon Howard YOUNG, JP
Hon CHAN Yuen-han
Hon Jasper TSANG Yok-sing, JP
Hon YEUNG Yiu-chung
Hon CHOY So-yuk
- Member Attending** : Hon Andrew WONG Wang-fat, JP
- Members Absent** : Hon Cyd HO Sau-lan
Hon Martin LEE Chu-ming, SC, JP
Hon LEE Wing-tat
Hon Mrs Selina CHOW LIANG Shuk-ye, 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

Miss Shirley WONG
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. Meeting with the Administration

Electoral Affairs Commission (Registration) (Electors for the Functional Constituencies) (Voters for Subsectors) (Members of Election Committee) (Legislative Council) (Amendment) Regulation 1999
(LegCo Brief Ref: REO 14/30/2 (CR)IV, LC Paper Nos. LS 45/99-00 and CB(2) 622/99-00(01))

Chief Electoral Officer (CEO) said that following the enactment of the Legislative Council (Amendment) Ordinance 1999 which set out the arrangements for the 2000 LegCo election, certain provisions of the principal regulation needed to be correspondingly amended to tie in with the changes introduced. The major amendments of the Amendment Regulation were set out in paragraphs 5-20 of the LegCo Brief.

2. With the aid of the marked-up copy, the meeting proceeded to clause by clause examination of the Amendment Regulation. CEO advised that a number of amendments were technical in nature, involving the change of dates to tie in with the new timetable for the 2000 LegCo election. Deliberation of the Subcommittee was summarized below.

Section 4

3. The Chairman asked how the new voter register for the two new functional constituencies (FCs) would be compiled. CEO explained that voters registered in the Catering subsector of the existing subsector final register, except those who were no longer eligible, would form the basis of the first provisional register for the Catering FC. As for the new District Council (DC) FC, it would comprise members of the DCs. Its corresponding subsectors were the Hong Kong and Kowloon DCs subsector and the New Territories DCs subsector which replaced the Provisional District Boards subsectors.

4. In response to the Chairman, Deputy Secretary for Constitutional Affairs (DSCA) explained that a DC member who was also a member of the National Committee of the Chinese People's Political Consultative Conference (CPPCC) would be allowed a choice to be registered in either the DC or CPPCC subsector of the Election Committee (EC). If the DC member was also a registered elector of an FC, he could choose to be registered in either the DC FC or to remain in that FC.

Section 11

5. The Chairman asked why the Hotel subsector was proposed to be repealed from the definitions of "listed subsector" and "optional subsector" and whether the amendment would change the composition of the First Sector of EC.

6. DSCA and Senior Assistant Law Draftsman (SALD) clarified that in principle, an elector for an FC might be registered only as a voter for the corresponding subsector of that FC except that, if the elector was also eligible to be registered as a voter for certain "optional" subsectors. The elector might have an option to be registered as a voter in the corresponding subsector or in that other subsector. In relation to the Tourism FC, its corresponding subsectors were either the Tourism subsector or the Hotel subsector. Generally speaking, a person who was registered as an elector for the Tourism FC could only be registered as a voter for the Tourism subsector or the Hotel subsector, as statutorily required. The Hotel subsector was not an optional sector and therefore should be removed from the definition. The proposed amendment would not change the composition of the First Sector of EC which included the Hotel subsector.

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7. In further response to the Chairman, DSCA advised that "listed" or "optional" subsectors such as the Hong Kong Chinese Enterprises Association and the Employers' Federation of Hong Kong subsectors did not have a corresponding FC. The two Provisional District Boards subsectors and the Catering subsector were also proposed to be repealed following the establishment of the two new FCs. He agreed with the Chairman's comment that the Hotel subsector should not have been included in the definitions in the first place and the proposed amendment sought to rectify the situation. The Chairman requested DSCA to explain the proposed amendment to Mr Howard YOUNG who represented the Tourism FC and ALA to study whether the amendment was in order.

(Post-meeting note : The Administration has explained the proposed amendment to the Hon Member and ALA).

8. On the Chairman's question as to why the definition of "prescribed FC" was proposed to be repealed, SALD said that the amendment was technical. He explained that the expression referred to some of the FCs in the 1997 FC provisional register which formed the basis of the 1998 FC provisional register. The definition was proposed to be repealed because it would no longer be applicable to the 2000 FC register which would be compiled on the basis of the FC register published in 1999. He added that section 11(5) would be repealed for the same reason.

Section 14(1)

9. The Chairman sought clarification on proposed section 14(1) which specified that the Electoral Registration Officer (ERO) might send a notification to a natural person for the purpose of compiling a FC provisional register, except in the cases of a member of the Heung Yee Kuk (HYK). CEO explained that members of HYK would be notified under section 13, but they could only register in the HYK FC even if they were eligible to be registered in another FC.

10. Noting that the ERO would send a notification to a natural person who was only registered as an GC elector; was not registered for an FC in the existing FC final register and who appeared to be also eligible to be registered as an elector for an FC, the Chairman asked whether similar notifications would be sent to corporate electors. DSCA said that as corporate electors could not be GC electors, the ERO might not know their addresses for certain. Proposed section 14(1) would not therefore apply to them.

Section 15(1)(e)

11. The Chairman asked about the purpose of proposed section 15(1)(e) and whether the existing corporate electors were required to be re-registered as electors for the 2000 LegCo election.

12. DSCA explained that proposed section 15(1)(e) was for the purpose of compiling the subsector provisional register. He clarified that it was not necessary for corporate electors who was in the existing FC final register to be re-registered as electors for the 2000 LegCo election. The new provision required the ERO to send a notification to a natural person or body who had been included in the existing FC final register but was not registered in an EC subsector.

13. The Chairman asked about the circumstances under which a person could be registered in the FC final register published in 1999 but not registered for a subsector in the existing subsector final register. DSCA and CEO said that the 1998 final registers for FCs and EC subsectors were compiled at the same time. A particular natural person or body who was registered for an FC was also registered for the corresponding subsector. In the 1999 FC final register, a number of electors were registered in an FC for the first time, but were not registered in any subsector because no subsector register was compiled for 1999. It was therefore necessary for the ERO to register these persons in the appropriate subsectors for the 2000 LegCo election. In addition, the Legislative Council (Amendment) Ordinance enacted in July 1999 had added constituents to the existing FCs. He assured members that this arrangement would not affect electors who had been included in the 1998 subsector register, provided that they remained eligible as FC electors.

14. In further response to the Chairman, CEO explained that the ERO would send notifications to these persons individually for registering them in subsectors. If there was no response from a person, the ERO would register him in the corresponding subsector.

Section 18(2)

15. CEO explained that for the purpose of compiling the subsector provisional register for the year 2000, new section 18(2) was added to empower the ERO to register a natural person or body in a corresponding subsector if a notification sent by the ERO under section 15(1)(e) was undelivered, and if a person or body was to be registered for an FC in the 2000 provisional register but had not applied to be registered as a voter for any subsector.

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16. In further response to the Chairman, CEO said that in accordance with section 12(2), the notification must be sent by post at least 14 days before 16 March in the current year. If the person did not respond to the notification before expiry of the voter registration deadline on 16 March 2000 but would like to raise objection to the subsector assigned subsequently, he might appeal to the Revising Officer after the publication of the provisional register on 15 April 2000. However, section 8(7) of Schedule 2 to the Legislative Council Ordinance required that a person who was registered in an FC with a corresponding subsector must be registered in the corresponding subsector or an optional subsector if he was so eligible.

17. The Chairman questioned the need for proposed section 18(2)(b)(i) in the light of proposed section 15(1)(e)(iii), and the differences between the two provisions, if any. Proposed section 15(1)(e)(iii) stipulated that the ERO should send a notification to a natural person or body that "appears to that Officer to be eligible to be registered as an elector for a FC", and proposed section 18(2)(b)(i) stipulated that the ERO must register that person or body as a voter for the corresponding subsector if he or it was "to be registered for an FC in the FC provisional register to be compiled for the year 2000".

18. SALD explained that under proposed section 15(1)(e)(iii), the ERO would send a notification to a natural person or body whom he considered eligible to be registered as an elector for an FC. Proposed section 18(2)(b)(i) expressly provided that only if the person/body was to be registered in a FC would the ERO register him in an EC subsector.

19. The Chairman considered that section 18(2)(b)(i) could be simplified and drafted along the line of section 15(1)(e)(iii) or vice versa. He suggested and the Administration undertook to reconsider the drafting aspect.

Adm

20. The Chairman asked how the applications for FC voter registration received after the publication of 1999 final register were handled. He pointed out that a person or body might not have applied for registration in an EC subsector at that time.

21. CEO said that it was not necessary for these persons or bodies to re-apply for registration in any subsector as their applications would be handled in an administrative manner. In accordance with proposed section 19(5), an application received by the ERO after 16 January 1998 would be treated by the ERO as an application received on or before 16 March 2000 for registration in the 2000 subsector provisional register. The ERO would contact these persons or bodies individually. Subject to their agreement, they would be registered in the subsector provisional register. He said that section 19 set out the procedure for registration in FC and subsector provisional registers.

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22. The Chairman had reservation about handling the matter in an administrative manner. He suggested that when an applicant was considered to be eligible to be registered as an elector for an FC, a notification advising him that he would be registered in the FC register and the corresponding subsector register should be sent. While consideration could be giving to revising the format of the application form to include a section for registration in an EC subsector, the Chairman commented that the idea might not be worth pursuing as there was no need to conduct EC election in 2004.

Adm 23. In response, the Administration undertook to consider the Chairman's suggestions. CEO advised that the new application form had yet to be finalized pending LegCo's consideration of the Amendment Regulation.

Section 19(1)

24. The Chairman asked whether the Administration would send a copy of the FC provisional register to the relevant organizations for membership verification. CEO replied in the negative as the FC provisional register was already made available for public inspection.

25. The Chairman asked why section 19(1)(f) should be repealed. CEO explained that in line with the amendments made in respect of applications for registration in GCs, the ERO would accept applications for registration in FCs through post as well as facsimile transmission. The new arrangement also paved the way for the ERO to receive applications sent through electronic means in future.

Section 20

26. CEO said that a new arrangement for the appointment of a substitute authorized representative by a corporate elector or voter was provided in proposed section 20(7). Under the existing procedure, a corporate elector or voter must make a claim in order to appoint a substitute if the authorized representative proposed was found to be ineligible by the ERO after the registration deadline. The proposed section 20(7) provided that if an application for appointment of an authorized representative had been made to the ERO on or before the registration deadline, a corporate elector or voter might appoint a substitute even after the registration deadline if the ERO found that the person originally proposed was ineligible to be registered as an authorized representative. The provision facilitated the appointment of a substitute authorized representative by a corporate elector or voter without resorting to the appeal procedure. The corporate elector or voter was required to lodge a claim under section 31(2) only if he was not satisfied with the ERO's decision on the eligibility of the authorized representative originally proposed.

27. In response to the Chairman and Miss CHAN Yuen-han, CEO said that in accordance with section 20(5), notice of the replacement must reach the ERO not later than 14 days before the polling date for the FC or the subsector concerned. Under the special circumstances specified in section 20(6), the replacement notice must reach the ERO not later than three working days before the polling date for the FC or the subsector concerned. In further response to the Chairman, DSCA advised that section 26(7) of the Legislative Council Ordinance stipulated that the ERO might refuse an application for the appointment of an authorized representative by a corporate elector or voter on the ground that he was ineligible to be or disqualified from being such a representative.

28. Addressing the concern raised by Miss CHAN Yuen-han, DSCA said that an authorized representative must be a registered elector for the GC.
Sections 21 and 23

29. CEO said that the two sections were for the purpose of compiling the FC or the EC subsector provisional registers. Proposed amendments to sections 21(6) and 23(1) arose from the creation of the new Catering FC. Under the proposed arrangement, a person already registered for the Catering subsector in the existing subsector final register would automatically be registered in the Catering FC in the FC provisional register to be compiled for 2000, provided that he was still eligible. The person was allowed to choose to register in the Catering FC or another FC for which he was also eligible.

Section 24

30. CEO explained that section 24(1) would be amended to provide that the ERO must prepare an omissions list for the FC provisional register and the subsector provisional register respectively under Section 24(2). Persons registered in the existing Catering subsector who were not eligible to be registered as electors for the Catering FC would be included in the relevant FC omissions list.

II. Date of next meeting

31. Members agreed that the next meeting should be held on 7 January 2000 at 10:45 am. The Chairman suggested and members agreed that the scrutiny period for the two items of subsidiary legislation being studied by the Subcommittee should be extended from 12 January 2000 to 19 January 2000. The Chairman said that he would give a verbal report at the House Committee meeting to be held that afternoon and would give notice of a motion to extend the scrutiny period at the Council meeting on 5 January 2000.

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32. The meeting ended at 10:35 pm.

Legislative Council Secretariat
16 February 2000