

Bills Committee on Legislative Council (Amendment) Bill 2003

Committee Stage Amendments proposed by the Administration

Introduction

This paper sets out the draft Committee Stage Amendments (“CSAs”) proposed to be moved by the Administration to amend the Legislative Council (Amendment) Bill 2003 (“the Bill”). It also addresses Members’ concern about the delineation of franchise in respect of one of the associations proposed to be included in the Information Technology (“IT”) functional constituency (“FC”).

Information Technology Functional Constituency

2. At the last meeting on 12 June 2003, Members expressed concern about the delineation of franchise for the Hong Kong & Mainland Software Industry Cooperation Association (“HMSICA”) which we have proposed to be included in the IT FC.

3. Our original proposal is that the Association’s Full Members which have been in the IT business for at least five years and the Association’s Council Members should be eligible for registration as electors in the FC. Members pointed out that this proposal is not consistent with the approach for delineating franchise in respect of other trade associations which have already been included in the IT FC. In particular, the proposal will enable both corporate members and certain individual members (i.e. Council Members) of the HMSICA to become electors of the IT FC, while for other trade associations, only their corporate members can become electors of the IT FC.

4. On reflection, in the interest of consistency across all trade associations in the IT FC, we propose that only the following two categories of corporate members of the HMSICA may become electors of the FC -

- (a) Full Members of the Association which are represented in the Association’s Council; and
- (b) Full Members of the Association which have been in the IT business for at least five years.

5. We have reflected the above latest proposal in the set of draft CSAs at **Annex A**.

Other Draft Committee Stage Amendments

6. At previous meetings of the Bills Committee, the Administration has, having regard to Members' views and comments, indicated that it will propose CSAs on a number of areas. Furthermore, in consultation with the Senior Assistant Legal Adviser of the Legislative Council, we are proposing additional amendments which aim at clarifying our policy intention and improving the drafting of the Bill. All the CSAs are at Annex A for Members' consideration. A table (at **Annex B**) has been prepared to explain these CSAs in detail.

Constitutional Affairs Bureau
14 June 2003

VK669

**Proposed Committee Stage Amendments
to the Legislative Council (Amendment) Bill 2003**

Clause	Item	Remarks
2	(a)	This is a minor technical amendment in response to the comments of the Bills Committee. It aims to improve the drafting of the Chinese version of the proposed new definition of “elector”.
2	(b)	Under the functional constituency (FC) system, the electors of some FCs are defined as corporate or individual members of “umbrella organizations” who are entitled to vote at general meetings of such organizations. Section 3(2) of the LegCo Ordinance provides that amendments to the constitutions of these organizations require the approval of the Secretary for Constitutional Affairs (SCA), in so far as the amendments relate to the objects of the organization, the criteria for and conditions of membership of the organization, or the eligibility of members of the body to vote at general meetings. The purpose of the section is to ensure that changes made to the constitutions will not alter the electorate or the nature of the relevant FC without the approval of the Government. In response to Members’ comments, we propose to add a new subsection to put beyond doubt that the power given to SCA is only exercisable for the purpose of defining the composition of FC and not for any other purposes.
3(1)	-	This is a minor technical amendment in response to the comments of the Bills Committee. It aims at improving the drafting of the proposed new section 8.
11	-	Before the commencement of the Hong Kong Tourist Association (HKTA) (Amendment) Ordinance 2001 in April 2001 which, among other things, amended the name of the HKTA to the Hong Kong Tourism Board and abolished the membership system of the HKTA, travel industry members of the HKTA entitled to vote at the Association’s general meetings were entitled to register as electors in the Tourism FC under the original section 200(a) of the

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		<p>LegCo Ordinance. The provision was repealed as a consequential amendment of the HKTA (Amendment) Ordinance 2001 as the Government was given to understand at that time that it would not cause any travel industry members of the HKTA to lose their eligibility for registration as electors in the Tourism FC. A Member of the Bills Committee has pointed out that this is not the case for all travel industry members of the HKTA. Accordingly, we propose a new provision to grandfather the elector status of all organizations which were travel industry members of the former HKTA entitled to vote at the general meetings of the Association immediately before the commencement of the HKTA (Amendment) Ordinance 2001.</p>
12	(a)&(b)	<p>Under section 20V(1)(e) of the LegCo Ordinance, arts bodies which received funding support from specified authorities during a relevant period are eligible to be registered as electors in the Sports, Performing Arts, Culture and Publication FC. The “relevant period” is defined in section 20V(2)(b) as the period from 1 April 1994 to the date on which a body applies for registration as an elector. We have originally proposed to change the cut-off date of the relevant period to 1 April 1998 to maintain a six year qualifying period for the 2004 LegCo elections.</p> <p>On further reflection, it is apparent that prescribing a specific date as the cut-off date would require legislative amendment from time to time. Otherwise, the qualifying period would become longer and longer over time. We think that a better formulation would be to state up front that, from the 2004 LegCo elections onwards, an arts body may be registered as an elector if it has received funding support within the six-year period immediately preceding the date of the body’s application for registration as an elector. The CSA seeks to reflect this intent.</p> <p>Further, the CSA grandfathers the status of electors already registered in accordance with the</p>

Clause	Item	Remarks
		existing provision.
13	(a)	To amend the name of The Hong Kong Shippers' Council.
	(b)&(c)	To remove the Diamond Federation of Hong Kong, China Limited from the Import and Export FC and transfer it to the Wholesale and Retail (see also amendments to clause 47(10)).
14	(a) to (f)(i)	To renumber the provisions as a result of the CSAs in items (f)(ii) and (l) below.
	(f)(ii)	To add four organizations (viz. the Hong Kong & Mainland Software Industry Cooperation Association Limited; the Information Systems Audit and Control Association Limited (HK Chapter); the Internet Professionals Association Limited and the Professional Information Security Association).
	(g) to (k)	To renumber the provisions as a result of the CSAs in items (f)(ii) and (l).
	(l)	To require the four newly added IT organizations under item (f)(ii) above to seek SCA's approval if they introduce amendments to their constitutions, in so far as the amendments relate to the objects of the organization, the criteria for and conditions of their membership, or the criteria for and conditions of membership in connection with the persons eligible to register as electors in the FC.
16		<p>New clause 16(1): This is a consequential amendment of the CSA to clause 14.</p> <p>New clause 16(2): To subject corporate members of the newly added IT organizations, which are trade associations, to the requirement under section 25(5) of the LegCo Ordinance. The section provides that only corporate members which have been members of the organizations concerned, and which have been operating for the 12 months immediately before making its application for registration as electors, will be eligible for registration as electors. The rule applies to all other umbrella organizations currently in the IT FC which are trade associations.</p>

Clause	Item	Remarks
		New clause 16(3)(b): To exclude newly added IT organizations, whose individual members will become eligible for registration as electors, from the “12-month rule”. This is in line with existing arrangement for other similar IT organizations, which are currently in the IT FC.
38	-	The proposed amendment in the Bill is superfluous and should be taken out.
39	(a)	To put beyond doubt that in case the declared election donations equal the declared election expenses, no financial assistance will be paid.
	(b) and (c)(ii)	To clarify that the Electoral Affairs Commission (“EAC”) may make regulations to provide for detailed implementation of the new sections 60H and 60I.
	(c)(i)	To put beyond doubt that the period within which the claims for financial assistance must be made is subject to extension as provided for in section 37 (and, in turn, section 40) of the Elections (Corrupt and Illegal Conduct) Ordinance.
44(4)	-	To add new organizations to the Agriculture and Fisheries FC.
45	(a)	To amend the name of the Hong Kong Commercial Vehicle Driving Instructors Association.
	(b)	To add new organizations to the Transport FC.
47(10)	-	To add new organizations to the Wholesale and Retail FC.
48	-	To delineate the franchise in respect of the four IT organizations to be added to the IT FC under item (f)(ii) of CSA to clause 14 above.
53	-	To clarify that the EAC may by regulation provide for, amongst others, action to be taken, in respect of a claim for financial assistance of a deceased candidate, by the legal personal representative or such other persons as specified in the regulations.

Clause	Item	Remarks
57	-	This is a consequential amendment to the Chief Executive Election Ordinance as a result of the CSA to clause 11 above.
Schedule, section 7	(a), (b) and (c)	<p>The original amendments proposed in the Bill seek to make changes to the Legislative Council (Subscribers and Election Deposit for Nomination) Regulation. These changes are to reflect the fact that the Election Committee will not return Members to the Legislative Council after the expiry of its second term.</p> <p>In May 2003, the Administration made amendments to the Regulation to provide for certain changes to the subscription requirement and the threshold for the forfeiture of election deposit. The proposed CSAs are consequential amendments to dovetail with the further changes to the Regulation made by the amendments.</p>

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