

立法會
Legislative Council

LC Paper No. CB(2)1766/03-04
(These minutes have been seen
by the Administration)

Ref : CB2/SS/4/03

**Subcommittee on subsidiary legislation
relating to 2004 Legislative Council elections**

**Minutes of third meeting
held on Monday, 30 January 2004 at 3:30 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Hon HUI Cheung-ching, JP (Chairman)
Hon CHEUNG Man-kwong
Hon SIN Chung-kai
Hon Andrew WONG Wang-fat, JP
Hon Howard YOUNG, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon Audrey EU Yuet-mee, SC, JP
- Members absent** : Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan
Hon Abraham SHEK Lai-him, JP
Hon IP Kwok-him, JP
- Public Officers attending** : Mr Joseph LAI Yee-tak
Deputy Secretary for Constitutional Affairs
- Mr LI Wing
Chief Electoral Officer
- Miss Susanna LAI Shuk-ching
Assistant Secretary for Constitutional Affairs
- Ms Mabel CHEUNG Mee-bo
Government Counsel

Clerk in attendance : Mrs Percy MA
Chief Council Secretary (2)3

Staff in Attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Miss Millie WONG
Senior Council Secretary (2)4

Action

I. Confirmation of minutes of meeting
(LC Paper Nos. CB(2)1130/03-04 and CB(2)1131/03-04)

The minutes of the meetings on 6 and 12 January 2004 were confirmed.

II. Meeting with the Administration
(LC Paper Nos. CB(2)691/03-04(01) and LS29/03-04)

Electoral Affairs Commission (Financial Assistance for Legislative Council Elections (Application and Payment Procedure) Regulation

2. The Subcommittee deliberated (index of proceedings attached at **Annex**).
3. Chief Electoral Officer informed members that in order to provide more flexibility in the application procedure, the Administration would propose amendments to sections 4, 7 and 10 of the Regulation to allow election agents to present claim forms, notices of withdrawal and notices of variations on behalf of candidates.
4. Ms Emily LAU disagreed with the method for calculating the amount of financial assistance payable to candidates as stipulated in paragraph 1 of the Legislative Council (LegCo) Brief, as the actual payment could be quite small. This would be inconsistent with the aim of the Financial Assistance Scheme to encourage more candidates to participate in LegCo elections. Deputy Secretary for Constitutional Affairs (DSCA) took note of Ms LAU's view, and responded that the formula for the calculation of financial assistance was stipulated in the Legislative Council (Amendment) Ordinance enacted on 3 July 2003.

Action

5. Ms LAU commented that as the purpose of the auditor's report was to ensure that the election return of a candidate or a list of candidates complied with the requirements under the Elections (Corrupt and Illegal Conduct) Ordinance (ECICO), the same requirement should also apply to candidates who did not wish to claim financial assistance. DSCA clarified that all candidates were required to submit election returns under section 37 of ECICO, and the requirement for a candidate to submit an auditor's report in support of his claim for financial assistance was stipulated in the Legislative Council (Amendment) Ordinance 2003. ECICO would need to be amended if the requirement for the auditor's report applied to all candidates.

6. In response to Ms Emily LAU, DSCA said that the term "election expenses" was defined in ECICO to mean expenses incurred by a candidate for the purpose of promoting his election. As the auditor's report was not meant to promote the election of a candidate, legal advice was that the fee for paying the auditor's report could not be regarded as an election expense.

7. The Administration was requested to respond to the following issues raised by members for consideration at the next meeting -

Loans made to candidates

- (1) To clarify whether the following loans made to candidates could be regarded as election expenses/election donations -
 - (a) loans with interest from -
 - (i) banks/financial institutions;
 - (ii) family members/friends;
 - (b) loans from political organizations of which candidates were members on the condition that -
 - (i) a candidate was only required to repay if elected; or
 - (ii) the elected candidate was not required to repay but required to enter into other financial arrangements, e.g. to make a monthly contribution to the political party during his term of office as a LegCo Member; and
 - (c) interest-free loans from family members.

Action

Calculation of interest

- (2) To advise how the amount of the foregone interest of an interest-free loan should be determined, if the interest was treated as an election donation as advised by the Administration. A member considered that an interest-free loan from family members of a candidate should be regarded as a form of "voluntary service", hence the foregone interest should not be counted as an election donation.
- (3) If a loan with interest was made to a candidate and only part of the loan was used towards his election expenses, and if the interest was counted as election expenses, to advise how it should be calculated for the purpose of submitting an election return.
- (4) To advise whether the Registration and Electoral Office had received any election returns declaring foregone interest in respect of an interest-free loan as an election donation in the past LegCo elections.

Auditor's report

- (5) To provide an estimate of the fees charged for auditing a candidate's accounts of declared election expenses and election donation. A member suggested that the Administration should use one actual example in the LegCo geographical constituency election in 2000 to obtain a realistic estimate.

II. Date of next meeting

8. The next meeting was scheduled for 6 February 2004 at 8:30 am.
9. The meeting ended at 4:30 pm.

Council Business Division 2
Legislative Council Secretariat
18 March 2004

**Proceedings of the third meeting of the Subcommittee on
subsidiary legislation relating to 2004 Legislative Council elections
on Friday, 30 January 2004 at 3:30 pm
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action Required
000312 - 000417	Chairman	Confirmation of minutes.	
000418 - 000647	Admin	Briefing on the Regulation. Proposed amendments to the Regulation.	
000648 - 000655	Chairman	Invitation of comments from members.	
000656 - 001431	Ms Emily LAU Admin Chairman	Amounts of financial assistance payable to candidates.	
001432 - 002519	Mr Andrew WONG Admin Chairman Ms Emily LAU	Loans from financial institutions and interests of loans.	
002520 - 004004	Ms Emily LAU Admin Chairman Mr Andrew WONG	Requirement for the auditor's report to apply to all candidates.	
004005 - 004621	Mr Howard YOUNG Admin Mr CHEUNG Man-kwong	Fee charged for the auditor's report.	
004622 - 005537	Ms Audrey AU Admin Mr Andrew WONG Mr CHEUNG Man-kwong Ms Emily LAU	Donations/loans from non-financial institutions (e.g. political parties, family members and friends) and calculation of interests in respect of such loans.	
005538 - 010139	Ms Emily LAU Admin Mr Andrew WONG	Fee for the auditor's report to be counted as election expenses.	

Time Marker	Speaker(s)	Subject(s)	Action Required
010140 - 010547	Chairman Mr Andrew WONG Ms Emily LAU Admin	Fourth meeting to be held on 6 February 2004 at 8:30 am.	Administration to consider and respond to the comments made by members.

Council Business Division 2
Legislative Council Secretariat
18 March 2004