

立法會
Legislative Council

LC Paper No. CB(2)1767/03-04
(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 fourth meeting
held on Monday, 6 February 2004 at 8:30 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon HUI Cheung-ching, JP (Chairman)
Hon CHEUNG Man-kwong
Hon Andrew WONG Wang-fat, JP
Hon WONG Yung-kan
Hon Howard YOUNG, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon IP Kwok-him, JP
Hon Audrey EU Yuet-mee, SC , JP
- Members absent** : Hon SIN Chung-kai
Dr Hon Philip WONG Yu-hong, GBS
Hon Abraham SHEK Lai-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. Meeting with the Administration

(LC Paper Nos. CB(2)1221/03-04(01) - (02), 1197/03-04(01) and 1167/03-04(01))

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

The Subcommittee deliberated (index of proceedings attached at **Annex**).

Suggestions/views of members

2. The Administration was requested to consider the following suggestions/views of members -

- (a) Some members considered that the auditing fee could be out of proportion to the payment some candidates received under the Financial Assistance Scheme (the Scheme), especially in the case of the smaller functional constituencies. Mr CHEUNG Man-kwong considered that the requirement of an auditor's report was unnecessary. Mr Howard YOUNG suggested that the auditor's report should only be required for a claim above a certain amount of financial assistance;
- (b) Ms Emily LAU considered that as the auditing fee was an expense incidental to the election, it should be regarded as an election expense. She requested the Administration to review the definition of "election expenses" in section 2 of the Elections (Corrupt and Illegal Conduct) Ordinance (ECICO) to take account of the introduction of the Scheme; and

Action

- (c) Ms Emily LAU requested the Administration to conduct a review on the Scheme in due course, taking into consideration the policies and principles which underpinned the Scheme. She pointed out that while political parties would provide financial sponsorship to candidates, they would also try to maximize the chance for candidates to claim financial assistance under the Scheme. However, according to sections 60D and 60E of LCO, when calculating the amount of financial assistance payable to a candidate, any election expense incurred by the candidate had to be net of any election donation received by the candidate. In the circumstances, the Scheme failed to achieve its intended aim, i.e. its implementation would be conducive to the development of political parties and political groups in Hong Kong.

Follow-up action

3. The Administration was requested to -

- (a) advise whether an elected candidate could receive a donation to meet the expenses incurred for the auditor's report, which was not regarded as an election expense, and whether in accepting the donation, the candidate would commit an offence under section 4 of the Prevention of Bribery Ordinance;
- (b) consider promulgating guidelines clarifying the status of loans involving conditional repayment terms and the status of conditional donations made by political parties to candidates, in order to facilitate compliance with the Scheme;
- (c) advise whether a candidate was allowed to receive any financial benefit from a political party in respect of any of his election expenses after the candidate had received payment of financial assistance from the Government, without affecting such payment;
- (d) provide information on the financial assistance schemes for candidates in Canada and Germany, in particular, whether donations received by candidates should have a bearing on the amount of financial assistance payable to candidates; and
- (e) provide a copy of the relevant electoral guidelines in relation to declaration of interests on loans in an election return.

Action

II. Date of next meeting

4. The next meeting was scheduled for 14 February 2004 at 9:00 am.
5. The meeting ended at 10:35 am.

Council Business Division 2
Legislative Council Secretariat
18 March 2004

**Proceedings of the fourth meeting of the Subcommittee on
subsidiary legislation relating to 2004 Legislative Council elections
on Friday, 6 February 2004 at 8:30 am
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action Required
000255 - 001300	Chairman Admin	Briefing on Administration's response to issues raised by members at the last meeting.	
001301 - 002433	Chairman Mr Cheung Man-kwong Admin Mr Howard YOUNG	Auditing fee could be expensive to some candidates. Requirement of an auditor's report.	
002434 - 003134	Mr IP Kwok-him Admin	Treatment of interest on loans.	
003135 - 004335	Ms Emily LAU SALA2 Admin Mr IP Kwok-him Chairman	Auditing fee as an election expense. Development of guidelines for use by auditors.	
004336 - 005215	Mr Andrew WONG Admin Ms Emily LAU Chairman SALA2	Accepting a donation to meet the auditing fee.	
005216 - 010531	Mr Andrew WONG Admin Mr IP Kwok-him Ms Emily LAU SALA2 Chairman	Declaration of interest waived on a loan as a donation and correspondingly as an election expense.	
010532 - 011220	Ms Emily LAU Admin Mr IP Kwok-him Mr Andrew WONG	Calculation of interest on an interest-free loan.	

Time Marker	Speaker(s)	Subject(s)	Action Required
011221 - 020235	Ms Emily LAU Chairman Admin Mr IP Kwok-him SALA2 Mr Andrew WONG	Political parties providing financial assistance to candidates after elections. Reference to a court case involving the Hong Kong Association for Democracy and People's Livelihood recovering loans made to its members (DCCJ15275/2000).	
020236 - 020650	Chairman Ms Emily LAU Admin	Fifth meeting to be held on 14 February 2004 at 9:00 am.	Administration to respond to the comments made by members (see paragraph 3 of the minutes).

Council Business Division 2
Legislative Council Secretariat
18 March 2004