

立法會  
*Legislative Council*

LC Paper No. CB(2)2813/03-04  
(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 seventh meeting  
held on Tuesday, 8 June 2004 at 4:30 pm  
in Conference Room A of the Legislative Council Building**

**Members present** : Hon Andrew WONG Wang-fat, JP (Deputy Chairman)  
Hon CHEUNG Man-kwong  
Hon WONG Yung-kan  
Hon Howard YOUNG, SBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon Abraham SHEK Lai-him, JP  
Hon IP Kwok-him, JP  
Hon Audrey EU Yuet-mee, SC , JP

**Members absent** : Hon HUI Cheung-ching, JP (Chairman)  
Hon SIN Chung-kai  
Dr Hon Philip WONG Yu-hong, GBS

**Public Officers attending** : Mr Joseph LAI Yee-tak  
Deputy Secretary for Constitutional Affairs

Miss May CHAN Wing-shiu  
Principal Assistant Secretary for Constitutional Affairs

Mr LI Wing  
Chief Electoral Officer

Ms Lonnie NG Wah-chi  
Senior 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

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Action

**I. Confirmation of minutes of meeting**  
(LC Paper No. CB(2)2650/03-04)

The minutes of the meeting on 27 May 2004 were confirmed.

**II. Meeting with the Administration**

(Legislative Council Brief on Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2004, LC Paper Nos. 2509/03-04(01) and 2676/03-04(01))

2. The Subcommittee deliberated (index of proceedings attached at **Annex**). The Subcommittee completed scrutiny of sections 1-27 (except section 19) of the Amendment Regulation. The Subcommittee noted that -

- (a) the legal adviser would discuss with the Administration the drafting of the proposed section 28(9)(a)(i); and
- (b) the Administration might propose amendments to section 19 of the Amendment Regulation, depending on its consideration of members' views/suggestions as summarized in paragraphs 13-17 below.

Electoral Affairs Commission (Electoral Procedure) (Legislative Council)  
(Amendment) Regulation 2004

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Admin/  
EAC

3. The Subcommittee requested the Administration/Electoral Affairs Commission (EAC) to consider the views/suggestions of members as set out in paragraphs 4 - 17 below.

Action

*Proposal to require all electors to switch off their mobile telephones (and paging machines) inside polling stations, regardless of whether their telephones were camera-equipped*

4. Mr Howard YOUNG and Mr IP Kwok-him supported the Administration's proposal to require electors to switch off their mobile telephones. They did not support the proposal requiring electors to deposit their mobile telephones with polling staff, in view of the operational difficulties associated with the arrangement.

5. Mr IP Kwok-him did not consider it necessary for the same arrangement to be extended to paging machines which were not equipped for two-way communication. Ms Audrey EU concurred with the view of Mr IP and expressed concern whether electors would be unduly inconvenienced if they were also required to switch off their paging machines.

6. Mr CHEUNG Man-kwong suggested that electors should be encouraged to deposit their mobile telephones before entering voting compartments on a voluntary basis.

7. The Deputy Chairman considered it unnecessary for all electors to switch off their mobile telephones when they were inside a polling station. As members were mainly concerned about the use of mobile telephones for taking photographs inside the voting compartments, he suggested that only electors with camera-equipped mobile telephones should be requested to deposit their mobile telephones with the polling staff, before entering the voting compartments.

*Proposal to remove the curtains in front of the voting compartments*

8. Ms Emily LAU expressed reservation about the proposal as electors might not trust some of the polling staff and did not want to be closely observed by them while voting.

9. Mr IP Kwok-him had no strong view on the proposal which had both pros and cons. Mr CHEUNG Man-kwong said that Members belonging to the Democratic Party supported the proposal. Ms Audrey EU also expressed support for the proposal, but suggested that suitable arrangements should be put in place to alleviate Ms LAU's concern.

10. Mr WONG Yung-kan expressed reservation about the proposal on the ground that the secrecy of votes might be compromised. If the arrangement was implemented, he suggested that the yellow line marked on the floor should be at least two metres from the voting compartment, instead of one metre as proposed by EAC.

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While Mr Howard YOUNG considered EAC's proposal acceptable, he requested EAC to consider Mr WONG's suggestion.

*Proposal to increase penalty under section 45 of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (EAC(EP)(LC)R)*

11. Mr CHEUNG Man-kwong said that Members belonging to the Democratic Party maintained the view that the existing penalty for committing an offence under section 45 of EAC(EP)(LC)R (i.e. a fine of \$5,000 and imprisonment for 3 months) should be increased. Given the advice of EAC that the maximum penalty that it could impose under EAC(EP)(LC)R was a fine not exceeding \$5,000 and imprisonment not exceeding 6 months, he proposed that the imprisonment term should be increased from 3 months to not more than 6 months. This would demonstrate the Government's commitment in ensuring all elections were conducted in an open, honest and fair manner, and in preventing corrupt conduct at elections. Ms Emily LAU supported Mr CHEUNG's view.

12. Mr IP Kwok-him said that Members belonging to the Democratic Alliance for Betterment of Hong Kong considered that the existing level of penalty acceptable. Ms Audrey EU said that the current maximum imprisonment term was appropriate, but asked if the maximum fine level could be increased.

*Proposal to decentralize counting of votes for Geographical Constituencies (GCs) to individual polling stations*

13. Members noted the advice of the Administration that the number of polling stations with less than 200, 500 and 1,000 registered electors was 7, 17 and 30-40 respectively.

14. Ms Emily LAU raised strong objection to the proposal, and expressed concern that the proposed arrangement would reveal voter preferences at individual polling stations. She requested that the Administration should reconsider the proposal, in view of the recent voter intimidation and voter registration scandal.

15. Mr CHEUNG Man-kwong said that the Democratic Party had considered the concern raised by the Deputy Chairman on preserving the integrity of the electoral process at the last meeting. He suggested that for polling stations with less than 1,000 registered electors, the ballot papers should be delivered to a main counting station in which the ballot papers cast at the smaller polling station and the main counting station would be mixed before the votes were counted. Ms Audrey EU expressed support for Mr CHEUNG's proposal.

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16. Mr IP Kwok-him and Mr Howard YOUNG had no objection for ballot papers from polling stations with less than 500 registered electors to be mixed before counting.

17. The Deputy Chairman reiterated the importance of the principle of mixing of ballot papers from different polling stations within a GC, which was a long-standing practice until counting of votes was decentralized to individual polling stations for the first time in the 2003 District Council election. He cautioned that the decentralized counting arrangement, if implemented, would result in corrupt conduct at elections in the long run. Mr IP Kwok-him said that he did not share this concern.

**III. Date of next meeting**

18. At the request of the Administration, the Subcommittee agreed that the meeting scheduled for 15 June 2004 would be cancelled. The next meeting would be held on 17 June 2004 at 2:30 pm as scheduled.

19. The meeting ended at 6:30 pm.

Council Business Division 2  
Legislative Council Secretariat  
16 June 2004

Action

**Annex**

**Proceedings of the seventh meeting of the Subcommittee on  
subsidiary legislation relating to 2004 Legislative Council elections  
on Tuesday, 8 June 2004 at 4:30 pm  
in Conference Room A of the Legislative Council Building**

<b>Time Marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action Required</b>
000240 - 000502	Deputy Chairman Ms Emily LAU	Confirmation of minutes.	
000503 - 001020	Deputy Chairman Admin	Briefing on Administration's response to issues raised at the meeting on 27 May 2004.	
001021 - 001523	Mr CHEUNG Man-kwong Deputy Chairman	Democratic Party's position on proposals to remove the curtains in front of voting compartments, increase the penalty under section 45 of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (the Regulation), and deposit mobile telephones with polling staff.  Democratic Party's position on the proposed decentralized counting arrangement for Geographical Constituencies (GCs).	
001524 - 002747	Admin Mr CHEUNG Man-kwong Deputy Chairman Ms Audrey EU	Need to increase level of penalty under section 45 of the Regulation.  Likelihood for a person to commit an offence under sections 45(1)(b), 45(2) and 96 of the Regulation concurrently.	
002748 - 003725	Ms Emily LAU Admin Deputy Chairman	Specific provision on the requirement for electors to switch off mobile telephones inside polling stations.  Views on removing curtains in front of voting compartments and penalty under section 45 of the Regulation.	

Action

<b>Time Marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action Required</b>
		Requirement of switching off mobile telephones to also apply to paging machines.	
003726 - 005130	Mr IP Kwok-him Admin Ms Audrey EU Deputy Chairman	Views on proposals to require electors to switch off mobile telephones, deposit mobile telephones with polling staff, remove the curtains in front of voting compartments, and increase the penalty under section 45 of the Regulation.	
005131 - 005351	Mr WONG Yung-kan Admin Deputy Chairman	Concern on removing the curtains in front of voting compartments.	
005352 - 005500	Mr Howard YOUNG Deputy Chairman Admin	Support for measures proposed by the Government.	
005501 - 005720	Mr CHEUNG Man-kwong Deputy Chairman Admin Ms Emily LAU	Need to increase the penalty under section 45 of the Regulation.	
005721 - 010529	Deputy Chairman Admin	Suggestion to require electors to deposit camera-equipped mobile telephones with polling staff.	
010530 - 010829	Mr CHEUNG Man-kwong Admin	Democratic Party's position on the proposal of the Electoral Affairs Commission (EAC) to decentralize counting arrangement for GCs.	
010830 - 011509	Mr IP Kwok-him Mr CHEUNG Man-kwong Mr Howard YOUNG Admin	Support for EAC's proposal.  Number of polling stations with less than 200, 500 and 1,000 registered electors. Implications of members' suggestion of mixing ballot papers from these polling stations with a main counting station.	
011510 - 012313	Ms Emily LAU Admin Deputy Chairman	Objection to EAC's proposal.	

Action

<b>Time Marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action Required</b>
012314 - 012708	Mr WONG Yung-kan Deputy Chairman Admin Mr IP Kwok-him	Support for mixing ballot papers from a polling station with less than 500 registered electors with a main counting station.  Concern on removing the curtains in front of voting compartments.	
012709 - 013250	Deputy Chairman Mr IP Kwok-him Admin	Importance of the principle of mixing ballot papers from different polling stations within a GC.	
013251 - 015614	Deputy Chairman Admin Ms Emily LAU Mr CHEUNG Man-kwong SALA2	Detailed scrutiny of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2004 (sections 1-27).	SALA2 to discuss with Admin the drafting of the proposed section 28(9)(a)(i).  Admin to propose amendments to section 19 of the Amendment Regulation, subject to consideration of members' views.
015615 - 015823	Deputy Chairman Mr IP Kwok-him Ms Emily LAU Admin	Date of next meeting.	Admin to reflect views of members to EAC (paras 4-17 of the minutes refers), and to give a written response at the next meeting on 17 June 2004.

Council Business Division 2  
Legislative Council Secretariat  
 16 June 2004