

立法會  
*Legislative Council*

LC Paper No. CB(2)3086/03-04  
(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 ninth meeting  
held on Thursday, 24 June 2004 at 10:45 am  
in Conference Room A of the Legislative Council Building**

**Members present** : Hon Andrew WONG Wang-fat, JP (Deputy Chairman)  
Hon CHEUNG Man-kwong  
Hon SIN Chung-kai  
Hon WONG Yung-kan  
Hon Howard YOUNG, SBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon IP Kwok-him, JP

**Members absent** : Hon HUI Cheung-ching, JP (Chairman)  
Dr Hon Philip WONG Yu-hong, GBS  
Hon Abraham SHEK Lai-him, JP  
Hon Audrey EU Yuet-mee, SC, JP

**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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**I. Meeting with the Administration**

Electoral Affairs Commission (Electoral Procedure) (Legislative Council)  
(Amendment) Regulation 2004 (the Amendment Regulation)  
(LC Paper No. CB(2)2912/03-04(01))

The Subcommittee deliberated (index of proceedings attached at **Annex**).  
The Subcommittee completed scrutiny of the draft Resolution.

*Prevention of the use of camera-equipped mobile telephones in voting compartments and increase of penalty under sections 45 and 96 of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (the Regulation)*

2. Members supported the Administration's following proposals -

- (a) not to further pursue the proposal to make leaving mobile telephones switched on inside polling stations an offence. The Electoral Affairs Commission (EAC) would implement administrative measures to encourage electors to switch off their mobile telephones inside polling stations; and
- (b) to maintain its previous proposal to increase the imprisonment term from 3 months to 6 months for offences under section 45(2) (i.e. filming, taking photographs or making any audio or video recording within a polling station without express permission) and section 96 (relating to

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protection of secrecy of votes) of the Regulation. However, the imprisonment term for offences under section 45(1) (i.e. communicating with an elector or using mobile telephones or other devices for electronic communication within a polling station contrary to the direction of the Presiding Officer not to do so) would remain unchanged, i.e. 3 months.

*Recounting arrangements for Geographical Constituencies (GCs)*

3. Members had no objection to the Administration's proposal to provide an additional mechanism for candidates to request a recount of the votes in all counting stations within a GC before the counting results in respect of the misplaced GC ballot papers (if any) were available.

*Decentralized counting arrangements for GCs*

4. The Deputy Chairman reiterated his objection to the Administration's proposal to raise the "200 electors" threshold to only "500 electors" for the purpose of defining small polling stations, where ballot papers cast would be delivered to a main counting station and mixed with the ballot papers of the main counting station before the votes were counted.

5. In response to the Deputy Chairman, the Administration said that the estimated number of polling stations which had less than 3,000 electors was 120. The proposal to increase the threshold to "3,000 electors" might incur additional cost for transportation of ballot papers from small polling stations to the main counting station. The Deputy Chairman was of the view that as compared with the original counting arrangements adopted in the 2000 Legislative Council election, the proposal might not have charging effect. The Administration advised that in line with the usual practice, it would give comments as to whether a proposed amendment had charging effect after it had seen the wording of the proposed amendment.

*Proposed amendments to the Amendment Regulation*

6. The Subcommittee supported the Amendment Regulation and the draft Resolution, subject to the Administration agreeing with the Subcommittee's legal adviser on its latest proposed amendments.

7. The Deputy Chairman said that he would report the deliberation of the Subcommittee to the House Committee on 25 June 2004. The deadline for giving notice of amendments was 29 June 2004.

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8. The meeting ended at 12:13 pm.

Council Business Division 2  
Legislative Council Secretariat  
15 July 2004

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**Annex**

**Proceedings of the ninth meeting of the Subcommittee on  
subsidiary legislation relating to 2004 Legislative Council elections  
on Thursday, 24 June 2004 at 10:45 am  
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>
000124 - 000316	Deputy Chairman	Opening remarks.	
000317 - 000940	Admin Deputy Chairman	Briefing by the Administration on -  (a) its revised proposal not to further pursue the proposal to make leaving mobile telephones switched on inside polling stations an offence; and  (b) its previous proposal to increase the imprisonment term from 3 months to 6 months for offences under sections 45 and 96 of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (the Regulation).	
000941 - 001337	Mr Howard YOUNG Admin Mr IP Kwok-him Deputy Chairman	Support for the Administration's proposals.	
001338 - 002819	Admin Deputy Chairman Mr IP Kwok-him	Briefing by the Administration on its proposal to revise the proposed recounting arrangements for Geographical Constituencies (GCs) (newly proposed section 79A).	
002820 - 003005	Deputy Chairman Admin	Revised recounting arrangements for GC ballot papers misplaced in Functional Constituency (FC) ballot boxes.	
003006 - 003715	Deputy Chairman Admin Mr IP Kwok-him	Whether the number of GC ballot papers misplaced in FC ballot boxes should be reflected in the final counting results of the counting stations where the misplaced GC ballot papers were cast, albeit the misplaced GC ballot papers were counted in the main counting station.	

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<b>Time Marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action Required</b>
003716 - 003858	Deputy Chairman Admin Mr IP Kwok-him	Conclusion made by the Deputy Chairman on members' views on the revised recounting arrangements.	
003859 - 003956	Deputy Chairman Admin	Administration's proposal to raise the threshold for the purpose of defining small polling stations from "200 electors" to "500 electors" (newly proposed section 28(1B)).	
003957 - 012318	Deputy Chairman Admin Ms Emily LAU SALA2 Mr IP Kwok-him	Scrutiny of the draft Resolution to be moved by the Administration.  Implication of raising the threshold to "3,000 electors".  Approach for Members to move amendments to the counting arrangements for GCs, charging effect of such proposed amendments, and manner for debating amendments proposed by the Administration and Members.  Circumstances under which the Returning Officer would consider a request for a recount of votes to be unreasonable (newly proposed section 79A(6)).  Decentralized counting arrangement might increase the number of requests for a recount of votes of all the counting stations as the number of votes received by individual candidates in counting stations within a GC could vary significantly.	
012319 - 012629	Deputy Chairman Admin Ms Emily LAU	Support for the proposed amendments in the draft Resolution.  Subcommittee to report to the House Committee on 25 June 2004.  Deadline for giving notice of amendments, i.e. 29 June 2004.	