

立法會
Legislative Council

Ref : CB2/BC/1/05

LC Paper No. CB(2)1700/05-06
(These minutes have been seen
by the Administration)

**Bills Committee on Chief Executive Election and Legislative Council Election
(Miscellaneous Amendments) Bill 2006**

**Minutes of the third meeting
held on Thursday, 23 March 2006 at 8:30 am
in Conference Room A of the Legislative Council Building**

- Members present** :
- Hon Howard YOUNG, SBS, JP (Chairman)
 - Hon LI Kwok-ying, MH (Deputy Chairman)
 - Hon James TIEN Pei-chun, GBS, JP
 - Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., JP
 - Dr Hon LUI Ming-wah, SBS, JP
 - Hon Margaret NG
 - Hon CHEUNG Man-kwong
 - Hon Jasper TSANG Yok-sing, GBS, JP
 - Hon LAU Kong-wah, JP
 - Hon TAM Yiu-chung, GBS, JP
 - Hon LEE Wing-tat
 - Hon WONG Ting-kwong, BBS
 - Hon Ronny TONG Ka-wah, SC
 - Hon CHIM Pui-chung
- Members absent** :
- Hon WONG Yung-kan, JP
 - Dr Hon YEUNG Sum
 - Hon LAU Wong-fat, GBM, GBS, JP
 - Hon Timothy FOK Tsun-ting, GBS, JP
 - Hon Abraham SHEK Lai-him, JP
 - Hon Daniel LAM Wai-keung, BBS, JP
 - Hon MA Lik, GBS, JP
 - Hon LEUNG Kwok-hung
 - Hon Patrick LAU Sau-shing, SBS, JP
- Public Officers attending** :
- Mr Stephen LAM
Secretary for Constitutional Affairs

Ms Joyce HO
Principal Assistant Secretary for Constitutional Affairs
(Special Duties)

Mr Gilbert MO
Deputy Law Draftsman (Bilingual Drafting &
Administration)

Mr Alan CHONG
Government Counsel

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

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

Mrs Eleanor CHOW
Senior Council Secretary (2)4

Action

I. Meeting with the Administration
(CAB C5/1 – The Legislative Council Brief on the Bill)

LC Paper No. CB(3)400/05-06 – The Bill

LC Paper No. CB(2)1433/05-06(01) – Marked-up copy of the Bill

LC Paper No. CB(2)1526/05-06(01) – A chart prepared by the Legislative Council Secretariat indicating the maximum rounds of nomination that could be held to fill a vacancy in the office of the Chief Executive (CE) under section 4(a) of the Chief Executive Election Ordinance (CEEEO) i.e. expiry of the term of office of CE

LC Paper No. CB(2)1526/05-06(02) – A chart prepared by the Legislative Council Secretariat indicating the maximum rounds of nomination that could be held during a CE by-election to fill a vacancy under section 4(b) and (c) of CEEEO i.e. if CE dies or the Central People's Government removes CE from the office)

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

2. The Administration was requested to provide a paper to explain the following –
- (a) the electoral arrangements in the event that the sole candidate was not returned at an election for a new term Chief Executive (CE)(LC Paper No. CB(2)1526/04-05(01) refers);
 - (b) the electoral arrangements to deal with the situation illustrated in LC Paper No. CB(2)1526/04-05(02), particularly in relation to the finality issue and the re-constitution of the Election Committee;
 - (c) in the event that a new CE was not elected before 1 July 2007, the arrangements (including any contractual arrangements) in relation to the appointment of acting CE, principal officials and Executive Council Members until a new CE was elected and the legal basis for such arrangements;
 - (d) the commencement date of the term of office of the National Committee of the Chinese People's Political Consultative Conference;
 - (e) whether section 11(3) was adequate to provide a legal basis for fixing a new polling date in the event that the court had determined in an election petition that a candidate was not duly elected at an election under section 37; and
 - (f) in the case of a by-election to fill a vacancy in the office of CE that would arise under section 4(b) or (c), the basis for providing 120 days for the first election and only 42 days for the second election if the first election failed.

(Post-meeting note : The Administration responses were issued to members vide LC Paper Nos. CB(2)1585/05-06(01) and CB(2)1629/05-06 (01) on 29 and 31 March 2006 respectively.)

3. The Administration was also requested to review the drafting of the following provisions in light of the views expressed by members –
- (a) new section 26A(4) under clause 12;
 - (b) new section 32(1)(a) (iv) – (vii) under clause 15; and
 - (c) section 37 in conjunction with sections 22 and 28.

II. Any other business

4. The next meeting would be held at around 4:30 pm on 30 March 2006 after the CE's Question and Answer Session.
5. The meeting ended at 10:40 am.

Council Business Division 2
Legislative Council Secretariat
11 April 2006

**Proceedings of the third meeting of the Bills Committee on
Chief Executive Election and Legislative Council Election
(Miscellaneous Amendments) Bill 2006
on Thursday, 23 March 2006 at 8:30 am
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action required
000000 - 001128	Chairman Mr James TIEN Admin SALA2	Clause by clause examination of the English text of the Bill Clauses 1 - 5	
001129 - 001735	Chairman Admin SALA2	Clause 6 (a) The Administration's confirmation that a vacuum would not occur between the expiry of a term and commencement of a new term of office for the Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference (CPPCC) and the Chairman, Vice-Chairman or a Councillor of the Heung Yee Kuk (HYK) of the Election Committee (EC) subsectors (b) each term of office of the National Committee of CPPCC was five years	
001736 - 001852	Chairman Mr TAM Yiu-chung Admin	The Administration's confirmation that an EC member representing the District Councils (DCs), CPPCC or HYK subsector would cease to be such a member on the date his resignation took effect	
001853 - 001951	Chairman Mr Ronny TONG	Circumstances under which an EC member representing DC, CPPCC, or HYK subsector would be deemed to have resigned as such a member	
001952 - 002711	SALA2 Chairman Admin Mr James TIEN	The Administration's clarification that whether a member designate of DC, CPPCC or HYK was eligible to be nominated as a candidate at an election of the respective subsectors, or elected as a member of the EC representing the respective subsectors was to be determined by the requirement set out in new section 18A under clause 6(2)	

Time Marker	Speaker(s)	Subject(s)	Action required
		The Administration was requested to provide information on the commencement of the term of office of the National Committee of CPPCC	Admin to provide the requested information
002712 - 003241	Chairman Ms Margaret NG	Clauses 7 - 11	
003242 - 003520	Mr Ronny TONG Chairman Admin	Clause 12 The Administration's confirmation that the new polling date would be held on the 42 nd day (if it was a Sunday and if not, the Sunday immediately following that day) after the termination of the previous election proceedings as provided in section 11(2)(b) of the Chief Executive Election Ordinance (CEEO)	
003521 - 004321	Ms Margaret NG Mr Ronny TONG Chairman Admin SALA2	Members' concern about the use of a double negative expression "If...the candidate does not..., he shall not be returned at the election" in drafting. The Administration was requested to review the drafting of new section 26A(4) under clause 12	Admin to follow up
004322 - 005007	Ms Margaret NG Mr Ronny TONG Chairman Admin	Clauses 13 - 15 The Administration was requested to review the drafting of new section 32(1)(a)(iv-vii) under clause 15	Admin to follow up
005008 - 005020	Chairman	Clause 16	
005021 - 011620	Ms Margaret NG Mr Ronny TONG Chairman Admin SALA2	Clause 17 The Administration was requested to review the drafting of section 37 in conjunction with sections 22 and 28 of CEEO regarding the use of the expression "a wrongful determination of the Returning Officer"	Admin to follow up
011621 - 012207	SALA2 Chairman Admin	The Administration was requested to provide a written response on whether section 11(3) of CEEO was adequate to provide a legal basis for fixing a new polling date in the event that the court had determined in an election petition that a candidate was not duly elected at an election under section 37	Admin to provide the requested information
012208 - 012553	Chairman	Clauses 18 – 19	

Time Marker	Speaker(s)	Subject(s)	Action required
012554 - 013827	Mr LEE Wing-tat Mr Ronny TONG Chairman Admin	Members' concern about the need to ensure finality in the electoral process and the arrangements for appointing an acting CE, principal officials (POs) and members of the Executive Council (ExCo) in the event that the third term CE was not elected before 1 July 2007 and the Administration's response	
013828 - 015957	SALA2 Mr LEE Wing-tat Mr Ronny TONG Chairman Admin Ir Dr Raymond HO	<p>Members' concern about the electoral arrangements to deal with the situation where the sole candidate was not returned at an election for a new term CE, or at a by-election and the Administration's response</p> <p>The Administration's confirmation that it was prescribed in the Basic Law that the term of office of EC was five years. In the event that a CE by-election was required to be conducted on a date after a new EC had commenced its term of office on 1 February, the Administration hoped that it could avoid having the new term EC to return a new CE at the by-election</p> <p>The Administration was requested to provide a paper to explain the following –</p> <ul style="list-style-type: none"> (a) the electoral arrangements in the event that the sole candidate was not returned at an election for a new term CE (LC Paper No. 1526/05-06(01) refers); (b) the electoral arrangements to deal with the situation illustrated in LC Paper No. 1526/05-06(02), particularly in relation to the finality issue and the re-constitution of EC; and (c) in the event that a new CE was not elected before 1 July 2007, the arrangements (including any contractual arrangements) in relation to the appointment of acting CE, POs and ExCo Members until a new CE was elected and the legal basis for such arrangements 	Admin to provide the requested information

Time Marker	Speaker(s)	Subject(s)	Action required
015958 - 020551	Mr Ronny TONG Chairman Admin	The Administration was requested to explain the basis for providing 120 days for the first election and only 42 days for the second election if the first election failed, in the case of a by-election to fill a vacancy in the office of CE that would arise under section 4(b) or (c)	Admin to provide the requested information
020552 - 020744	Chairman	Date of next meeting	

Council Business Division 2
Legislative Council Secretariat
11 April 2006