

立法會
Legislative Council

Ref : CB2/BC/1/05

LC Paper No. CB(2)1890/05-06
(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 fourth meeting
held on Thursday, 30 March 2006 at 4:30 pm
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
 - Hon Margaret NG
 - Hon CHEUNG Man-kwong
 - Hon Jasper TSANG Yok-sing, GBS, JP
 - Dr Hon YEUNG Sum
 - Hon LAU Kong-wah, JP
 - Hon TAM Yiu-chung, GBS, JP
 - Hon Abraham SHEK Lai-him, JP
 - Hon LEE Wing-tat
 - Hon Daniel LAM Wai-keung, BBS, JP
 - Hon MA Lik, GBS, JP
 - Hon WONG Ting-kwong, BBS
 - Hon Ronny TONG Ka-wah, SC
 - Hon CHIM Pui-chung
 - Hon Patrick LAU Sau-shing, SBS, JP
- Members absent** :
- Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., JP
 - Dr Hon LUI Ming-wah, SBS, JP
 - Hon WONG Yung-kan, JP
 - Hon LAU Wong-fat, GBM, GBS, JP
 - Hon Timothy FOK Tsun-ting, GBS, JP
 - Hon LEUNG Kwok-hung
- Public Officers attending** :
- Mr Stephen LAM
Secretary for Constitutional Affairs

Mr Joseph LAI
Deputy Secretary for Constitutional Affairs (1)

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)1563/05-06(01) – Administration's response to the issues raised at the meeting on 17 March 2006

LC Paper No. CB(2)1585/05-06(01) – Administration's response to the issues raised at the meeting on 23 March 2006)

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

2. In response to the request of the Bills Committee at the meeting on 23 March 2006, the Administration advised that it had reviewed the drafting of the following provisions and was of the view that they were in order and required no amendment –

- (a) new section 26A(4) under clause 12; and
- (b) new section 32(1)(a) (iv) – (vii) under clause 15.

3. The Administration undertook to respond before the meeting on 3 April 2006 the outcome of its review of the drafting of section 37 in conjunction with sections 22 and 28.

4. In relation to Committee Stage amendments (CSAs), the Administration undertook –

- (a) to repeal clause 34(7) as the Chinese name of Yung Shue Au Marine Fish Culture Business Association had not changed; and
- (b) to replace the Chinese term “委任” with “任命” in clause 3.

II. Any other business

5. The next meeting would be held at 9:00 am on 1 April 2006 to receive public views. The Chairman informed members that the meeting scheduled for 3 April 2006 would discuss, inter alia, CSAs proposed by the Administration and members.

6. The meeting ended at 6:12 pm.

Council Business Division 2
Legislative Council Secretariat
2 May 2006

**Proceedings of the fourth meeting of the Bills Committee on
Chief Executive Election and Legislative Council Election
(Miscellaneous Amendments) Bill 2006
on Thursday, 30 March 2006 at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action required
000455 - 001004	Chairman	Clause by clause examination of the English text of the Bill Clauses 20 - 21	
001005 - 003632	SALA2 Chairman Admin	Clause 22 Difference between the definition of “final register” in clause 22 and “final register of members of the Election Committee” in clause 20 Clauses 23 – 33	
003633 - 003824	Chairman Admin	Clause 34 The Administration’s Committee Stage amendment (CSA) to repeal clause 34(7) as the Chinese name of Yung Shue Au Marine Fish Culture Business Association had not changed Clauses 35 – 45 Examination of amendments that were proposed to the Chinese text only, i.e. clauses 34(7), 36, 37, 38(2), 40(8), 42(2), 43(1), 44(3) and 44(5)	Admin to follow up
003825 - 004617	SALA2 Chairman Admin	Legal and drafting points in the English and Chinese texts of the Bill raised by SALA2 The Administration’s CSA to the Chinese text of clause 3 to replace the term “委任” with “任命” Reasons for adopting different wording in the proposed section 3(1) of the schedule to the Chief Executive Election Ordinance under clause 6, i.e. the phrase “immediately following term of office of that Committee commences” in the proposal section 3(1)(b) and the phrase “immediately after the cessation” in the proposed section 3(1A)(b), 3(1B)(b) and 3(1C)(b).	Admin to follow up

Time Marker	Speaker(s)	Subject(s)	Action required
004618 - 005442	SALA2 Chairman Admin Dr YEUNG Sum	Lack of an EC to elect a new Chief Executive (CE) to fill a vacancy in the office of CE between now and 25 September 2006 (no by-election would be necessary after this date as an election for a new term CE would be held within six months)	
005443 - 010205	SALA2 Chairman Admin Mr TAM Yiu-chung	The Administration's advice that – (a) the policy intention that the term of EC should tie in with the 5-year term for CE and the electoral cycle was reflected in the Bill (b) the reason for specifying the commencement date of EC in law, instead of by notice in the gazette	
010206 - 011516	Chairman SALA2 Admin Dr YEUNG Sum	The Administration's response to the issues raised at the meeting on 17 March 2006 (LC Paper No. CB(2)1563/05-06(01)) Intention of the Democratic Party to move CSAs to the Bill and SALA2's tentative advice in the absence of the wording of the proposed CSAs	
011517 - 012617	Chairman SALA2 Admin	The Administration's response to the issues raised at the meeting on 23 March 2006 (LC Paper No. CB(2)1585/05-06(01)) The electoral arrangements for the two scenarios set out in the two charts prepared by the Legislative Council Secretariat in LC Paper Nos. CB(2)1526/05-06(01) and (02) Reservation expressed by SALA2 on the Administration's response that 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 that a candidate was not duly elected under section 37 The Administration's response that – (a) once the Returning Officer declared the candidate elected, he was the CE-designate. Although the candidate was ruled by the Court as not duly elected, this would not change the fact that he had been returned at an election under section 28; and	

Time Marker	Speaker(s)	Subject(s)	Action required
		(b) in the event that there was dispute in the meaning of a provision, the Court would adopt an interpretation that would satisfy the legislative intent and would not create any legal vacuum	
012618 - 012752	Chairman Admin	The Administration's view that the drafting of new section 32(1)(a)(iv)-(vii) was in order	
012753 - 013002	Mr TAM Yiu-chung Chairman Admin Dr YEUNG Sum	Criteria in determining that a candidate was not returned at the election because of "material irregularity" under new section 32(1)(a)	
013003 - 013257	Chairman Admin	The Administration's view that the drafting of new section 26A(4) under clause 12 was in order	
013258 - 013544	Mr TAM Yiu-chung Chairman Admin	The Administration's advice that the definition of "invalid votes" would be provided in the subsidiary legislation to be made under the Electoral Affairs Commission Ordinance	
013545 - 013635	Admin Chairman	The Administration's response on the outcome of its review of the drafting of section 37 in conjunction with sections 22 and 28 to be provided before the meeting on 3 April 2006	Admin to follow up
013636 - 013724	Chairman Admin	CSAs to be proposed by the Administration	
013725 - 013846	Chairman Mr TAM Yiu-chung Admin	The Administration's confirmation that in the event that a new CE was elected after 1 July 2007, the end date of the term of office of CE would remain 30 June 2012	
013847 - 013954	Chairman SALA2	Date of next meeting	