

立法會
Legislative Council

LC Paper No. LS43/05-06

**Paper for the House Committee Meeting
on 10 March 2006**

**Legal Service Division Report on
Chief Executive Election and Legislative Council Election
(Miscellaneous Amendments) Bill 2006**

I. SUMMARY

1. **Objects of the Bill** To make miscellaneous amendments mainly to the Chief Executive Election Ordinance and Legislative Council Ordinance.

2. **Comments** The main proposals of the Bill seek to –
 - (a) address the issues identified in the Fifth Report of the Constitutional Development Task Force by providing that if a vacancy arises during the six months before a new term Chief Executive (CE) is to be elected, no CE by-election will be held; that the term of office of the Election Committee (EC) will commence from February in the year the CE's term of office expires; that a new CE returned in a by-election may only serve one more term;

 - (b) provide for an election requirement if only one CE candidate is validly nominated;

 - (c) specify that only an individual who remains a member of District Council, local member of the National Committee of CPPCC or the Chairman, a Vice-Chairman or Councillor of Heung Yee Kuk may continue to be a member of the relevant EC subsector.

3. **Consultation with LegCo Panel** The main proposals were discussed at the meeting of the Panel on Constitutional Affairs on 16 January 2006 and some issues were raised.

4. **Conclusion** In view of the constitutional interest of some of the proposals of the Bill to Members, they may wish to set up a Bills Committee to consider it in detail. Scrutiny of its legal and drafting aspects has been continuing.

II. REPORT

Objects of the Bill

To make miscellaneous amendments mainly to the Chief Executive Election Ordinance (Cap. 569) and Legislative Council Ordinance (Cap. 542).

LegCo Brief Reference

2. CAB C5/1 issued by Constitutional Affairs Bureau on 1 March 2006.

Date of First Reading

3. 8 March 2006.

Comment

4. In the Fifth Report of the Constitutional Development Task Force set up to deal with issues relating to the 2007/08 electoral arrangements, three issues are identified relating to the holding of Chief Executive (CE) by-election when a vacancy arises close to the expiry of the term of office, the appropriate time for commencement of the term of office of the Election Committee (EC) and the number of consecutive terms that a new CE returned in a by-election may serve.

5. Proposals are made in the Bill to address these issues respectively as follows –

- (a) no by-election will be held if the vacancy arises within 6 months before an election for a new full term CE;
- (b) the EC's term of office will commence on 1 February in the year the CE's term of office expires;
- (c) a new CE returned in a by-election may only serve one more term after expiry of his remainder term.

6. A policy change will also be proposed to require an election even if one CE candidate is validly nominated. EC voters may indicate in the ballot papers whether they "support" or "not support" the single candidate. Only if the single candidate obtains over half of the valid votes cast will he be declared elected. Otherwise, the election will be terminated and a new round of nominations will be called. The process will be repeated until a candidate is returned.

7. The Bill will also propose to resolve the practical difficulties in implementing the “substantial connection” requirement for membership of certain EC subsectors. Henceforth, a person who ceases to be a member of District Council, a local member of the National Committee of the Chinese People’s Political Consultative Conference or the Chairman, a Vice-Chairman or a Councillor of Heung Yee Kuk will cease to be a EC member without regard to whether there is still any substantial connection with the relevant subsector.

8. The other proposed amendments are technical or consequential in nature. These include –

- (a) in view of the proposal to begin the EC’s term of office on 1 February next following the subsector elections, which are intended to be held in the preceding December, an interim register of EC members will be introduced. Arrangements for compilation and publication of the interim register and final register will also be aligned accordingly;
- (b) references to the first EC constituted on 14 July 2000 will be removed;
- (c) changes in the names of organisations which, or of umbrella organisations the members of which, are eligible to be the electorate of the EC will be reflected. Similarly, those organizations which have ceased to exist will be removed;
- (d) consequential amendments will be made to reflect changes to the licensing system and registration system under the Import and Export Ordinance (Cap. 60) for the purpose of delineating the electorate of the Import and Export subsector and Textiles and Garment subsector respectively.

Consultation with LegCo Panel

9. At its meeting on 16 January 2006, the Panel on Constitutional Affairs was consulted on the main proposals of the Bill. The main issues raised were –

- (a) the number of subscribers for nominating candidates for the CE office should be capped;
- (b) the electorate base of EC should be broadened to include all registered voters, and that of functional constituencies should be expanded by replacing corporate voting with individual voting;
- (c) the new electoral arrangements for CE should provide finality if the same single candidate is re-nominated as the only candidate.

Conclusion

10. In view of the constitutional interest of some of the proposals of the Bill and the concerns expressed at the Panel concerned, Members may wish to set up a Bills Committee to consider the Bill in detail.

11. Scrutiny of the legal and drafting aspects of the Bill has been continuing.

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