



立法會秘書處 法律事務部
LEGISLATIVE COUNCIL SECRETARIAT
LEGAL SERVICE DIVISION

來函檔號 YOUR REF : CMAB C1/30/5/4
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By Post & Fax

25 May 2011

Mr LAM Sui Lung, Stephen, GBS, JP
Secretary for Constitutional and Mainland Affairs
Constitutional and Mainland Affairs Bureau
3rd floor
Main and East Wing
Central Government Offices
HONG KONG
(Fax No.: 2840 1528)

Dear Mr LAM,

Electoral Legislation (Miscellaneous Amendments) Bill 2011

To facilitate the Bills Committee's scrutiny of the captioned Bill clause-by-clause, the Administration may wish to make the following clarification –

(a) Proposed section 65(2) of the Legislative Council Ordinance (Cap. 542)

The proposed section requires the applicant to give the opposite party 3 days' notice of the intended application at any time during the period of 7 working days. It appears that the notice given cannot be at any time during the said period because if it is given towards the end of that period, there may not be sufficient time for the 3 days' notice. Please also clarify the rationale for setting the requirement at 3 days' and not 3 working days' notice;

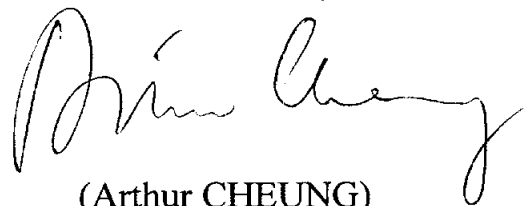
(b) Proposed sections 70A and 72(1A) of Cap. 542

The effect of the Court of First Instance's (CFI) determination is suspended until the expiry of the filing period for an appeal under the proposed section 70A. It is further provided that the person whose LegCo membership is questioned by the petition continues to be a Member even if CFI determines that he was not duly elected provided that an appeal has been lodged. What if the person lodging the appeal subsequently withdraws the appeal? The existing section 70 provides for the situation when a respondent withdraws from the election proceedings. Would there be a need to provide for similar situations after an appeal has been lodged?

(c) Proposed section 43(4A), (4B), (4C) & (4D) of Cap. 542

It is not readily clear about the effect of the subsection (4D) as subsections (4A) to (4C) all describe the letter as sent by or on behalf of a candidate or a list of candidates, apparently to invoke the benefit of free postage provided by subsections (1) and (2). However, subsection (4D) expressly provides that such a letter is not to be regarded, for the purposes of subsection (1) and (2), as being sent by or on behalf of that candidate or that list of candidates.

Yours sincerely,



(Arthur CHEUNG)

Senior Assistant Legal Adviser

c.c. Clerk to Bills Committee