

**立法會**  
**Legislative Council**

Ref : CB2/BC/6/10

LC Paper No. CB(2)1299/11-12  
(These minutes have been seen  
by the Administration)

**Bills Committee on  
Legislative Council (Amendment) Bill 2011**

**Minutes of the third meeting  
held on 21 June 2011 at 8:30 am in the  
Chamber of the Legislative Council Building**

- Members present** :
- Hon TAM Yiu-chung, GBS, JP (Chairman)
  - Hon Jeffrey LAM Kin-fung, SBS, JP (Deputy Chairman)
  - Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
  - Dr Hon Margaret NG
  - Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
  - Dr Hon Philip WONG Yu-hong, GBS
  - Hon LAU Kong-wah, JP
  - Hon Miriam LAU Kin-ye, GBS, JP
  - Hon Abraham SHEK Lai-him, SBS, JP
  - Hon LI Fung-ying, SBS, JP
  - Hon Audrey EU Yuet-mee, SC, JP
  - Hon Vincent FANG Kang, SBS, JP
  - Hon WONG Kwok-hing, MH
  - Hon CHEUNG Hok-ming, GBS, JP
  - Hon WONG Ting-kwong, BBS, JP
  - Prof Hon Patrick LAU Sau-shing, SBS, JP
  - Hon Cyd HO Sau-lan
  - Dr Hon LAM Tai-fai, BBS, JP
  - Hon CHAN Kin-por, JP
  - Dr Hon Priscilla LEUNG Mei-fun
  - Hon IP Wai-ming, MH
  - Hon IP Kwok-him, GBS, JP
  - Hon Paul TSE Wai-chun
  - Hon Alan LEONG Kah-kit, SC
  - Hon Tanya CHAN
- Members absent** :
- Hon Albert HO Chun-yan
  - Hon CHEUNG Man-kwong

Hon WONG Yung-kan, SBS, JP  
Hon LAU Wong-fat, GBM, GBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon Timothy FOK Tsun-ting, GBS, JP  
Hon Ronny TONG Ka-wah, SC  
Hon CHIM Pui-chung  
Hon WONG Kwok-kin, BBS  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Dr Hon PAN Pey-chyou  
Hon LEUNG Kwok-hung  
Hon Albert CHAN Wai-yip  
Hon WONG Yuk-man

**Public Officers :** Constitutional and Mainland Affairs Bureau  
**attending**

Mr Stephen LAM Sui-lung  
Secretary for Constitutional and Mainland Affairs

Ms Adeline WONG Ching-man  
Under Secretary for Constitutional and Mainland Affairs

Mr Arthur HO Kin-wah  
Deputy Secretary for Constitutional and Mainland Affairs

Mr Freely CHENG Kei  
Principal Assistant Secretary for Constitutional and  
Mainland Affairs

Department of Justice

Mr Gilbert MO Sik-keung  
Deputy Law Draftsman  
(Bilingual Drafting and Administration)

Miss Emma WONG  
Senior Government Counsel

**Clerk in** : Miss Flora TAI  
**attendance** : Chief Council Secretary (2)3

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

Ms Alice LEUNG  
Senior Council Secretary (2)2

Mrs Fanny TSANG  
Legislative Assistant (2)3

---

Action

**I. Meeting with the Administration**

[LC Paper Nos. CB(3)840/10-11 and CB(2)2106/10-11(01)]

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

Clause-by-clause examination of the Bill

2. The Bills Committee commenced clause-by-clause examination of the Bill.

Follow-up actions required by the Administration

Admin 3. At the request of members, the Administration undertook to explain in writing how a precedence list was compiled, and the process where by a candidate on the precedence list filled the vacancy and became a LegCo Member. The Administration also undertook to provide the Committee Stage amendments to be proposed by the Administration for members' consideration as soon as practicable.

**II. Any other business**

4. Members noted that the next meeting would be held on Wednesday, 22 June 2011 from 8:30 am to 10:00 am to continue clause-by-clause examination of the Bill.

5. There being no other business, the meeting ended at 10:35 am.

Council Business Division 2  
Legislative Council Secretariat  
13 March 2012

**Proceedings of the third meeting of the  
Bills Committee on Legislative Council (Amendment) Bill 2011  
on Tuesday, 21 June 2011 at 8:30 am  
in the Chamber of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action required
000135 - 000347	Chairman	Opening Remarks	
<b>Clause-by-clause examination of the Bill</b>			
000348 - 001945	Administration Chairman Mr Paul TSE SALA2 Ms Miriam LAU	<p><b>Long Title and Clauses 1, 2 and 3</b></p> <p>Mr Paul TSE, Ms Miriam LAU and SALA2 raised similar concern that the drafting of Clause 2 would cause ambiguity to the commencement date of the various sections, given that Clause 1(2) stated that the Amendment Ordinance (except section 1 and sections 2 and 7) came into operation on the commencement of the term of office of the fifth term of office of the Legislative Council ("LegCo") in 2012 whereas Clause 1(3) stated that section 1 and section 2 and 7 came into operation on 1 September 2012.</p> <p>The Administration responded that the present drafting practice had been adopted in the Bill where Clause 2 was a general description of the Amendment Bill and the commencement clause provided for the commencement of individual sections of the Bill.</p>	
001946 - 002342	Administration Chairman Ms Cyd HO SALA2	<p><b>Clause 4</b></p> <p>The Administration advised that it would put forward a Committee Stage amendment ("CSA") to delete section 13.</p>	
002343 - 004029	Administration Chairman Dr Margaret NG Ms Cyd HO	<p><b>Clause 5</b></p> <p>The Administration advised that it would propose CSAs to the proposed sections 35(1)(a), 35A(1), 38(8) and 38(c). The Administration undertook to provide the proposed CSAs as soon as practicable.</p> <p>In response to Dr Margaret NG's enquiry about the definition of the precedence list as referred to in the proposed new section 35A(1)(b), the</p>	Admin to provide CSAs in writing <b>(paragraph 3 of the minutes)</b>

Time Marker	Speaker(s)	Subject(s)	Action required
		Administration advised that as stated in the proposed section 35A(11), a precedence list for a constituency meant a precedence list published under the proposed new section 58A in relation to that constituency following the last election conducted for that constituency. A new section 67(2A) would be added under Clause 11 to provide the definition of a precedence list.	
004030 - 004056	Administration	<b>Clause 6</b>	
004057 - 010927	Administration Chairman Dr Hon Margaret NG Dr Priscilla LEUNG Hon Cyd HO	<p><b>Clause 7 – new sections 58A(1) to (7)</b></p> <p>On Dr Margaret NG's enquiries in relation to the compilation of a precedence list, the Administration responded that if there was only one candidate standing for election and no general election was held, a precedence list could not be compiled. However, in respect of a Geographical Constituency ("GC") or District Council (second) Functional Constituency ("DC(2)FC"), the Administration did not consider that this situation would occur as there would be sufficient competition and there would be a precedence list. Given that the proposed new section 35A was based on the existence of a precedence list, if there was no precedence list, a by-election would be held to fill a vacancy when it arose.</p> <p>At the request of Dr Margaret NG, the Administration undertook to explain in writing how a precedence list was compiled.</p> <p>Dr Priscilla LEUNG reiterated her request for the Administration to consider excluding the situations where vacancies arose due to death or sickness from the proposed mechanism.</p> <p>Ms Cyd HO reiterated her concern raised at previous meetings that there was simply no way for the electors at the time of voting at a general election to know how to vote for the replacement candidates.</p>	Admin to provide requested information ( <b>paragraph 3 of the minutes</b> )
010928 - 011759	Administration Chairman Ms Cyd HO	<p><b>Clause 7 – new sections 58A(8) and (9)</b></p> <p>The Administration advised that a CSA would be proposed to delete new sections 58A(8) and (9) so</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
		that the precedence list would only be compiled after the completion of the counting of votes in respect of a general election.	
		Ms Cyd HO requested the Administration to provide information in writing on the process where a candidate on the precedence list filled the vacancy and became a LegCo Member. She was also concerned about the inquiry that the Returning Officer would make to determine that the person was eligible to become a Member as referred to in the proposed section 35A(5)(b).	Admin to provide the requested information <b>(paragraph 3 of the minutes)</b>
011800 - 012710	Chairman Dr Hon Margaret NG Administration	In response to Dr Margaret NG's concern about the lodging of an election petition and the operation of section 39 of the Legislative Council Ordinance (Cap. 542) ("principal Ordinance"), the Administration's clarification that section 39(1) of the principal Ordinance stated the eligibility of persons being nominated as candidates for election. Article 79 of the Basic Law stipulated the circumstances under which a Member became disqualified as a Member. The proposed new section 35A(5) and (6) stated the eligibility of candidates on the precedence to fill the vacancies.	
012711 - 013303	Chairman Mr Paul TSE Administration	Mr Paul TSE enquired about the delivery of the notice to the person who ranked highest on the precedence list for the constituency concerned and whether the precedence list would be constantly updated.  The Administration responded that the Returning Officer would write to advise the candidate who ranked highest on the precedence list for the constituency concerned. Generally speaking, the precedence list would be updated when there was a vacancy to be filled. The list would also be updated when the Returning Officer was aware that certain candidates on the list had passed away.	
013304 - 013754	Chairman Dr Priscilla LEUNG Administration	Dr Priscilla LEUNG asked why section 39(1) to (3) of the principal Ordinance had to be set out under separate provisions under the proposed new section 35A, given that the situations as set out under the new section 35A(6)(b) to (e) could be changed after the general election.	

Time Marker	Speaker(s)	Subject(s)	Action required
013755 - 015938	Administration Chairman Mr Alan LEONG Dr Priscilla LEUNG SALA2 Mr Paul TSE	<p><b>Clauses 8 and 9</b></p> <p>Mr Alan LEONG and SALA2 shared similar concern about the ambiguity in the drafting of the proposed new section 61(2A) as to whether the wording of "only by" referred to an election petition lodged under section 62 only or whether it meant that a decision of a Returning Officer might be questioned only in an election petition lodged under section 62 on any of the grounds specified in subsection (2B). Pointing out that under the principal Ordinance, section 61(1) and (2) were two separate provisions, SALA2 suggested that the Administration should consider separating the proposed new section 61(2A) into two separate provisions.</p> <p>Mr Paul TSE was concerned as to whether the proposed mechanism was contrary to section 49(4) of the principal Ordinance.</p> <p>The Administration explained that under section 49(4) of the principal Ordinance, Members of GC and DC(2)FC were elected at a general election. If there were several vacancies, it would be a proportional representation system. On the other hand, if there was only one vacancy, it would be a first-by-the-post election.</p>	
015939 - 020338	Chairman Administration Ms Cyd HO	<p>Noting the Administration's advice of its intention to resume the Second Reading debate of the Bill at the Council meeting of 13 July 2011, the Chairman advised that if the legislative timetable was adhered to, the Bills Committee should report its deliberations to the House Committee on 24 June 2011 as there was no House Committee meeting on 1 July 2011.</p> <p>Ms Cyd HO raised objection to the Administration's plan to resume Second Reading debate of the Bill in the absence of a public consultation.</p> <p>Date of next meeting</p>	