

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1119/13-14  
(These minutes have been seen  
by the Administration)

Ref : CB2/BC/1/13

**Bills Committee on  
Rural Representative Election Legislation (Amendment) Bill 2013**

**Minutes of the 3<sup>rd</sup> meeting  
held on Monday, 13 January 2014, at 2:30 pm  
in Conference Room 2A of the Legislative Council Complex**

**Members present** : Hon IP Kwok-him, GBS, JP (Chairman)  
Hon Albert HO Chun-yan  
Hon Emily LAU Wai-hing, JP  
Hon TAM Yiu-chung, GBS, JP  
Hon Cyd HO Sau-lan  
Hon YIU Si-wing  
Hon MA Fung-kwok, SBS, JP  
Hon CHAN Han-pan  
Dr Hon Kenneth CHAN Ka-lok  
Hon LEUNG Che-cheung, BBS, MH, JP  
Hon Alice MAK Mei-kuen, JP

**Members absent** : Dr Hon LAU Wong-fat, GBM, GBS, JP  
Hon WONG Yuk-man

**Public Officers attending** : Item I  
  
Mr Patrick LI Pak-chuen, JP  
Deputy Director of Home Affairs (1)  
  
Miss Victoria TSE Wein-yin  
Assistant Director of Home Affairs (1) (Acting)  
  
Mr MA Kit-chi  
Principal Liaison Officer (1) 2  
Home Affairs Department

Miss Emma WONG  
Senior Government Counsel  
Department of Justice

**Clerk in attendance** : Ms Alice LEUNG  
Chief Council Secretary (2) 2

**Staff in attendance** : Mr Bonny LOO  
Assistant Legal Adviser 3

Miss Josephine SO  
Senior Council Secretary (2) 6

Ms Camy YOONG  
Clerical Assistant (2) 2

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**I. Meeting with the Administration**

(LC Paper Nos. CB(3)151/13-14, CB(2)404/13-14(02),  
CB(2)575/13-14(01)-(03), CB(2)653/13-14(01),  
CB(2)580/08-09(01), CB(2)2156/08-09(01) and CB(2)20/09-10)

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

2. The Bills Committee concluded its deliberations on the policy aspects of the Rural Representative Election Legislation (Amendment) Bill 2013 ("the Bill").

Clause-by-clause examination

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

Follow-up actions arising from the discussion

4. While the Bills Committee noted some deputations' views that according to the past Kaifong Representative ("KFR") elections, independent candidates stood a chance to be elected, the Bills Committee requested the Administration to provide detailed information on the last KFR elections for Cheung Chau ("CC") and Peng Chau ("PC") in respect of (i) the total number of votes cast by electors; and (ii) the number of

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votes received by each independent candidate (including elected and losing candidates).

5. In the light of some deputations' concern about possible domination by some groups of candidates in KFR elections, there was a view that the Administration should consider adopting other election systems (e.g. "the proportional representation system"), instead of the "block vote" system, for returning the KFR seats of CC Rural Committee ("RC") and PCRC. The Administration was requested to provide a written response to this view.

6. Regarding the three and six years' residence requirement respectively as one of the eligibility criteria for a person to be registered as an elector or to be nominated as a candidate at an election for a Market Town under clauses 8 and 9 of the Bill, Dr Kenneth CHAN and Mr MA Fung-kwok were concerned about how the eligibility of the electors/candidates would be verified after KFR elections were brought under statutory control and which department would be responsible for the verification of the eligibility and registration particulars of the electors/candidates as well as enforcement of the eligibility criteria. The Administration was requested to provide a written explanation on these issues.

7. The Bills Committee requested the Administration to consider the following observations/comments raised by the Legal Adviser to the Bills Committee on drafting issues regarding certain provisions -

- (a) in the proposed new section 15(3A) of the Village Representative Election Ordinance (Cap. 576) (to be added by clause 8(1) of the Bill), the expression "is not, because of..., entitled" was rendered in the Chinese text as "不得因...而令...有權". However, in the existing section 15(3), the expression "is not, by virtue of ..., entitled" was rendered as "無權憑藉...而有權". The Administration was requested to consider reviewing the use of different renditions in the Chinese text to ensure consistency within the same section;
- (b) in the proposed new sections 11(1)(c), 14A, 15(2A), 17(2) and 18(4A) of the Electoral Affairs Commission (Registration of Electors) (Village Representative Election) Regulation (Cap. 541 sub. leg. K) (i.e. clauses 22(3), 23, 24(1), 26(2) and 27(1) respectively), "must" was rendered in the Chinese text as simply "須" whereas the existing sections

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11(1)(a) and (b), 13, 14, 15, 16(3) and (4), and 18(1) to (5) all referred to "必須". If "須" was preferred to "必須", the Administration was requested to consider whether it should take the opportunity to also amend sections 11(1)(a) and (b), 13, 14, 15, 16(3) and (4), and 18(1) to (5);

- (c) in the proposed section 18(4A)(a)(ii) to be added by clause 27(1), "despite" was rendered in the Chinese text as "即使", whereas the existing section 18(4)(a)(ii) used "縱使". The Administration was requested to review the use of different Chinese renditions to ensure consistency within the same section;
- (d) regarding clause 37(3) of the Bill which sought to add, among others, a new definition of "computer" to section 2(1) of the Electoral Procedure (Village Representative Election) Regulation (Cap. 541 sub. leg. L) ("the Electoral Procedure Regulation"), it appeared from the Chinese text that the phrase "designed and programmed to count the votes cast at an election" was intended to qualify both the "device" and the "computer software" referred to in the proposed definition. The Administration was requested to consider whether "that is" should be amended to "that are";
- (e) under clause 47(3) of the Bill, the proposed new section 45(4)(d) of the Electoral Procedure Regulation used the gender-neutral expression "the person" ("該人") in lieu of "he" ("他") which continued to be used in the existing section 45(4)(a) to (c). The Administration was requested to consider whether the references to "he" ("他") in section 45(4)(a) to (c) should be consequentially amended to "the person" ("該人") to achieve consistency within the section; and
- (f) it was noted that some items in Schedules 1 to 5 to the Bill merely identified the sections (but not the specific subsections within those sections) or the subsections (but not the specific paragraphs or subparagraphs within those subsections) where minor textual amendments were to be made (see, for example, item 12(c) of Part 3 of Schedule 2 to the Bill (page C1822)). This seemed to deviate from the previous drafting practice which would identify in a more specific way the paragraph or subparagraph within a section or subsection where a consequential or related amendment was to be made. The Administration was requested to

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consider the Bills Committee's view that the previous drafting practice could achieve better clarity and also to advise whether such a new drafting practice would be adopted in other bills.

**II. Any other business**

Date of next meeting

8. The Chairman reminded members that the next meeting of the Bills Committee would be held on Friday, 7 February 2014, at 8:30 am to continue clause-by-clause examination of the Bill.

9. The meeting ended at 4:41 pm.

Council Business Division 2  
Legislative Council Secretariat  
20 March 2014

**Proceedings of the meeting of the  
Bills Committee on Rural Representative Election Legislation (Amendment) Bill 2013  
on Monday, 13 January 2014, at 2:30 pm  
in Conference Room 2A of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
000301 - 000516	Chairman	Chairman's opening remarks	
000517 - 000843	Admin	Briefing on the Administration's response to issues raised at the meeting on 3 December 2013 (LC Paper No. CB(2)575/13-14(01)).	
000844 - 001005	Admin Chairman	Briefing on the Administration's response to issues raised by members and views expressed by deputations at the meeting on 6 January 2014 (LC Paper No. CB(2)653/13-14(01)).	
001006 - 001159	Chairman Ms Cyd HO Admin	<p>Referring to a Gazette Notice published in 1899, Ms Cyd HO sought clarification on whether Cheung Chau ("CC") was an indigenous village already in existence in 1898.</p> <p>The Administration responded that the said Gazette Notice was published pursuant to the then Local Communities Ordinance, which aimed to divide the New Territories into districts and sub-districts to facilitate administration. That Ordinance and Gazette Notice were not related to the village representative ("VR") system. The Local Communities Ordinance was repealed in 1910 because it was found to have no practical effect. The Administration further advised that on the List of Established Villages in the New Territories jointly compiled by the Government and the Heung Yee Kuk ("HYK") in 1991 after years of deliberation, it was clearly shown that CC was a "Market Town" instead of a "Village". Furthermore, the Block Lease of CC did not contain any village names.</p>	
001200 - 001742	Chairman Dr Kenneth CHAN Admin	Dr Kenneth CHAN respected some deputations' views that according to the past Kaifong Representative ("KFR") elections, independent candidates stood an equal chance to be elected and there was no domination by some groups of candidates. He requested the Administration to provide information on the last KFR elections for CC and Peng Chau ("PC") in respect of (i) the total number of votes cast by	<b>Admin to provide detailed information in writing (para. 4 of the minutes refers)</b>

Time marker	Speaker	Subject(s)	Action Required
		<p>electors; and (ii) the number of votes received by each independent candidate, including elected and losing candidates.</p> <p>The Administration responded that -</p> <p>(a) for the last KFR election on CC, 2 505 of the 8 579 registered electors had voted, representing a turnout rate of 29.2%. Among the elected persons, an independent candidate who had not conducted joint electioneering activities was elected with 653 votes; and</p> <p>(b) for the last KFR election on PC, 1 745 of the 3 068 registered electors had voted, representing a turnout rate of 56.9%. Candidates were divided into two groups on their own to conduct joint electioneering activities. There were elected candidates in both groups.</p> <p>Dr Kenneth CHAN's enquiry and the Administration's explanation on the three and six years' residence requirement respectively as one of the eligibility criteria for a person to be registered as an elector or to be nominated as a candidate at an election for a Market Town under clauses 8 and 9 of the Rural Representative Election Legislation (Amendment) Bill 2013 ("the Bill").</p>	
001743 - 002047	Chairman Mr LEUNG Che-cheung	Mr LEUNG Che-cheung's expression of support for the Bill as well as the Administration's stance to respect and retain the original number of seats and voting method of the KFR election while bringing it under statutory regulation. Considering that the legislative intent of the Bill was to regulate KFR election by statute but not amending the existing VR election under the Village Representative Election Ordinance (Cap. 576) ("VREO"), his view that the claim made by some CC residents that CC should be included in the list of "indigenous Villages" under VREO was not a matter to be dealt with by the Bills Committee and these residents should put forward their request to the Government as a separate exercise.	
002048 - 003224	Chairman Mr Albert HO	Mr Albert HO's expression of view that the dispute between some CC residents and the	

Time marker	Speaker	Subject(s)	Action Required
	Admin	<p>Administration as to whether there were indigenous villages on CC would ultimately be a matter for the courts. He cautioned the Administration that it should address the concerns and views expressed by these CC residents. Otherwise, the Government might face the possibility that these CC residents might seek judicial review in accordance with the law.</p> <p>In view of some deputations' concern about possible domination by some groups of candidates in the KFR elections, Mr Albert HO suggested that the Administration should consider adopting other election systems, instead of the "block vote" system, for returning the KFR seats of CC Rural Committee ("RC") and PCRC.</p> <p>The Administration's advice that after comparing the existing KFR election system with other common election systems, it was appropriate to retain the existing KFR election system, having regard to the following considerations -</p> <p>(a) the legislative principle of the Administration was to respect and retain the original number of seats and voting method of the KFR election while bringing it under statutory regulation. This was in line with the principle when regulating VR elections by statute in 2003;</p> <p>(b) HYK, CCRC and PCRC all supported retaining the election system which had been in use for years; and</p> <p>(c) given the relatively small number of electors in the KFR elections, the elected persons under the existing election system might obtain a higher number of votes, thus enhancing their legitimacy and representativeness.</p> <p>Mr Albert HO's indication of intention to move a Committee Stage amendment to restrict the number of candidates that each elector might vote for at an election on CC or PC to a number not exceeding a certain percentage of the number of KFR seats to be returned for CC and</p>	<p><b>Admin to provide a written response (para. 5 of the minutes refers)</b></p>



Time marker	Speaker	Subject(s)	Action Required
		<p>PC.</p> <p>Mr Albert HO's enquiry about the introduction of the Block Crown Lease (Cheung Chau) Bill, which was a Member's Bill, in 1995 to seek to terminate the Block Crown Lease granted to Wong Wai Tsak Tong ("WWTT") of CC so as to resolve the disputes between WWTT and the sub-lessees.</p>	
003225 - 003552	Chairman Miss Alice MAK Admin	<p>Miss Alice MAK agreed that the existing rural election system should remain status quo while KFR election should be legislated as quickly as possible. Miss Mak's suggestion that the Administration should continue its communication with the residents of CC, including those who claimed that CC was an indigenous village and that they were indigenous inhabitants of CC, to assure them that their rights would not be affected. CCRC should also maintain good liaison with CC residents.</p> <p>The Administration's response stressing that it would continue to maintain liaison and communication with the CC residents and CCRC.</p>	
003553 - 003827	Chairman Mr CHAN Han-pan	Mr CHAN Han-pan's expression of support for the Bill as well as objection to the suggestions of dividing CC and PC into a number of constituencies and making changes to the existing election system which was effective and had been in use for years .	
003828 - 004040	Chairman Mr TAM Yiu-chung	Mr TAM Yiu-chung's advice about the background to the introduction of the Block Crown Lease (Cheung Chau) Bill; expression of support for the Bill and view that the long adopted "block vote" system should be retained.	
004041 - 004817	Chairman Dr Kenneth CHAN Admin Miss Alice MAK	<p>Discussion on issues relating to the verification of the eligibility of electors/candidates after bringing the KFR elections under statutory control.</p> <p>Dr Kenneth CHAN's request for the Administration to provide a response on how the eligibility of electors/candidates would be verified after KFR elections were brought under statutory control and which department would</p>	<b>Admin to provide a written explanation on these issues (para. 6 of the minutes refers)</b>

Time marker	Speaker	Subject(s)	Action Required
		<p>be responsible for the verification of the eligibility and registration particulars of electors/candidates as well as enforcement of the eligibility criteria.</p>	
004818 - 005807	<p>Chairman Mr Albert HO Admin ALA3</p>	<p>Mr Albert HO's reiteration of his views over the election system proposed in the Bill.</p> <p>Mr Albert HO took note of the Report of the Bills Committee on the Village Representative Election Legislation (Miscellaneous Amendments) Bill 2009 ("the 2009 Amendment Bill"), which contained information on the deliberations on the reasons for inclusion of two villages, including "Yuen Long Kau Hui", in the Schedules to VREO for the purposes of holding VR elections, as proposed under the 2009 Amendment Bill.</p> <p>In response to Mr Albert HO's enquiry, ALA3's advice of the paper provided by the Administration to the Bills Committee on the 2009 Amendment Bill which set out the Administration's grounds for not including CC in the Schedules to VREO (LC Paper No. CB(2)2156/08-09(01)).</p> <p>The Administration's advice on the principles for listing of indigenous villages - an indigenous village should satisfy two principles for inclusion in the Schedules to VREO, viz. the relevant village should have been in existence in 1898 and a VR system exclusively for indigenous inhabitants should have been established in the relevant village before 1999.</p>	
005808 - 005927	<p>Chairman ALA3</p>	<p>Assistant Legal Adviser's letter dated 2 December 2013 to the Administration and the Administration's reply dated 13 December 2013 to Assistant Legal Adviser (LC Paper Nos. CB(2)575/13-14(02) and (03)).</p> <p>As regards the claim by certain CC residents that there were indigenous villages on CC, ALA3 noted that these residents and the Administration relied on different documents.</p>	
<i>Clause-by-clause examination of the Bill</i>			
005928 - 011042	<p>Chairman Admin</p>	<p>Clause-by-clause examination of the Bill, with the aid of the marked-up copy of the relevant</p>	

Time marker	Speaker	Subject(s)	Action Required
	<p>Mr LEUNG Che-cheung Mr YIU Si-wing ALA3</p>	<p>provisions to be amended by the Bill prepared by the Legal Service Division (LC Paper No. CB(3)404/13-14(02))</p> <p><u>Part 1 - clauses 1 and 2</u></p> <p>Clause 1 which set out the short title of the Bill; the Administration's response to HYK's view and concern over the short title as set out in its submission (LC Paper No. CB(2)575/13-14(08)).</p> <p><u>Part 2 - Proposed amendments to VREO</u></p> <p><u>Clauses 3 and 4</u></p> <p>As regards clause 4, the Administration's advice that the terms VRs, Indigenous Inhabitant Representatives ("IIRs") and Resident Representatives ("RRs") would be retained in VREO and the number of Indigenous Villages and Existing Villages, the number of IIR seats and RR seats as well as the election system, etc. stipulated in the existing VREO would remain unchanged.</p> <p>Clause 4(3) - the use of two different Chinese renditions in the proposed definition of "rural ordinary election" (i.e. "職位...出缺") and section 7(2)(b) or (3)(b) of VREO (i.e. "離任") for the English expression "the office... is vacated".</p>	
<p>011043 - 012755</p>	<p>Chairman Admin Mr MA Fung-kwok ALA3</p>	<p><u>Clauses 5 to 18</u></p> <p>Mr MA Fung-kwok's enquiry on the eligibility criteria for registration as an elector and nomination as a candidate for a KFR election and the enforcement of the eligibility criteria.</p> <p>Clause 8 - the Administration was requested to consider reviewing the use of different renditions in the Chinese text in the proposed new section 15(3A) of the VREO (to be added by clause 8(1)) (i.e. "不得因...而令...有權" for the English expression "is not, because of..., entitled") and in the existing section 15(3) (i.e.</p>	<p><b>Admin to provide a written explanation on these issues (para. 6 of the minutes refers)</b></p> <p><b>Admin to consider and provide a response (para. 7(a) of the minutes refers)</b></p>

Time marker	Speaker	Subject(s)	Action Required
		<p>"無權憑藉...而有權" for the expression "is not, by virtue of ..., entitled"), to ensure consistency within the same section.</p> <p>Clause 9 - the Administration's response to ALA3's suggestion that "只有" should similarly be added to the existing section 22(1) and (2) to achieve consistency with the proposed section 22(2A) (to be added by clause 9) to reflect the reference "only if".</p>	
012756 - 013949	Chairman ALA3 Admin Mr YIU Si-wing	<p><u>Part 3 - Proposed amendments to the Electoral Affairs Commission (Registration of Electors) (Village Representative Election) Regulation (Cap. 541 sub. leg. K) ("the Village Representative Election Regulation")</u></p> <p><u>Clauses 19 to 27</u></p> <p>The Administration was requested to consider whether it should take the opportunity to also amend the existing sections 11(1)(a) and (b), 13, 14, 15, 16(3) and (4), and 18(1) to (5) if "須" was preferred to "必須" in the proposed new sections 11(1)(c), 14A, 15(2A), 17(2) and 18(4A) of the Village Representative Election Regulation (i.e. clauses 22(3), 23, 24(1), 26(2) and 27(1) respectively) where "must" was rendered in the Chinese text as simply "須".</p> <p>The Administration was also requested to review the use of different Chinese renditions for the English expression "despite" in the proposed new section 18(4A)(a)(ii) (to be added by clause 27(1)) (i.e. "即使") and in the existing section 18(4)(a)(ii) (i.e. "縱使") to ensure consistency within the same section.</p>	<p><b>Admin to consider and provide a response (para. 7(b) of the minutes refers)</b></p> <p><b>Admin to consider and provide a response (para. 7(c) of the minutes refers)</b></p>
013950 - 014246	Chairman Admin	<u>Part 3 - clauses 28 to 36</u>	
014247 - 014630	Chairman ALA3 Admin	<p><u>Part 4 - Proposed amendments to Electoral Procedure (Village Representative Election) Regulation (Cap. 541 sub. leg. L) ("the Electoral Procedure Regulation")</u></p> <p><u>Clauses 37 to 40</u></p> <p>Regarding clause 37(3) which sought to add, among others, a new definition of "computer" to</p>	<p><b>Admin to consider and</b></p>

Time marker	Speaker	Subject(s)	Action Required
		<p>section 2(1) of the Electoral Procedure Regulation, it appeared from the Chinese text that the phrase "designed and programmed to count the votes cast at an election" was intended to qualify both the "device" and the "computer software" referred to in the proposed definition. The Administration was requested to consider whether "that is" should be amended to "that are".</p>	<p><b>provide a response (para. 7(d) of the minutes refers)</b></p>
<p>014631 - 015614</p>	<p>Chairman Admin ALA3</p>	<p><u>Part 4 - clauses 41 to 43</u></p> <p>With reference to item 12(c) of Part 3 of Schedule 2 to the Bill (page C1822) as an example, the Administration was requested to consider the view that the previous drafting practice of making very specific reference to the provisions where minor textual amendments were to be made could achieve better clarity and also to advise whether such a new drafting practice would be adopted in other bills.</p>	<p><b>Admin to consider and provide a response (para. 7(f) of the minutes refers)</b></p>
<p>015615 - 015800</p>	<p>Chairman Admin</p>	<p><u>Part 4 - clauses 44 to 46</u></p>	
<p>015801 - 020252</p>	<p>Chairman Admin ALA3</p>	<p><u>Part 4 - clause 47</u></p> <p>Regarding clause 47(3), it was noted that the proposed new section 45(4)(d) of the Electoral Procedure Regulation used the gender-neutral expression "the person" ("該人") in lieu of "he" ("他") which continued to be used in the existing section 45(4)(a) to (c). The Administration was requested to consider whether the references to "he" ("他") in section 45(4)(a) to (c) should be consequentially amended to "the person" ("該人") to achieve consistency within the section.</p>	<p><b>Admin to consider and provide a response (para. 7(e) of the minutes refers)</b></p>
<p>020253 - 021128</p>	<p>Chairman Admin Mr YIU Si-wing Mr TAM Yiu-chung Mr Albert HO ALA3</p>	<p>The Chairman extended the meeting by 15 minutes.</p> <p>Mr Albert HO's enquiry and the Administration's response on the voting arrangement, specifically the number of KFRs to be returned for the two Market Towns at the election concerned (i.e. a maximum of 39 for CC and 17 for PC).</p>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action Required</b>
		<u>Part 4 - clause 48</u>  In response to ALA3's enquiry, the Administration's explanation on the reason for repealing the existing section 47(1A) of the Electoral Procedure Regulation (as proposed by clause 48) and the proposed arrangement for electors in custody to cast their votes as a result of the repeal.	
021129 - 021224	Chairman	Date of next meeting	

Council Business Division 2  
Legislative Council Secretariat  
20 March 2014