

**立法會**  
**Legislative Council**

Ref : CB2/BC/5/13

LC Paper No. CB(2)132/14-15  
(These minutes have been seen  
by the Administration)

**Bills Committee on Electoral Legislation**  
**(Miscellaneous Amendments) Bill 2014**

**Minutes of the fourth meeting**  
**held on Tuesday, 3 June 2014, at 10:45 am**  
**in Conference Room 2 of the Legislative Council Complex**

- Members present** : Hon IP Kwok-him, GBS, JP (Chairman)  
Hon Emily LAU Wai-hing, JP  
Hon TAM Yiu-chung, GBS, JP  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon Cyd HO Sau-lan  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon Alan LEONG Kah-kit, SC  
Hon YIU Si-wing  
Hon Charles Peter MOK  
Hon LEUNG Che-cheung, BBS, MH, JP  
Hon Alice MAK Mei-kuen, JP  
Dr Hon CHIANG Lai-wan, JP  
Hon CHUNG Kwok-pan
- Members absent** : Dr Hon Kenneth CHAN Ka-lok  
Hon Martin LIAO Cheung-kong, JP
- Public Officers attending** : Mr LAU Kong-wah, JP  
Under Secretary for Constitutional and Mainland Affairs
- Miss Helen CHUNG Chi-ching  
Principal Assistant Secretary for Constitutional and  
Mainland Affairs
- Ms Carmen KONG Ka-man  
Assistant Secretary for Constitutional and Mainland Affairs

Mr Henry KEUNG Pit-kai  
Assistant Secretary for Constitutional and Mainland Affairs

Mr LI Pak-hong  
Chief Electoral Officer  
Registration and Electoral Office

Mr SHUM Nam-lung  
Deputy Chief Electoral Officer (Operations)  
Registration and Electoral Office

Mr Gilbert MO Sik-keung  
Deputy Law Draftsman (Bilingual Drafting & Administration)  
Department of Justice

Mr Henry CHAN Ngai-him  
Acting Senior Government Counsel  
Department of Justice

Mr MA Kit-chi  
Principal Liaison Officer  
Home Affairs Department

Ms Carmen KAN Sau-fun  
Senior Liaison Officer  
Home Affairs Department

**Clerk in attendance** : Ms Joanne MAK  
Chief Council Secretary (2) 3

**Staff in attendance** : Mr Kelvin LEE  
Assistant Legal Adviser 1

Miss Cindy HO  
Senior Council Secretary (2) 3

Mrs Fanny TSANG  
Legislative Assistant (2) 3

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Action

**I. Meeting with the Administration**

[LC Paper Nos. CB(3)547/13-14, CB(2)1508/13-14(01), CB(2)1658/13-14(02) and CMAB C1/30/5/4]

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

Follow-up actions required of the Administration

**Admin**

2. The Bills Committee requested the Administration to provide written response to the following issues raised by members and the legal adviser to the Bills Committee -

- (a) the proposed new section 9(1)(ab) of the Electoral Affairs Commission ("EAC") (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541A) did not seem to fully reflect the general principle adopted by the Registration and Electoral Office in handling request for voter de-registration from an elector;
- (b) a member's enquiry about the legal basis for EAC to determine the boundaries of District Council constituencies under the existing statute; and
- (c) members' request for the number of complaints received in recent years regarding voter registration offences under section 22(1) and (2) of Cap. 541A and section 42(1) and (2) of the EAC (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541B) which could not be followed up by the law enforcement agency due to the six-month prosecution time bar.

*(Post-meeting note: The Administration's written response and reply letter to the legal adviser to Bills Committee were issued on 11 June 2014 vide LC Paper Nos. CB(2)1769/13-14(01) to (02).)*

3. The Bills Committee completed the clause-by-clause examination of the Bill. The Bills Committee would consider the draft Committee stage amendments to be proposed by the Administration at the next meeting scheduled for 9 June 2014 at 4:30 pm.

*(Post-meeting note: On the instruction of the Chairman, the next meeting was rescheduled for 12 June 2014 at 8:30 am.)*

**II. Any other business**

4. There being no other business, the meeting ended at 12:55 pm.

Council Business Division 2  
Legislative Council Secretariat  
21 October 2014

**Proceedings of the fourth meeting of the  
Bills Committee on Electoral Legislation (Miscellaneous Amendments) Bill 2014  
on Tuesday, 3 June 2014, at 10:45 am  
in Conference Room 2 of the Legislative Council Complex**

| Time Marker     | Speaker(s)   | Subject(s)   | Action required |
|-----------------|--|--|-----------------|
| 000914 - 003522 | Chairman<br>Administration                                       | <p>Opening remarks</p> <p>Continuation of clause-by-clause examination of the Bill</p> <p><b><u>Part 2 of the Bill (Cont'd)</u></b><br/><b>Amendments relating to effect of inclement weather on date and period</b></p> <p><i>Clause 5</i></p> <p>The Administration advised that it would propose Committee stage amendments ("CSAs") to the proposed new section 2A(4) of the Electoral Affairs Commission ("EAC") (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D) to make clear the exact specific provisions, that was, the existing provisions in postponing or adjourning an election, a poll or a count, that the proposed general inclement weather provisions would be subject to. CSAs would also be made to similar provisions in Part 2 of the Bill as concerns other pieces of electoral legislation.</p> |                 |
| 003523 - 004634 | Chairman<br>Administration<br>Assistant Legal Adviser<br>("ALA") | <p><b><u>Part 3 of the Bill</u></b><br/><b>Amendments relating to inclusion of electors or voters who requested de-registration in omissions list ("OL")</b></p> <p><i>Clause 31</i></p> <p>In response to ALA's enquiry, the Administration explained that -</p> <p>(a) if a person who was not a registered elector in the existing final register ("FR") made a request to withdraw his or her application for voter registration ("VR") before the provisional register ("PR") was published, he or she would simply not be included in PR and the next FR. There was no need to include the person in OL since his or her name had not appeared in the existing FR ; and</p>  |                 |

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|                 |  | <p>(b) upon receipt of a signed written notice of de-registration from an elector, the Electoral Registration Officer ("ERO") would issue a notice confirming the de-registration by registered post to the elector's registered address in the existing FR to inform him or her that his or her entry would not be included in the next FR. If the registered mail was undelivered, ERO would find out the reason and follow up to seek further clarification from the elector. The general principle was that ERO would include an elector's entry in OL on the basis of his or her request for de-registration if, in ERO's opinion, the elector concerned had been informed of ERO's intention to omit the elector's entry from the next FR.</p> <p>In response to ALA's view that the provisions in the proposed new section 9(1)(ab) did not seem to fully reflect the aforementioned general principle adopted by the Registration and Electoral Office ("REO"), the Administration agreed to consider whether it was necessary to propose amendments to make clear the above principle.</p> | <p><b>Admin</b><br/>(Paragraph 2 of minutes)</p> |
| 004635 - 005815 | <p>Chairman<br/>Mr TAM Yiu-chung<br/>Administration<br/>Miss Alice MAK</p> | <p>Mr TAM Yiu-chung's enquiry on whether there was any complaint of forged applications for voluntary de-registration and the Administration's response that no such case had been detected so far.</p> <p>Miss Alice MAK enquired how REO would follow up to seek clarification from the elector if the registered mail was undelivered. The Administration explained that apart from sending a registered mail, REO would try to contact the electors concerned by telephone and email (if available) before further processing the requests for de-registration. In case the elector had provided an alternative address in his/her written notice for de-registration, REO would approach the elector to clarify his or her latest address and send the notice by registered post to the alternative address as well.</p>   |  |
| 005816 - 005943 | <p>Chairman<br/>Administration</p>   | <p><b><u>Part 4 of the Bill</u></b><br/><b>Amendment relating to application for registration in District Council ("DC") (Second) Functional Constituency</b></p>   |  |

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|-----------------|--|--|-----------------|
| 005944 - 010142 | Chairman<br>Administration                                     | <p><b><u>Part 5 of the Bill</u></b><br/> <b>Amendments relating to notice requirement for appointment of polling agents and counting agents</b></p> <p>The Administration advised that it appreciated members' emphasis that prudence should be observed in electoral arrangements, and was prepared to maintain the status quo regarding the notices of appointment and revocation of appointment of polling and counting agents. The Administration would introduce CSAs to withdraw the relevant amendments in the Bill, whilst making certain technical amendments to the relevant provisions.</p>   |                 |
| 010143 - 010902 | Chairman<br>Administration                                     | <p><b><u>Parts 6 &amp; 7 of the Bill</u></b><br/> <b>Amendments relating to manner of delivery and requirement for elector issued with two or more ballot papers</b></p>   |                 |
| 010903 - 011932 | Chairman<br>Administration                                     | <p><b><u>Parts 8 &amp; 9 of the Bill</u></b><br/> <b>Amendments relating to counting procedures at main counting stations and election agent's authority to act on behalf of candidate</b></p>   |                 |
| 011933 - 013243 | Chairman<br>Administration<br>Ms Cyd HO<br>Mr LEUNG Che-cheung | <p><b><u>Part 10 of the Bill</u></b><br/> <b>Amendments relating to postponement or adjournment of election, polling or counting</b></p> <p>Regarding the proposed amendment to provide for postponement or adjournment of election, polling or counting owing to an occurrence of public health danger of such severity as to obstruct, disrupt, undermine or seriously affect an election, a poll or a count, in response to Ms Cyd HO's enquiry, the Administration advised that EAC or the Presiding Officer, as the case might be, was vested with the power to declare on such grounds the postponement of election, adjournment of poll or count in respect of a single constituency or adjournment of poll or count at a particular polling station.</p> <p>Ms Cyd HO further requested the Administration to devise detailed procedures to be followed when considering the postponement of an election and adjournment of a poll or a count on the ground of such an occurrence of public health danger. The</p> |                 |

| Time Marker     | Speaker(s)  | Subject(s)   | Action required                          |
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|                 |   | Administration agreed to follow up in working out the practical arrangements for the coming elections and to revert to the relevant Panel.   |  |
| 013244 - 013507 | Chairman<br>Administration  | <b><u>Part 11 of the Bill</u></b><br><b>Amendments relating to ordinary business hours</b>   |  |
| 013508 - 013959 | Chairman<br>Mr YIU Si-wing<br>Administration                      | <b><u>Part 12 of the Bill</u></b><br><b>Amendments relating to notices designating polling stations and counting stations, etc.</b><br><br>Mr YIU Si-wing expressed concerns about arrangements to cater for the specific needs of electors with a disability. The Administration explained that if an elector with a disability was assigned to vote at a polling station which was not accessible by the person, he or she could request REO to arrange him or her to vote at an alternative polling station accessible to him/her.  |  |
| 014000 - 015501 | Chairman<br>Administration<br>Mr Alan LEONG<br>ALA                | <b><u>Part 13 of the Bill</u></b><br><b>Technical amendments</b><br><br>Mr Alan LEONG enquired about the legal basis for EAC to determine the boundaries of DC constituencies under the existing statute. The Administration undertook to provide a written explanation.   | <b>Admin</b><br>(Paragraph 2 of minutes) |
| 015502 - 015816 | Chairman<br>Administration<br>Mr Alan LEONG                       | <b><u>Part 14 of the Bill</u></b><br><b>Amendments relating to statutory deadlines of elector or VR</b>  |  |
| 015817 - 020740 | Chairman<br>Administration<br>Mr Paul TSE<br>Mr Alan LEONG<br>ALA | <b><u>Part 15 of the Bill</u></b><br><b>Amendments relating to prosecution of certain offences concerning elections</b><br><br>Mr Paul TSE's enquiry and the Administration's explanation that at present, as the offences under section 22(1) and (2) of Cap 541A and section 42(1) and (2) of Cap. 541B were not indictable offences and no time limit was provided for in these regulations, the time bar imposed by section 26 of the Magistrates Ordinance (Cap. 227) was applicable to these offences. Therefore, prosecution in relation to these offences needed to be made within six months after the cases concerned arose. The Administration advised that |  |



| Time Marker     | Speaker(s) | Subject(s)  | Action required                          |
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|                 |            | <p>the proposed amendment in the Bill would lift the six-month time bar and allow prosecution to be initiated even when the false statement was made more than six months ago.</p> <p>At the request of Mr Paul TSE, the Administration undertook to provide the number of complaints received in recent years regarding VR offences under the aforementioned provisions of Cap. 541A and Cap. 541B which could not be followed up by the law enforcement agency due to the six-month prosecution time bar.</p> | <b>Admin</b><br>(Paragraph 2 of minutes) |
| 020741 - 021128 | Chairman   | Closing remarks<br><br>Scheduling of the next meeting   |  |

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