

立法會
Legislative Council

LC Paper No. CB(3) 303/14-15
(These minutes have been seen
by the Administration)

Ref : CB(3)/BC/1/14

**Bills Committee on
Veterinary Surgeons Registration (Amendment) Bill 2014**

**Minutes of the third meeting
held on Tuesday, 2 December 2014, at 8:30 am
in Conference Room 2A of the Legislative Council Complex**

Members present : Hon Tommy CHEUNG Yu-yan, SBS, JP (Chairman)
Hon CHAN Chi-chuen
Dr Hon Kenneth CHAN Ka-lok
Hon Alice MAK Mei-kuen, JP
Dr Hon CHIANG Lai-wan, JP

Members absent : Hon Cyd HO Sau-lan, JP
Hon CHAN Hak-kan, JP
Hon Paul TSE Wai-chun, JP
Hon Steven HO Chun-yin

Public Officers attending : Item I

Mr Christopher WONG, JP
Deputy Secretary for Food and Health (Food) 1

Ms Hinny LAM
Principal Assistant Secretary for Food and Health (Food) 3

Ms Jeanne CHENG
Assistant Secretary for Food and Health (Food) 1

Dr Thomas SIT
Assistant Director (Inspection & Quarantine)
Agriculture, Fisheries and Conservation Department

Dr Michelle YEUNG
Senior Veterinary Officer (Technical Services)
Agriculture, Fisheries and Conservation Department

Mr Allen LAI
Senior Government Counsel
Department of Justice

Clerk in attendance : Mr Thomas WONG
Chief Council Secretary (3) 1

Staff in attendance : Ms Wendy KAN
Assistant Legal Adviser 6

Ms Doris LO
Senior Council Secretary (3) 2

Miss Meisy KWOK
Legislative Assistant (2) 6

Action

I. Meeting with the Administration

(LC Paper Nos. CB(3)797/13-14, LS77/13-14, CB(3) 87/14-15(02)-(05), File Ref: FHB/F/6/12/12, CB(3) 133/14-15(01)-(02) and CB(3) 214/14-15(01)-(02))

The Bills Committee deliberated and examined the Bill clause by clause (index of proceedings at **Annex**).

Follow-up actions arising from the discussion

- Admin 2. The Administration was requested to provide the following information –
- (a) the terms of office of the Chairpersons and members, including elected and/or appointed members, of statutory bodies in Hong Kong;
 - (b) the grounds for proposing the Chairperson and an appointed member of the Veterinary Surgeons Board ("VSB") to hold office for a term not exceeding three years and an elected member of VSB to hold office for a term of three years under the Bill; and the actual terms of office of VSB's Chairperson and members appointed since its establishment in 1997;
 - (c) the respective timeframes within which a by-election must be held to fill a vacancy in the membership of the Legislative Council and District

Action

Councils; and the timeframe within which a by-election must be held to elect a member to VSB;

- (d) the estimated cost of holding an election of members to VSB; and
- (e) in connection with Clause 11 of the Bill under which the proposed new section 17A of the Veterinary Surgeons Registration Ordinance (Cap. 529) provides that VSB is to establish a panel of assessors consisting of not more than 12 registered veterinary surgeons ("RVSS") and not more than six other persons, whether there is a minimum number of RVSS and other persons to be appointed to the panel.

(Post-meeting note: The Administration's response to issues raised at the meeting on 2 December 2014 was issued to members vide LC Paper No. CB(3) 305/14-15(02) on 19 and 24 December 2014.)

II. Any other business

Committee stage amendments ("CSAs") to the Bill

3. The Chairman suggested that members who intended to propose CSAs to the Bill should send their draft CSAs to the Clerk by mid-December 2014 for consideration by the Bills Committee at its fourth meeting. Members raised no objection.

Date of next meeting

4. In anticipation of the heavy agenda of the Council meeting of 17 December 2014, which would likely resume on 19 December 2014, the Chairman suggested and members agreed that the Bills Committee's fourth meeting, originally scheduled for 19 December 2014, be held on **Monday, 5 January 2015, at 10:45 am.**

(Post-meeting note: Notice of the rescheduling of the fourth meeting and the agenda of the meeting were issued vide LC Paper No. CB(3) 230/14-15 on 2 December 2014.)

5. There being no other business, the meeting ended at 10:31 am.

**Proceedings of the third meeting of the Bills Committee on
Veterinary Surgeons Registration (Amendment) Bill 2014
on Tuesday, 2 December 2014, at 8:30 am
in Conference Room 2A of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I – Meeting with the Administration</i>			
000806 – 001001	Chairman Admin	Opening remarks	
<i>Clause-by-clause examination of the Veterinary Surgeons Registration (Amendment) Bill 2014 ("the Bill")</i>			
001002 – 001534	Chairman Admin Dr CHIANG Lai-wan	<p><i>Clause 1 – Short title and commencement</i> <i>Clause 2 – Veterinary Surgeons Registration Ordinance amended</i></p> <p>The Administration's briefing on its reply dated 15 October 2014 to the legal adviser to the Bills Committee's letter of 26 September 2014 [LC Paper Nos. CB(3) 87/14-15(03) and (04)] and its response to members' enquiries on the commencement date of the Bill –</p> <p>(a) subject to the passage of the Bill in early 2015, the Administration intended to first bring into operation the proposed new section 28(1A) of the Veterinary Surgeons Registration Ordinance (Cap. 529) ("the Ordinance") to empower the Secretary for Food and Health ("SFH") to make a regulation on the election of six registered veterinary surgeons ("RVSs") to the Veterinary Surgeons Board ("VSB") ("the election regulation");</p> <p>(b) the Administration intended to consult the relevant Panel of the Legislative Council ("LegCo") and stakeholders on the proposed election regulation in the first quarter of 2015, and table the election regulation, which would be a piece of subsidiary legislation, at LegCo for negative vetting in the second quarter of 2015. Thereafter, SFH would publish a commencement notice for bringing into operation the remaining provisions of the Bill in stages; and</p> <p>(c) it was expected that the election of RVSs would be held in the third quarter of 2015, and the newly constituted VSB would commence operation in late 2015.</p> <p>The Chairman's reservation that the newly constituted VSB would unlikely be formed by late 2015 as there might be controversy over some details of the proposed election regulation.</p>	
001535 – 003609	Chairman Dr CHIANG Lai-wan Admin Miss Alice MAK Mr CHAN Chi-chuen	Dr CHIANG Lai-wan's concern about the elected RVSs on VSB putting the interest of the veterinary profession before public interest and VSB with elected RVSs acting like the Medical Council of Hong Kong, such as keeping RVSs undersupplied and their fees unaffordable to pet owners at the grassroots level. Her request for the Administration to elaborate on the reasons for the proposed introduction of elected RVSs in VSB.	

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		<p>Miss Alice MAK's query on whether the Bill could fully meet the public expectations of the veterinary services and VSB in its handling of complaints against RVSs. Her suggestion that the Administration should consider proposing Committee stage amendments ("CSAs") to the Bill to adjust the ratios of RVSs to non-RVSs on the preliminary investigation committee ("PICs") and inquiry committee ("ICs") by increasing the number of non-RVSs thereon.</p> <p>The Administration's response that –</p> <ul style="list-style-type: none"> (a) the introduction of six elected RVSs, the retention of six RVSs appointed from various fields in the veterinary profession, together with the appointment of six non-RVSs, would help ensure a balanced representation on VSB. The election of RVSs would also enhance the representativeness of VSB and encourage greater involvement of the veterinary profession in managing its own affairs; (b) while the Ordinance did not specify whether the Chairperson of VSB had to be a RVS or non-RVS, the current and past Chairpersons of VSB since its establishment in 1997 had been persons outside the veterinary profession. The current and proposed composition of VSB had struck a reasonable balance between public interest and the interest of the veterinary profession; (c) VSB's code of practice for the professional conduct and discipline of RVSs had terms to regulate against the charging of exorbitant fees by RVSs. There was no evidence that the veterinary service fees had been driven up in the United States ("the US") and Australia because of the presence of elected members in the regulatory bodies of the veterinary profession in these places; and (d) in Hong Kong, the ratio of RVSs to small pet animals was higher than those in the US and Japan. Generally speaking, RVSs' fees in Hong Kong were commensurate with the operating costs in the city and the quality of veterinary services offered. 	
003610 – 004801	Chairman Admin Dr CHIANG Lai-wan	<p><i>Clause 3 – Section 2 amended (interpretation)</i></p> <p>In connection with the category of "medical and health professional" which means a medical practitioner, pharmacist or dentist who is entitled to practise his or her profession in Hong Kong, the Administration's response to the enquiries of the Chairman and Dr CHIANG Lai-wan on whether "pharmacist" included "anaesthetist" and its criteria for appointing RVSs and non-RVSs to VSB –</p> <ul style="list-style-type: none"> (a) the above category would cover the specified professionals providing medical services for humans. An anaesthetist was a medical practitioner who had acquired the relevant specialized qualification and therefore would be eligible for appointment to VSB as a medical practitioner. Veterinary anaesthesiology and 	

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		<p>human anaesthesiology were two different professional fields. RVSs in veterinary anaesthesiology or other fields did not fall under the "medical and health professional" category;</p> <p>(b) the proposed five lay persons on VSB would be neither RVSs nor medical and health professionals as stipulated in the Bill, and should represent the interests of persons utilizing veterinary services, such as pet owners;</p> <p>(c) the member under the "medical and health professional" category on VSB would facilitate the sharing of information and experience of other related professions; and</p> <p>(d) the 12 RVSs on VSB were intended to include veterinary surgeons in various fields, such as veterinary public health, and veterinary care for competition horses and marine animals, so as to maintain a broad and balanced mix of professional knowledge and expertise on VSB.</p>	
004802 – 004927	Chairman Admin	<p>In response to the legal adviser to Bills Committee's observations on Clause 3(3) of the Bill in her letter of 26 September 2014 [LC Paper No. CB(3) 87/14-15(03)], the Administration's undertaking to propose technical amendments at the Committee stage of the Bill to –</p> <p>(a) the definition of "assessor" under which reference to the proposed new section 17B(2) of the Ordinance would be made, as in the proposed new definitions of "Chairperson" and "appointed member" under which references had been made to the proposed new sections 3C(2) and 3D(2) of the Ordinance. For consistency, Clause 16 of the Bill would also be amended in that references of the proposed new sections 3D(2) and 17B(2) would be made to paragraphs 2C(1)(d) and 2E(1)(d) of Schedule 1 to the Ordinance respectively; and</p> <p>(b) the heading of Schedule 1 to the Ordinance by adding a reference to "assessor", in view of the proposed amendments to that Schedule as set out in Clauses 6(1) and 6(2) of the Bill.</p>	
004928 – 005924	Chairman Dr CHIANG Lai-wan Miss Alice MAK Admin	<p>Dr CHIANG Lai-wan's observation that the terms of office of members of important statutory bodies in Hong Kong were generally two years. Her declaration of interest that she was a pet owner but not a pet seller and had no connections with RVSs. Her enquiry on why the proposed terms of office of the Chairperson and appointed members of VSB were "not exceeding three years".</p> <p>The Administration's response that –</p> <p>(a) under the Bill, the Chairperson and appointed members would be appointed for a term not exceeding three years, while the term of office of an elected member would be three years. Since the establishment of VSB, the Chairperson had been appointed for a term of three years;</p> <p>(b) it was considered appropriate to set the terms of office of the Chairperson and appointed members of VSB at not</p>	The Administration to take actions as required in paragraphs 2(a) and (b) of the minutes.

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		<p>exceeding three years to provide some flexibility. In case the Chairperson or individual members might not be able to serve out their whole terms of office, their respective successors could serve the unexpired term of office accordingly; and</p> <p>(c) the Government did not have a general policy on the length of the terms of office of the chairpersons and members of statutory bodies. Their terms of office varied to suit the needs of individual bodies.</p> <p>The Administration's undertaking to provide information on –</p> <p>(a) the terms of office of the chairperson and members, including elected and/or appointed members, of statutory bodies in Hong Kong; and</p> <p>(b) the grounds for the proposed terms of office of the Chairperson, appointed members and elected members of VSB; and the actual terms of office of VSB's Chairperson and members appointed since its establishment.</p> <p>The Chairman's reminder to members that, if necessary, they might consider proposing CSAs to the relevant clauses on the terms of office of the Chairperson and members of VSB under the Bill.</p>	
005925 – 010358	Chairman Admin Dr CHIANG Lai-wan	<p><i>Clause 4 – Section 3 substituted</i></p> <p>The Administration's response to Dr CHIANG Lai-wan's enquiry on the procedures of VSB meetings –</p> <p>(a) Schedule 1 to the Ordinance provided for the relevant procedures under which VSB shall meet at least once every 12 months. In practice, VSB held on average three meetings each year in the past. The quorum for the VSB meeting is one-half of all its members; and</p> <p>(b) while VSB might transact its business by circulation of papers among members, the business so conducted were usually routine business. Important matters such as consideration of special cases concerning the registration of veterinary surgeons and referrals of complaints to IC were handled at VSB meetings.</p>	
010359 – 013251	Chairman Admin Mr CHAN Chi-chuen Dr CHIANG Lai-wan	<p><i>Clause 5 – Sections 3A to 3E added</i></p> <p><u>New section 3A – Membership of the Board</u></p> <p>On Mr CHAN Chi-chuen's enquiry on the quorum of the VSB meeting after VSB's membership was increased from 10 to 19, the Administration's response that the quorum of the VSB meeting would still be one half of all its members. The powers of VSB would not be affected by any vacancy in the membership of VSB, as stipulated in the relevant provisions under the Interpretation and General Clauses Ordinance (Cap. 1).</p> <p>Dr CHIANG Lai-wan's suggestion that a remark should be</p>	The Administration to take actions as required in paragraph 2(c) and (d) of the minutes.

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		<p>added to the proposed section 3A(2)(b) of the Ordinance to specify that the medical and health professional to be appointed by SFH to VSB had to be a non-RVS and did not have any connections with the interests of the veterinary profession.</p> <p>The Administration's response that such a remark was not necessary as the medical and health professional referred to in section 3A(2)(b) of the Ordinance had to be a person registered under the relevant legislation to provide medical services for humans. In addition, under section 3A(2)(c) of the Ordinance, five other members to be appointed by SFH to VSB must be lay persons who, in the opinion of SFH, represent the interests of persons utilizing veterinary services.</p> <p>Regarding the appointment of the five lay persons to VSB, the Chairman's suggestion that SFH should consider, as a means to allay members' concern, stating clearly at the resumption of the Second Reading debate on the Bill that the lay persons to be appointed should be representing the interests of persons utilizing veterinary services.</p> <p>On Dr CHIANG Lai-wan's enquiry on whether the Chairperson of VSB had been appointed from the veterinary profession since its establishment, the Administration's response that five persons had been appointed as the Chairpersons of VSB since its establishment and they were all outside the veterinary profession, with two of them being the vice-chancellors and the other three being deputy vice-chancellors of local universities.</p> <p><u>New section 3B – Notification of appointments and declaration of election results</u></p> <p>The Administration's response to Dr CHIANG Lai-wan's enquiry that the commencement dates of the terms of office of the Chairperson, appointed members and elected members of VSB would be the same if practicable.</p> <p><u>New section 3C – Term of office of Chairperson</u> <u>New section 3D – Term of office of appointed members</u></p> <p>On the Chairman's enquiry on the time to be taken to fill a vacancy of the seat of the Chairperson or an appointed member of VSB, the Administration's response that the Ordinance did not specify the timeframe within which the vacancy had to be filled. The Administration would appoint the successor to fill the vacancy as soon as practicable to serve the unexpired term of office.</p> <p><u>New section 3E – Term of office of elected members</u></p> <p>On the Chairman's enquiry on the timeframe within which a by-election had to be held after the office of an elected member of VSB became vacant, the Administration's</p>	

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		<p>response that the Bill did not stipulate the timeframe for a by-election. Under the proposed new section 3E(2) of the Ordinance, if the office of an elected member becomes vacant and the unexpired term of office at the time the vacancy arises is not less than nine months, VSB must, as soon as practicable, hold a by-election to elect a qualified candidate to hold that office for the unexpired term.</p> <p>Mr CHAN Chi-chuen's views that as the new elected member who won the by-election would only hold the office for the unexpired term, the Administration should not take a long time to prepare the by-election.</p> <p>At members' request, the Administration's undertaking to provide information on the timeframe for the by-election, and the respective timeframes within which a by-election should be held to fill a vacancy in the membership of the LegCo and District Councils.</p> <p>At Dr CHIANG Lai-wan's request, the Administration's undertaking to provide information on the estimated cost of holding an election of members to VSB.</p>	
013252 – 013753	Admin	<p><i>Clause 6 – Section 4 amended (provisions as respects the Board and its members)</i></p> <p><i>Clause 7 – Section 5 amended (functions of the Board)</i></p> <p><i>Clause 8 – Section 7 amended (appointment of Secretary and Legal Adviser)</i></p> <p><i>Clause 9 – Section 9 amended (qualifications for registration)</i></p> <p><i>Clause 10 – Section 17 amended (disciplinary offences)</i></p> <p>Members raised no query.</p>	
013754 – 015630	Chairman Admin Dr CHIANG Lai-wan Mr CHAN Chi-chuen	<p><i>Clause 11 – Sections 17A to 17D added</i></p> <p><u>New Section 17A</u></p> <p>In connection with Clause 11 under which the proposed new sections 17A(1) and (2) of the Ordinance provide that VSB is to establish a panel of assessors from whom members of PIC/IC may be appointed, and the assessors are to be appointed by VSB on the nomination of the Director of Agriculture, Fisheries and Conservation ("DAFC"), Dr CHIANG Lai-wan's query on why the assessors would not be directly appointed by DAFC, and her reservation about the appointment of assessors by VSB as this might amount to investigation by peers.</p> <p>The Administration's response that under the Bill, a PIC/IC would comprise three VSB members or two VSB members plus one assessor. In either case, one of the members of a PIC/IC had to be a non-RVS, and the other two members of the PIC/IC would be RVSSs. The panel of assessors would</p>	The Administration to take action as required in paragraph 2(e) of the minutes.

Time marker	Speaker	Subject(s)	Action required
		<p>serve as a pool of talents for appointment to a PIC/IC to share the workload of VSB members as and when VSB considered necessary.</p> <p>The Chairman's observation that the Bill did not clearly reflect the Administration's intention that the panel of assessors would be set up as a pool of talents for appointment only as and when necessary. His view that assessors should play an important role in investigating complaints against RVSs and should not be established for a backup purpose only. His worry about VSB's unwillingness to appoint assessors to PICs or ICs, thus defeating the purpose of enhancing its complaint handling capacity. His enquiry on the term of office of assessors.</p> <p>Dr CHIANG Lai-wan's view that the panel of assessors should be made up of non-RVSs only, so as to avoid any conflict of interest when the assessors handled complaints against RVSs.</p> <p>The Administration's response that –</p> <ul style="list-style-type: none"> (a) the panel of assessors would serve as a pool of talents for a backup purpose. Its composition of not more than 12 RVSs and not more than six non-RVSs would reflect the proposed ratio of RVSs to non-RVSs on a PIC/IC and VSB, which would be set at 2:1. The assessors would be appointed by VSB on the nomination of DAFC; (b) it was considered necessary to include RVSs in the panel of assessors, as the complaints received usually alleged professional misconduct (such as prescription overdose), and only RVSs who had the required expertise could make a professional judgment; and (c) in accordance with the proposed new section 17B(1) of the Ordinance, an assessor would hold office for a term not exceeding three years. <p>At Mr CHAN Chi-chuen's request, the Administration's undertaking to provide a response on whether there was a minimum number of RVSs and other persons to be appointed to the panel of assessors.</p> <p>The Chairman's advice that members who intended to propose CSAs to the Bill should send their draft CSAs to the Clerk by mid-December 2014 for consideration by the Bills Committee at its next meeting.</p>	
<i>Agenda Item II – Any other business</i>			
015631 – 020233	Chairman	Date of next meeting Closing remarks	