

**立法會**  
***Legislative Council***

LC Paper No. LS59/14-15

**Paper for the House Committee Meeting  
on 24 April 2015**

**Legal Service Division Report on  
Electoral Legislation (Miscellaneous Amendments) Bill 2015**

**I. SUMMARY**

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| <b>1. The Bill</b>                      | The Bill seeks to introduce technical amendments to – <ul style="list-style-type: none"><li>(a) the Legislative Council Ordinance (Cap. 542) (Part 2 of the Bill);</li><li>(b) the Chief Executive Election Ordinance (Cap. 569) (Part 3 of the Bill); and</li><li>(c) the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D) (Part 4 of the Bill).</li></ul> |
| <b>2. Public Consultation</b>           | The Administration conducted the Public Consultation on the Methods for Selecting the Chief Executive in 2017 and for Forming the Legislative Council in 2016 from 4 December 2013 to 3 May 2014. In relation to the Legislative Council, there are more views, that there could be no change to the method for forming the Legislative Council in 2016.   |
| <b>3. Consultation with LegCo Panel</b> | The Panel on Constitutional Affairs was consulted on 16 March 2015. Various concerns were expressed by Panel members.  |
| <b>4. Conclusion</b>                    | The Legal Service Division is making enquiry with the Administration in relation to certain legal and drafting aspects of the Bill and will report further if necessary.   |

## **II. REPORT**

The date of First Reading of the Bill is 22 April 2015. Members may refer to the LegCo Brief (File Ref: CMAB C1/30/5/4) issued by the Constitutional and Mainland Affairs Bureau on 15 April 2015 for further details.

### **Object of the Bill**

2. The Bill seeks to amend certain pieces of electoral legislation to introduce technical amendments concerning the lists of persons comprising certain functional constituencies (FCs), the name of a FC and a subsector, the list of constituents of a subsector, the registration of voters for a subsector and the counting procedure for a FC; and to make other minor amendments.

### **Background**

3. According to paragraphs 3 and 4 of the LegCo Brief, during the Public Consultation on the Methods for Selecting the Chief Executive in 2017 and for Forming the Legislative Council in 2016 (the Public Consultation), there are more views which consider that efforts should be focused on the proper handling of universal suffrage for the Chief Executive election in 2017 and there could be no change to the method for forming the Legislative Council (LegCo) in 2016. According to the Decision of the Standing Committee of the National People's Congress on Issues Relating to the Selection of the Chief Executive of the Hong Kong Special Administration Region by Universal Suffrage and on the Method for Forming the Legislative Council for the Hong Kong Special Administrative Region in the Year of 2016, adopted on 31 August 2014, the existing formation method for the LegCo as prescribed in Annex II to the Basic Law will not be amended.

### **Provisions of the Bill**

4. Part 2 of the Bill seeks to introduce technical amendments in relation to certain FCs in the Legislative Council Ordinance (Cap. 542) to –

- (a) update the names of certain bodies in the information technology FC (clause 8), the transport FC (clause 11), the sports, performing arts, culture and publication FC (clause 12(1)), the wholesale and retail FC (clause 13) which have had their names changed since the last

updating exercise in 2012 before the 2012 LegCo election (Part I of Annex B to the LegCo Brief);

- (b) remove certain bodies from the textiles and garment FC (clause 7), the information technology FC (clause 8(1)), the transport FC (clause 11(2), (4) and (6)), the wholesale and retail FC (clause 13(2)), the catering FC (clause 14) and the sports, performing arts, culture and publication FC (clause 6(1)), which have ceased operation since the last updating exercise (Part II of Annex B to the LegCo Brief);
- (c) improve the formulation of the definition of some electors in the education FC (clause 4(1)) (Part III of Annex B to the LegCo Brief);
- (d) add new electors in the education FC (clause 4(4)), the information technology FC (clause 8(4)), the sports, performing arts, culture and publication FC (clause 6(3) and (5) and clause 12(2)), the transport FC (clause 11(9)) (Part IV of Annex B to the LegCo Brief); and
- (e) replace the nomenclature of the architectural, surveying and planning FC by the architectural, surveying, planning and landscape FC (clauses 3 and 5) (paragraph 7 of the LegCo Brief).

5. Part 3 of the Bill seeks to introduce amendments corresponding to certain amendments in Part 2 of the Bill to Schedule to the Chief Executive Election Ordinance (Cap. 569) to –

- (a) replace the nomenclature of the architectural, surveying and planning FC by architectural, surveying, planning and landscape FC (clause 15(1)); and
- (b) update the list of constituents of the higher education subsector (clause 15(3) to (6)) and the sports, performing arts, culture and publication subsector (clause 16).

6. Sections 74AAA and 77A of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D) detailing the counting steps for the District Council (second) FC at central counting station requiring counting the number of District Council (second) FC ballot papers from each polling station and verification of the ballot paper account to take place before counting of votes. According to the Administration, the current counting

steps may not align with the policy objective to speed up the counting process<sup>1</sup>. Further in relation to a small polling station<sup>2</sup> (SPS) or dedicated polling station<sup>3</sup> (DPS), the current counting process may not protect the secrecy of votes.

7. Part 4 of the Bill seeks to amend sections 74AAA and 77A of Cap. 541D to the effect that the verification of the ballot paper account of a polling station (other than a SPS or a DPS) will be done after the counting of votes. For a SPS or a DPS, the counting of the number of ballot papers and verification of the ballot paper account of that station will be done first. Such ballot papers will then be mixed with the ballot papers from at least one of the ballot boxes from another polling station (other than a SPS or a DPS) before counting of votes. After completion of the counting of votes, verification of the ballot paper account of that another polling station will be done.

## **Public Consultation**

8. According to the Administration, the Public Consultation was conducted from December 2013 to May 2014 and the results of the consultation have been set out in paragraph 3 above.

## **Consultation with LegCo Panel**

9. According to the Clerk to the Panel on Constitutional Affairs (the Panel), the Panel discussed the legislative amendments for the 2016 LegCo election at its meeting on 16 March 2015. While members in general did not raise objection to the proposed amendments, a member suggested that the name of the architectural, surveying and planning FC should be revised to reflect the fact that its constituents included landscape architects as well. As set out in paragraphs 7 and 8 of the LegCo Brief, the Administration has agreed to revise the name of the FC as the architectural, surveying, planning and landscape FC. At the meeting, some members expressed dissatisfaction with the absence of proposals from the Administration to enhance the democratic element of the method for forming LegCo in 2016.

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<sup>1</sup> It appears that the current counting steps do not enable counting of votes to start early.

<sup>2</sup> According to section 28(1B) of Cap. 541D, a small polling station is a polling station at which less than 500 electors are allocated to vote in a LegCo election.

<sup>3</sup> According to section 28(1BA) of Cap. 541D, a dedicated polling station is a polling station at which electors or authorized representatives in custody are allocated to vote in a LegCo election.

## **Conclusion**

10. The Legal Service Division is making enquiry with the Administration in relation to certain legal and drafting aspects of the Bill and will report further if necessary.

Prepared by

Kelvin Ka-yun LEE  
Assistant Legal Adviser  
Legislative Council Secretariat  
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