

立法會
Legislative Council

Ref : CB2/SS/5/14

LC Paper No. CB(2)1427/14-15
(These minutes have been seen
by the Administration)

**Subcommittee on District Councils Ordinance (Amendment of Schedule 7)
Order 2015 and Maximum Amount of Election Expenses
(District Council Election) (Amendment) Regulation 2015**

**Minutes of the second meeting
held on Thursday, 9 April 2015, at 4:45 pm
in Conference Room 3 of the Legislative Council Complex**

- Members present** :
- Hon IP Kwok-him, GBS, JP (Chairman)
 - Hon Emily LAU Wai-hing, JP
 - Hon Cyd HO Sau-lan, JP
 - Hon Starry LEE Wai-king, JP
 - Hon Paul TSE Wai-chun, JP
 - Hon Alan LEONG Kah-kit, SC
 - Hon MA Fung-kwok, SBS, JP
 - Hon CHAN Chi-chuen
 - Hon SIN Chung-kai, SBS, JP
 - Hon Martin LIAO Cheung-kong, SBS, JP
 - Hon Christopher CHUNG Shu-kun, BBS, MH, JP
- Members absent** :
- Hon CHAN Han-pan, JP
 - Hon LEUNG Che-cheung, BBS, MH, JP
 - Dr Hon Elizabeth QUAT, JP
- Public Officers attending** :
- Mr LAU Kong-wah, JP
Acting Secretary for Constitutional and Mainland Affairs

 - Mr Gordon LEUNG Chung-tai
Deputy Secretary for Constitutional and Mainland Affairs

 - Miss Helen CHUNG Chi-ching
Principal Assistant Secretary for Constitutional and
Mainland Affairs

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

Attendance by invitation : Mr KWOK Chung-man

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

Staff in attendance : Ms Vanessa CHENG
Assistant Legal Adviser 5

Miss Cindy HO
Senior Council Secretary (2) 3

Mrs Fanny TSANG
Legislative Assistant (2) 3

Action

I. Meeting with deputations and the Administration

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

2. The Subcommittee received views from Mr KWOK Chung-man, a member of the public, on the District Councils Ordinance (Amendment of Schedule 7) Order 2015 (the "Order") and the Maximum Amount of Election Expenses (District Council Election) (Amendment) Regulation 2015 (the "Amendment Regulation").

3. Members expressed various views on the proposed adjustments to the subsidy rate of financial assistance and the maximum amount of election expenses and other election-related issues.

4. The Subcommittee completed examination of the provisions of the Order and the Amendment Regulation.

5. Members noted that the scrutiny period of the subsidiary legislation would expire at the Council meeting of 6 May 2015 and the deadline for giving notice to move amendments, if any, was 28 April 2015. The Subcommittee would report its deliberations to the House Committee on 24 April 2015.

II. Any other business

6. There being no other business, the meeting ended at 5:36 pm.

Council Business Division 2
Legislative Council Secretariat
7 May 2015

**Proceedings of the second meeting of the
Subcommittee on District Councils Ordinance (Amendment of Schedule 7)
Order 2015 and Maximum Amount of Election Expenses
(District Council Election) (Amendment) Regulation 2015
on Thursday, 9 April 2015, at 4:45 pm
in Conference Room 3 of the Legislative Council Complex**

Time Marker	Speaker(s)	Subject(s)	Action required
000115 - 000323	Chairman	Opening remarks	
000324 - 001059	Chairman Mr KWOK Chung-man Administration	<p>Expression of concern that in the scenario of postponement or adjournment of a District Council ("DC") election or poll to another day, additional expenses for electioneering activities might need to be incurred during the extended canvassing period and the election expenses limit ("EEL") might not allow enough room for such spending. Candidates might therefore have to minimize their conduct of electioneering activities during the period after the original polling day up to the rescheduled polling day. The adequacy of the proposed level of EEL might need to be reviewed having regard to the possibility of such scenarios.</p> <p>The Administration responded that EEL was prescribed in the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) and the same EEL was applied to all candidates, which was a fair arrangement. In the event that a DC election or poll was postponed or adjourned to another day, the time period between the rescheduled polling day and the original polling day would not be long.</p> <p>The Chairman considered that the election expenses incurred after postponement or adjournment of an election or a poll would not be substantial. He noted that electioneering activities were mostly conducted by electioneering teams made up of volunteers.</p>	
001100 - 001657	Chairman Ms Emily LAU Administration	Ms Emily LAU pointed out that there was no substantive increase in the subsidy rate of financial assistance as the proposed adjustment was made on the basis of inflation only. She noted that the financial assistance scheme was	

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		<p>introduced to Legislative Council ("LegCo") elections in 2004 alongside with the reduction of two rounds of free mailing service to one, which had already enabled the Government to achieve savings. She considered that the Government should enhance the provision of financial assistance for candidates.</p> <p>Ms Emily LAU also called on the Administration to follow up more actively on Mr Paul TSE's suggestion previously made on the provision of cash rebates to those candidates who chose not to utilize the free postage provided by the Government, which would provide more financial support and flexibility to candidates in distributing their election advertisements ("EAs"). Ms LAU believed that if the suggestion was adopted, many candidates would choose not to send hardcopies of EAs to electors.</p> <p>The Administration advised that candidates were free to choose the form of delivery of election-related materials to electors (including sending of e-mails), provided that their election expenses stayed within EEL. Nevertheless, it was noted that many candidates/electors still favoured sending/receiving EAs in hardcopy.</p>	
001658 - 002055	Chairman Mr Christopher CHUNG Administration	Mr Christopher CHUNG considered that the proposed increases of the subsidy rate and EEL by 17.3% according to the cumulative increase in the Composite Consumer Price Index ("CCPI") were unable to cope with the rising costs of publicity and promotion (e.g. printing cost and production of banners). The Administration explained that CCPI was an objective index to use, and invited members to give specific proposals on alternative objective indices to make reference to for its consideration in future reviews.	
002056 - 002726	Chairman Mr Paul TSE Administration	Mr Paul TSE declared that his better half was an incumbent DC member who might also stand for the upcoming DC election. He elaborated his suggestion of the provision of cash rebates to those candidates who chose not to utilize the free postage provided by the Government, which would provide more financial support and flexibility to candidates in distributing their EAs,	

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		<p>while reducing use of paper. The Administration reiterated that while candidates were free to choose between sending hardcopies and using other more environmental-friendly means to distribute their EAs, it was noted that many candidates still favoured sending EAs in hardcopy. To facilitate mailing of hardcopies of EAs on a household basis and hence reduce the consumption of paper, the Administration had already provided a choice to candidates in obtaining mailing labels of registered electors on a "household" basis or on an "individual" basis.</p>	
002727 - 003637	<p>Chairman Ms Emily LAU Administration</p>	<p>Ms Emily LAU suggested that the candidate should receive the highest, instead of the lowest, of the three amounts calculated under paragraph 4 of the LegCo Brief as financial assistance. The Administration advised against granting the highest of the three amounts and explained that in that case, all candidates obtaining 5% of the total number of valid votes cast would receive financial assistance at least amounting to 50% of EEL (i.e., \$31,550, if the proposed EEL came into effect), which would be inconsistent with the principle of prudent use of public funds.</p>	
003638 - 004022	<p>Chairman Ms Emily LAU Administration</p>	<p>The Chairman considered that the current method for calculating the amount of financial assistance has the effect of capping the financial assistance payable to eligible candidates at an amount not exceeding 50% of the maximum amount of election expenses that could be incurred by or on behalf of the candidate (i.e. 50% of \$63,100 under the current proposal). He also supported that candidates should shoulder part of the election expenses incurred.</p>	
004023 - 004603	<p>Chairman Administration Ms Emily LAU Assistant Legal Adviser</p>	<p>Examination of the provisions of the Order and the Amendment Regulation [LC Paper No. CB(2)1155/14-15(01)]</p> <p>Members noted that the Order and the Amendment Regulation would come into operation on 8 May 2015. Under the current proposal, the revised subsidy rate of \$14 would be applicable to elections to return elected members of DCs for the fifth term (2016 - 2019) and subsequent terms of office, while the existing subsidy rate of \$12 would be applicable to</p>	

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		<p>by-elections of DC, if any, to return elected members of DCs for the current term of office ending 31 December 2015. In response to Ms Emily LAU's enquiry, the Administration advised that in accordance with the District Councils Ordinance (Cap. 547) ("DCO"), no by-election was to be held within the four months preceding the end of the current term of office of the elected members of DCs.</p> <p>The legal adviser to the Subcommittee pointed out that reference was made to "term of office of the elected members" in DCO instead of "term of office of a District Council". Members noted that the legal adviser to the Subcommittee had written to the Administration to seek clarification as to whether it was appropriate to refer to "term of office of a District Council" in the Order and the Amendment Regulation. The Administration replied that the formulation adopted was appropriate and it would not give rise to ambiguities. The legal adviser to the Subcommittee advised that the use of the phrase "term of office of a District Council" would not give rise to difficulties in interpretation. Members noted the issue and raised no objection to the use of the phrase in the Order and the Amendment Regulation.</p>	
004604 - 005034	Chairman Administration Mr Paul TSE	Mr Paul TSE enquired about the reasons for setting out the applicability of the different subsidy rates and EEL in an elaborate manner in the Order and the Amendment Regulation. The Administration explained the merits in specifying clearly, in the two items of subsidiary legislation, the different rates of financial assistance and EEL applicable to elections to return elected DC members for different terms of office.	
005035 - 005130	Chairman	Legislative timetable Closing remarks	