

Panel on Constitutional Affairs

List of outstanding items for discussion
(position as at 6 October 2014)

**Proposed
timing for
discussion**

1. The question of "important bill" under Article 50 of the Basic Law

The Panel discussed the question of "important bill" under Article 50 of the Basic Law at a number of meetings since late 1999. To be decided by the Panel

The Panel noted the Administration's position on the following issues -

- (a) what constitutes an "important bill";
- (b) who determines whether a bill is important;
- (c) when to determine whether a bill is important; and
- (d) procedures and parties involved in the consultations under Article 50.

2. Role and development of political parties

The Panel held a discussion on the need to introduce a political party law at its meeting on 21 February 2005 and received views from deputations on the role and development of political parties at a special meeting on 26 February 2005. To be decided by the Panel

The Administration's position was that the introduction of a political party law would hinder the development of political parties. As one of the means to facilitate the development of political party and political talent, the Administration had increased the financial assistance subsidy rate to candidates in the 2008 Legislative Council ("LegCo") election to \$11 per vote. The subsidy rate for the 2012 LegCo election has been further increased to the lower of \$12 per vote or 50% of the election expenses limit provided that the amount of financial assistance payable would not exceed the declared expenses of candidates. With the passage of the Electoral Legislation (Miscellaneous Amendments) Bill 2011 on 6 July 2011, the

financial assistance subsidy rate to candidates in the 2011 District Council ("DC") election has been increased to the lower of \$12 per vote or 50% of the election expenses limit provided that the amount of financial assistance payable would not exceed the declared expenses of candidates. The election expenses limit for the DC election has been increased from \$48,000 to \$53,800.

3. Composition, functions and operation of the Electoral Affairs Commission ("EAC")

On 21 June 2004, the Research Report prepared by the Research and Library Services Division of the LegCo Secretariat ("RLSD") on "Operation of Electoral Regulatory Bodies in Selected Places" [RP04/03-04] was presented to the Panel. Members agreed to further explore the issues raised in the Research Report in future.

To be decided by the Panel

4. Submission of reports by the Hong Kong Special Administrative Region ("HKSAR") Government to the United Nations under international human rights treaties

The Panel discussed the outline of the second report of HKSAR under the Convention on the Rights of the Child on 20 April 2009, and met with deputations on 18 May 2009. The second report of HKSAR was submitted to United Nations ("UN") in July 2010 (as part of the combined third and fourth report of China) and published by UN in May 2012. The related hearing was conducted on 26 and 27 September 2013 in Geneva. The Panel received public views on the second report of HKSAR on 18 March 2013, and discussed the relevant concluding observations with deputations and the Administration on 18 November 2013.

As and when those reports are submitted by the People's Republic of China ("China") to UN and published [Constitutional and Mainland Affairs Bureau ("CMAB") & LWB]

At the Panel meeting on 18 January 2010, the Administration briefed the Panel on the outline of the topics to be included in HKSAR's third report under the International Covenant on Economic, Social and Cultural Rights ("ICESCR"). The Panel received public views on the outline of topics on 10 February 2010. The HKSAR's third report which forms part of the second report of China was submitted to UN in June 2010 and made available to the public on 21 October 2010. The Panel discussed the third report on 20 December 2010. The related hearing was conducted on 8 May 2014 in Geneva. The Panel

discussed the third report with deputations on 17 February 2014. The Panel discussed the relevant concluding observations on 16 June 2014.

The Panel received public views on the outline of the topics to be included in the HKSAR's third report in the light of the International Covenant on Civil and Political Rights ("ICCPR") on 21 June 2010. The HKSAR's third report has been submitted to UN and was made available to the public on 23 September 2011. The Panel discussed the report on 21 November 2011. The related hearing was held on 12 and 13 March 2013 in Geneva. The Panel received public views on the third report on 18 February 2013, and discussed the relevant concluding observations with deputations on 20 May 2013. The Panel discussed the report of HKSAR on its follow-up to the concluding observations on 19 May 2014.

China's 10th to 13th combined report under the International Convention on the Elimination of All Forms of Racial Discrimination ("ICERD"), of which the report on HKSAR formed a part, was submitted to UN in June 2008. After discussion of the report on HKSAR on 15 December 2008, the Panel further received public views on 15 June 2009. UN hearing was held in August 2009. The Administration briefed the Panel on the concluding observations on 16 November 2009. The Panel received public views on the concluding observations on 11 December 2009.

UN Human Rights Council has initiated a Universal Periodic Review ("UPR") of all UN member states. The hearing on China, which covered HKSAR, was held on 9 February 2009. The Panel discussed the section on HKSAR of the report of CPG to UN and received public views on 19 January 2009 and the Administration reported outcome of the hearing on 7 July 2009. The Panel discussed and received public views on the proposed outline of topics to be included in the report for the second UPR on 18 February 2013. The report of HKSAR was made public in October 2013. The hearing of the second UPR on China took place on 22 to 25 October 2013. Members discussed the hearing of the report of HKSAR with deputations and the Administration on 16 December 2013.

The reporting responsibility of the third report of HKSAR under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) was discussed with deputations and the Administration on 16 December 2013. Before the hearing of the

Discrimination Against Women falls under the purview of the Labour and Welfare Bureau ("LWB"). The Panel discussed and received views from the public on the outline of topics to be included in third report on 19 July 2010. The HKSAR's report was submitted to UN as part of China's combined seventh and eighth report in January 2012, and has been made available to the public since 24 May 2012. The hearing has been tentatively scheduled for 23 October 2014. The Panel discussed the third report with deputations and the Administration on 21 July 2014.

Report by UN
[LWB]

The Panel received public views on the outline of topics to be included in the initial report of HKSAR under the Convention on the Rights of Persons with Disabilities on 19 March 2010. The HKSAR's initial report was submitted to UN in August 2010 and has been made available to the public since 25 November 2010. In anticipation of a UN hearing on China's combined report, the Panel discussed the HKSAR's initial report with deputations on 18 June 2012. The UN hearing was held from 18 to 19 September 2012. The Panel discussed the Administration's initial response to the concluding recommendations and received views from the public on 17 December 2012.

5. Amendments to the Sex Discrimination Ordinance (Cap. 480) ("SDO") and the Disability Discrimination Ordinance (Cap. 487) ("DDO") proposed by the Equal Opportunities Commission ("EOC")

As informed by the Administration in August 2013, EOC submitted to the Administration 11 legislative proposals in 2011. The status of these 11 proposals was as follows -

To be confirmed

- (a) one had been implemented on 10 May 2013¹;
- (b) five would be taken forward by the Statute Law (Miscellaneous Provisions) Bill 2014²;
- (c) one would be taken forward by the Sex Discrimination (Amendment) Bill 2014 which was introduced into LegCo on 25 June 2014 and is currently under scrutiny by a bills committee;

¹ The Legislation Publication (Revision) Order 2013 amended the headings of SDO sections 7 and 8 to more accurately reflect the nature of these two provisions.

² The Statute Law (Miscellaneous Provisions) Bill 2014 was introduced into LegCo on 30 April 2014 and scrutiny of the Bill has been completed.

- (d) one had been considered by the Department of Justice ("DoJ") as unnecessary from the legal point of view³; and
- (e) three proposals needed to be further considered because of their complexity and potential far-reaching implications⁴.

6. Post-office employment control of politically appointed officials

The Panel on Public Service ("the PS Panel") discussed the Report of the Committee on Review of Post-Service Outside Work for Directorate Civil Servants ("the Review Committee") at its special meeting on 13 July 2009. The Review Committee has recommended to the Chief Executive ("CE") in its Report that a separate review should be carried out on the post-office employment control of politically appointed officials. The PS Panel has referred the subject to this Panel for follow-up and requested that its members be invited to join the future discussion of the subject.

To be confirmed

7. Implementation and review of the Race Discrimination Ordinance (Cap. 602) ("RDO")

In response to an email from 15 organizations and individuals requesting to give views on the implementation and review of RDO at a Panel meeting, the Panel agreed on 21 February 2011 to discuss the subject at a future meeting.

To be confirmed

8. Management of government records

At its meeting on 17 May 2010, the Panel discussed with the Administration and received views from deputations on "Code on access to information and management of public records". At the suggestion of Hon Emily LAU, members agreed on 18 April

To be confirmed
[Admin Wing/
CMAB]

³ EOC's proposal is to clarify that the District Court is not barred from granting more than one statutory remedy under the four anti-discrimination ordinances. DoJ considers that this is unnecessary as the current provisions do not have the effect of barring the District Court from awarding more than one statutory remedy.

⁴ The three proposals relate to recovery of costs and expenses by EOC in civil proceedings; the concept of "direct disability discrimination" under section 6(a) of DDO; and the availability of damages for indirect discrimination where intent cannot be proved.

2011 that the Panel should further discuss the management of government records.

At its meeting on 21 November 2011, members agreed that the Panel should follow up on the relevant issues after the Public Accounts Committee ("PAC") had completed its consideration of Report No. 57 of the Director of Audit, a chapter of which was on records management work of the Government Records Service.

The PAC Report No. 57 was tabled at the Council meeting of 15 February 2012. PAC did not hold any public hearing on this subject, but sought written response to its enquiries. PAC was concerned, among other issues, about the compliance with mandatory record management requirements by bureaux and departments, the criteria for selection of archival records and manpower of the Government Records Service, etc. PAC considered that there were a number of issues to be sorted out which might be related to the Government's overall policy on records management. The relevant issues have been referred to the Panel for consideration.

At the meeting on 20 May 2013, Dr Hon Kenneth CHAN proposed to discuss issues relating to the enactment of an archives law and legislation on freedom of information. The Administration was requested to revert to the Panel on the timeframe for the studies by the two subcommittees of the Law Reform Commission on the topics of archives law and access to information. The Administration provided the information on 6 June 2013 [LC Paper No. CB(2)1309/12-13(01)].

9. Press freedom

At the meeting on 17 October 2011, members agreed to discuss the Administration's initiatives to safeguard press freedom at a future meeting. The Administration undertook to co-ordinate its response in respect of the media's concerns about their reporting work. To be confirmed

10. Report of the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests

At the meeting on 4 June 2012, the Administration undertook to provide a paper on its plan to implement the recommendations To be confirmed

of the report and the relevant time-table. The Administration provided a paper on the implementation progress [LC Paper No. FC136/11-12(01)] on 18 June 2012. The Panel agreed to discuss the implementation of the recommendations at a future meeting.

At the meeting on 19 November 2012, Hon Emily LAU referred to the Administration's letter dated 16 November 2012 to the Panel on the CE's declaration of interests [LC Paper No. CB(2)227/12-13(01)], and proposed that the Panel should follow up on the relevant issues.

At the Council meeting of 5 December 2012, a LegCo question was raised by Hon Dennis KWOK on "Regulatory system for prevention and handling of potential conflicts of interests concerning CE". The Chief Secretary for Administration ("CS") replied that the Administration was actively following up the remaining recommendations and would consult LegCo on the recommendations on amending the Prevention of Bribery Ordinance once there was further progress.

Hon Emily LAU has proposed to follow up on the above CS' reply, and the revisions already made to the Code for Officials Under the Political Appointment System in the light of the recommendations of the report. The Administration's letter dated 2 July 2014 regarding the updated position of this item was issued to members on 8 July 2014 vide LC Paper No. CB(2)2006/13-14(01).

11. Research report on nomination and voting procedures governing presidential elections in selected places

At the request of the Panel, the Research Office of the Secretariat has prepared a research report [RP01/13-14] on the nomination and voting procedures governing presidential elections in selected places. The research report was issued to members on 5 November 2013.

To be confirmed

12. Guidelines for CE in handling potential cases of conflict of interest and acceptance of advantages and entertainment concerning politically appointed officials

At the request of Hon Emily LAU [LC Paper No. CB(2)1797/12-13(01)], members agreed on 18 November 2013 that the Panel should discuss the above subject at a future

To be confirmed

meeting. The Administration's letter dated 2 July 2014 regarding the updated position of this item was issued to members on 8 July 2014 vide LC Paper No. CB(2)2006/13-14(01).

Council Business Division 2
Legislative Council Secretariat
6 October 2014