

立法會
Legislative Council

Ref : CB2/BC/1/15

LC Paper No. CB(2)919/15-16
(These minutes have been seen
by the Administration)

Bills Committee on Electoral Legislation
(Miscellaneous Amendments) (No. 2) Bill 2015

Minutes of the first meeting
held on Wednesday, 6 January 2016, at 8:45 am
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 TAM Yiu-chung, GBS, JP
 - Hon Paul TSE Wai-chun, JP
 - Hon Alan LEONG Kah-kit, SC
 - Hon James TIEN Pei-chun, GBS, JP
 - Hon YIU Si-wing, BBS
 - Hon Charles Peter MOK, JP
 - Hon CHAN Han-pan, JP
 - Hon LEUNG Che-cheung, BBS, MH, JP
 - Hon Alice MAK Mei-kuen, BBS, JP
 - Hon Christopher CHEUNG Wah-fung, SBS, JP
 - Hon SIN Chung-kai, SBS, JP
 - Hon IP Kin-yuen
 - Dr Hon Elizabeth QUAT, JP
- Members absent** :
- Hon Cyd HO Sau-lan, JP
 - Hon WONG Yuk-man
- Public Officers attending** :
- Mr Ronald CHAN Ngok-pang, JP
Under Secretary for Constitutional and Mainland Affairs

 - Mr Ryan CHIU Pit-ming
Principal Assistant Secretary for Constitutional and
Mainland Affairs

 - Mr Martin WONG Yick-hang
Assistant Secretary for Constitutional and Mainland Affairs

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

Miss Candy MA Siu-hung
Principal Electoral Officer
Registration and Electoral Office

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

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

Staff in attendance : Mr Kelvin LEE
Senior Assistant Legal Adviser 3

Miss Cindy HO
Senior Council Secretary (2) 3

Mrs Fanny TSANG
Legislative Assistant (2) 3

Action

I. Election of Chairman

Mr IP Kwok-him was elected Chairman of the Bills Committee. Members agreed that election of a deputy chairman was not necessary.

II. Meeting with the Administration

[LC Paper Nos. CB(3)238/15-16, LS22/15-16, CB(2)572/15-16(01), CB(2)573/15-16(01) and CMAB C1/30/5/4/1]

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

Follow-up actions required of the Administration

Admin 3. The Administration was requested to provide supplementary information on the differences of the delineation of electorates between the 28 functional constituencies and 38 Election Committee subsectors.

4. Ms Emily LAU requested the Administration to study overseas experience in the provision of polling stations and the relevant arrangements. She considered that given the importance of public elections, more polling stations should be set up to facilitate electors. Ms LAU also suggested that the Research Office of the Legislative Council Secretariat should conduct a research study on overseas legislation empowering the local government to acquire premises for use as polling stations. The Chairman requested the Administration to consider members' views and comments on polling stations.

Admin

Invitation of public views

5. Members agreed to receive public views on the Bill at the next meeting on 27 January 2016 at 8:45 am. A notice to invite views from the public would be posted on the Legislative Council's website. In line with the usual practice, the 18 District Councils would also be invited to submit views.

Clerk

III. Any other business

6. There being no other business, the meeting ended at 10:25 am.

Council Business Division 2
Legislative Council Secretariat
19 February 2016

**Proceedings of the first meeting of the
Bills Committee on Electoral Legislation
(Miscellaneous Amendments) (No. 2) Bill 2015
on Wednesday, 6 January 2016, at 8:45 am
in Conference Room 3 of the Legislative Council Complex**

Time Marker	Speaker(s)	Subject(s)	Action required
000102 - 000233	Members	Election of Chairman	
000234 - 000716	Chairman Administration	Briefing by the Administration	
000717 - 001005	Chairman Mr SIN Chung-kai Mr Charles Peter MOK	Invitation of public views on the Bill	
001006-002619 <i>(Suspension of meeting during 001640-002118)</i>	Chairman Mr Charles Peter MOK Administration Mr Paul TSE	<p>Mr Charles Peter MOK enquired about the mechanism for handling requests from bodies for inclusion in Election Committee ("EC") subsectors. The Administration explained that for a body to be added to an EC subsector, it should be a representative one and was active in supporting the development of the sector concerned. In line with the established practice, the advice of the relevant bureaux/departments would be sought in consideration of whether individual bodies fulfilled such criteria.</p> <p>Members noted that the last updating exercise for the delineation of the electorate of the Legislative Council ("LegCo") functional constituencies ("FCs") was done in early 2015 and relevant updates to the electorate for FCs were included in the Electoral Legislation (Miscellaneous Amendments) Bill 2015, which was passed and enacted in July 2015.</p> <p>Mr MOK enquired whether individual bodies which had been rejected in the last updating exercise to be included in the relevant FCs would be considered for inclusion in EC subsectors by consulting the relevant bureaux/departments again. The Administration replied that it would not do so. However, for new applications received after the</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
		<p>last updating exercise, the Administration would handle them in accordance with the established procedures, i.e. seeking the advice of the relevant bureaux/departments in consideration of whether the bodies concerned fulfilled the aforementioned criteria.</p> <p>In response to Mr MOK, the Administration confirmed that while the Social Welfare subsector comprised both individual voters and corporate bodies, the Social Welfare FC only comprised individual electors. Mr Paul TSE also pointed out that while there was a Tourism FC in LegCo, there were both the Tourism Subsector and the Hotel Subsector in EC. The Administration agreed to provide supplementary information on the differences in the delineation of electorates between the EC subsectors and LegCo FCs.</p> <p>Mr MOK considered that as there were differences in the delineation of electorates between certain subsectors and FCs, it might be possible that a body, though not eligible for inclusion in an FC, was eligible for inclusion in the corresponding EC subsector. He proposed that the rejected applications for inclusion in FCs should be considered for inclusion in EC subsectors by consulting the relevant bureaux/departments again.</p>	<p>Admin (para. 3 of minutes)</p>
002620 - 003219	<p>Chairman Mr Christopher CHEUNG Administration Senior Assistant Legal Adviser ("SALA")</p>	<p>Noting that the Bill sought to amend the Chinese name of "The Chinese Gold & Silver Exchange Society" (i.e. "香港金銀業貿易場") under Section 20U(1)(c) of the Legislative Council Ordinance (Cap. 542) ("LCO") by deleting "香港", Mr Christopher CHEUNG expressed concern about the legal impact of the proposed amendment on the body concerned. The Administration explained that the proposed amendment was made just to tally with the Chinese name of the organization concerned as registered under the Societies Ordinance (Cap. 151). SALA agreed that the proposed amendment should not have any other legal effect on the organization concerned.</p>	

003220 - 003704	Chairman Ms Emily LAU Administration	The Administration's briefing on the proposal of aligning the deadlines for filing election returns.	
003705 - 004553	Chairman Ms Emily LAU Administration Mr Charles Peter MOK	<p>Ms Emily LAU considered that the corporate votes should be converted to individual votes so as to expand the electorate base of the subsectors concerned. The Administration explained that the Government had made it clear earlier that the electorate base of the 38 subsectors would remain largely unchanged for the 2016 EC Subsector elections, with only necessary technical amendments to be made. The Administration had explained to LegCo Members that in the absence of sufficient support in the community and clear consensus within the various subsectors, introducing major adjustments to the electorate base of the various subsectors might not be practicable, and might lead to more controversies. Besides, there would not be enough time for introducing such major amendments before the EC Subsector elections which would be held by end of 2016.</p> <p>Mr MOK considered that the Administration should enhance the representativeness of FCs/EC by expanding the electorate base of the relevant FCs/EC.</p>	
004554 - 004841	Chairman Mr Christopher CHEUNG Administration	Mr Christopher CHEUNG's reiteration of his concern about the proposed amendment to the Chinese name of "The Chinese Gold & Silver Exchange Society" ("香港金銀業貿易場") under Section 20U(1)(c) of LCO by deleting "香港".	
004842 - 005653	Chairman Mr James TIEN Administration	<p>Mr James TIEN's view that the existing FCs should be retained, but the Administration should make proposals to enhance the representativeness of FCs and broaden their electorate base, such as by replacing corporate votes with director's votes, at the local legislation level. He reminded the Administration of the stipulation of "the principle of gradual and orderly progress" in Article 68 of the Basic Law ("BL").</p> <p>The Administration advised that "the principle of gradual and orderly progress" did not mean that</p>	

		<p>substantial changes had to be made to the method for forming LegCo in each of its terms. It was stipulated in BL 68 that "the actual situation in the Hong Kong Special Administrative Region" also had to be taken into account in considering whether Annex II to BL was to be amended. Besides, many people had expressed the view that given the substantial changes introduced to the method for forming LegCo in 2012, there was no need to amend Annex II to BL regarding the method for forming LegCo in 2016. In fact, with the passage of the 2012 constitutional reform package, effective from the Fifth LegCo in 2012, the number of Members returned by the geographical constituency and FC elections had both increased from 30 to 35. Five new FC seats had been created and members were returned through election, on the basis of one-person-one-vote, by some 3.2 million registered electors who previously did not have a vote in the traditional FCs.</p>	
005654 - 010616	<p>Chairman Ms Emily LAU Administration Mr Paul TSE Mr Christopher CHEUNG</p>	<p>Ms Emily LAU shared Mr James TIEN's view that "the principle of gradual and orderly progress" in BL 68 had to be observed. The Administration confirmed that the proposals in the Bill were in conformity with BL.</p>	
010617 - 011623	<p>Chairman Mr Paul TSE Administration</p>	<p><u>Improvement to the provisions about postponement or adjournment of an election, poll or count</u></p> <p>Mr Paul TSE expressed support for the proposal of aligning the fallback period for holding an election, poll or count to 14 days. He, however, expressed concern whether it would create uncertainty as to which day would be appointed as the rescheduled polling day after the postponement or adjournment of an election or poll.</p> <p>The Administration explained that it was already an established practice to hold elections on Sundays for the convenience of electors, and the Registration and Electoral Office ("REO") would follow this practice in holding/resuming the postponed/adjourned poll. Depending on the circumstances, priority would first be given to conducting/resuming the postponed or</p>	

		<p>adjourned election, poll or count on the seventh day (i.e. the immediately following Sunday).</p> <p>The Administration agreed to spell out the above arrangements in the paper on the practical arrangements for the relevant elections for submission to the Panel on Constitutional Affairs.</p>	
011624 - 012437	<p>Chairman Administration Ms Emily LAU</p>	<p><u>Gazetting of polling and counting stations</u></p> <p>Ms Emily LAU pointed out that in the 2015 District Council election, the change of a polling station at very short notice had caused great inconvenience to electors, and the candidates concerned had not been consulted beforehand.</p> <p>The Administration explained that where a change of polling stations had to be made, candidates and electors would be informed of the change as soon as possible.</p>	
012438 - 012546	<p>Chairman Mr Charles Peter MOK Administration</p>	<p>Mr Charles Peter MOK asked about the assignment of polling stations for the EC subsector elections. The Administration responded that about 100 polling stations would be set up for the elections.</p>	
012547 - 013859	<p>Chairman Ms Emily LAU Administration SALA Mr Paul TSE</p>	<p>Ms Emily LAU enquired whether REO had made reference to overseas experience in requisition of premises for use as polling stations with a view to increasing the number of polling stations to facilitate electors. She noted that during elections in Taiwan, for example, a lot of polling stations were set up, and once in Taiwan, she saw a polling station set up in an on-street temple, which was small but convenient.</p> <p>The Administration explained that Hong Kong was very densely populated and a polling station might need to serve an electorate up to 7 000 to 10 000 electors. The Chairman considered that given the stringent requirements in respect of polling stations laid down in Hong Kong law, it would not be possible for Hong Kong to make similar arrangements.</p> <p>SALA pointed out that the right of individuals and legal persons to the acquisition, use, disposal and inheritance of property and their right to compensation for lawful deprivation of their</p>	

		property were protected under BL 105. Ms LAU suggested that the Research Office of the LegCo Secretariat should conduct a research study on overseas legislation empowering the local government to acquire premises for use as polling stations. The Chairman requested the Administration to consider members' views and comments on polling stations.	Admin (para. 4 of minutes)
013900 - 013952	Chairman	Closing remarks	

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