

立法會
Legislative Council

LC Paper No. LS22/15-16

**Paper for the House Committee Meeting
on 18 December 2015**

**Legal Service Division Report on
Electoral Legislation (Miscellaneous Amendments) (No. 2) Bill 2015**

I. SUMMARY

- 1. The Bill**

The Bill seeks to introduce miscellaneous amendments to various pieces of electoral legislation to, among others –

 - (a) align the deadline for lodging election returns by candidates of an election;
 - (b) update the lists of electorate comprising certain functional constituencies of the Legislative Council (LegCo) and an Election Committee subsector; and
 - (c) align the electoral arrangements of the Election Committee subsector elections and the Chief Executive election with other elections.
- 2. Public Consultation**

It is not stated in the LegCo Brief that the Administration has consulted the public on the proposals.
- 3. Consultation with LegCo Panel**

The Panel on Constitutional Affairs has been consulted at its meeting held on 19 October 2015. Members raised no objection but expressed certain concerns.
- 4. Conclusion**

The scrutiny of the Bill is continuing and the Legal Service Division will report further, if necessary.

II. REPORT

The date of First Reading of the Bill is 16 December 2015. Members may refer to the LegCo Brief (File Ref: CMAB C1/30/5/4/1) issued by the Constitutional and Mainland Affairs Bureau on 9 December 2015 for further details.

Object of the Bill

2. The Bill seeks to introduce miscellaneous amendments to various pieces of electoral legislation to, among others –

- (a) align the deadline for lodging election returns by candidates of an election;
- (b) update the lists of electorate comprising certain functional constituencies (FCs) of the Legislative Council (LegCo) and an Election Committee subsector; and
- (c) align the electoral arrangements of the Election Committee subsector elections and the Chief Executive election with other elections.

Provisions of the Bill

3. The Bill comprises 9 Parts. The major amendments are summarized in the following paragraphs.

Time for lodging election returns

4. At present, a candidate of an election is required to lodge under section 37(1) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) an election return detailing the election expenses and the election donations received. However, in an election, the time for lodging the return is different for a candidate of a contested election and that of an uncontested election owing to the different time for the publication of the election results.

5. Part 2 of the Bill seeks to align the time for lodging the returns for both contested and uncontested candidates in the same election. The proposal would apply to the elections of the Chief Executive (CE), Members for the LegCo, Election Committee (EC), District Council, Heung Yee Kuk, Rural Committee and Rural Representative of a Rural Area. Clause 7 of Part 2 seeks to introduce

transitional arrangements if the poll of an election is held on a date before the commencement of the Bill when it is enacted as an Ordinance.

Updating the electorate in relation to certain elections

6. Part 3 of the Bill introduces technical amendments to the electorate in relation to the election of CE and Members of LegCo returned from the FCs. Part 3 proposes to –

- (a) introduce a new body in the higher education subsector of EC and the education FC;
- (b) change the names of eleven bodies in the transport FC, the financial services FC and the sports, performances arts, culture and publication FC; and
- (c) remove seven bodies which have ceased operation since the last updating exercise in the agricultural and fisheries FC and the transport FC.

Amendments relating to electoral arrangements of certain elections

7. The Bill also seeks to align certain electoral arrangements for the elections of the EC subsector and the CE election with those introduced by the Electoral Legislation (Miscellaneous Amendments) Ordinance 2014¹ (Ord. No. 12 of 2014). The major provisions seek to provide for –

- (a) postponing a statutory deadline that falls on an inclement weather warning day (i.e. a day when a tropical cyclone warning or a gale or rainstorm warning is in force) to the next working day (Part 4);
- (b) delivering documents for appointment or revocation of appointment of various agents by means of, among others, electronic means (Part 5);
- (c) postponing or adjourning an election, poll or counting on the ground of, among others, danger to public health or safety, to a day not later than 14 days from the original day (Part 6);
- (d) clarifying the authority of an election agent to act on behalf of a candidate (Part 7); and

¹ The Ordinance (except Division 5 of Part 5 relating to transmission of notices by electronic mail) came into operation when the Ordinance was published in the Gazette on 18 July 2014. Division 5 of Part 5 came into operation on 1 January 2015.

- (e) setting a time frame for giving notices designating polling stations and counting stations (Part 8).

Commencement

8. The Bill contains no commencement provision. By virtue of section 20(2) of the Interpretation and General Clauses Ordinance (Cap. 1), the Bill, if passed, would come into operation on the day the enacted Ordinance is published in the Gazette.

Public Consultation

9. It is not stated in the LegCo Brief that the Administration has consulted the public on the proposals.

Consultation with LegCo Panel

10. As advised by the Clerk to the Panel on Constitutional Affairs, the Panel was consulted on the proposed technical amendments to various pieces of electoral legislation at its meeting on 19 October 2015. Members in general did not raise objection to the proposed amendments. Some members, however, expressed concern about the proper authority to invoke the postponement or adjournment mechanism of the EC subsector elections and the CE election.

Conclusion

11. The scrutiny of the Bill is continuing and the Legal Service Division will report further, if necessary.

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