

**立法會**  
***Legislative Council***

Ref : CB2/BC/6/17

LC Paper No. CB(2)315/18-19  
(These minutes have been seen  
by the Administration)

**Bills Committee on Electoral Legislation**  
**(Miscellaneous Amendments) Bill 2018**

**Minutes of the first meeting**  
**held on Thursday, 18 October 2018, at 2:30 pm**  
**in Conference Room 2 of the Legislative Council Complex**

- Members present** : Hon CHEUNG Kwok-kwan, JP (Chairman)  
Hon WONG Ting-kwong, GBS, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon WONG Kwok-kin, SBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon Charles Peter MOK, JP  
Hon CHAN Han-pan, BBS, JP  
Hon Alice MAK Mei-kuen, BBS, JP  
Dr Hon Helena WONG Pik-wan  
Hon IP Kin-yuen  
Dr Hon CHIANG Lai-wan, SBS, JP  
Hon Alvin YEUNG  
Hon CHU Hoi-dick  
Hon Holden CHOW Ho-ding  
Hon LUK Chung-hung, JP
- Member attending** : Hon Dennis KWOK Wing-hang
- Members absent** : Hon Starry LEE Wai-king, SBS, JP  
Hon Steven HO Chun-yin, BBS  
Hon WU Chi-wai, MH  
Hon AU Nok-hin
- Public Officers attending** : Mr Andy CHAN Shui-fu, JP  
Under Secretary for Constitutional and Mainland Affairs

Ms Cherie YEUNG Lok-sze  
Principal Assistant Secretary for Constitutional and  
Mainland Affairs

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

Mr MOK Mong-chan  
Assistant Secretary for Constitutional and Mainland Affairs

Mr WONG See-man  
Chief Electoral Officer  
Registration and Electoral Office

Mr Raymond WANG Man-chiu  
Principal Electoral Officer  
Registration and Electoral Office

Mr SHUM Nam-lung  
Deputy Chief Electoral Officer (Voter Registration)  
Registration and Electoral Office

Miss Emma WONG  
Senior Assistant Law Draftsman (Acting)  
Department of Justice

Mr Gary LI Ming-fung  
Government Counsel  
Department of Justice

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

**Staff in attendance** : Ms Wendy KAN  
Assistant Legal Adviser 6

Miss Cindy HO  
Senior Council Secretary (2) 3

Mr Dennis HO  
Council Secretary (2) 3

Mrs Fanny TSANG  
Legislative Assistant (2) 3

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Action

**I. Election of Chairman**

Mr CHEUNG Kwok-kwan was elected Chairman of the Bills Committee. Members agreed that there was no need for the Bills Committee to elect a deputy chairman.

**II. Meeting with the Administration**

[File Ref: CMAB C1/30/5/4, LC Paper Nos. CB(3)781/17-18, LS95/17-18, CB(2)71/18-19(01) and CB(2)72/18-19(01)]

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

Invitation of public views

3. Members agreed to receive public views on the Bill at the next meeting to be held on 13 November 2018 at 2:30 pm. 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**

4. There being no other business, the meeting ended at 3:54 pm.

Council Business Division 2  
Legislative Council Secretariat  
22 November 2018

**Proceedings of the first meeting of the  
Bills Committee on Electoral Legislation  
(Miscellaneous Amendments) Bill 2018  
on Thursday, 18 October 2018, at 2:30 pm  
in Conference Room 2 of the Legislative Council Complex**

<b>Time Marker</b>	<b>Speaker(s)</b>	<b>Subject(s)/Discussion</b>	<b>Action required</b>
000406 - 000523	Mr WONG Ting-kwong Dr CHIANG Lai-wan Mr WONG Kwok-kin Mr CHEUNG Kwok-kwan	Election of Chairman	
000524 - 001440	Chairman Administration	Briefing by the Administration on the Electoral Legislation (Miscellaneous Amendments) Bill 2018.	
001441 - 002230	Chairman Dr CHIANG Lai-wan Administration	<p>Dr CHIANG Lai-wan expressed support for the proposal to specify in the law that it was the duty of the person lodging a claim/an objection to provide sufficient information about the case. She requested the Administration to explain how assessment would be made as to whether "sufficient" information had been provided.</p> <p>The Administration responded that while it was for the Revising Officer ("RevO") to determine whether the information provided was sufficient having regard to the facts and circumstances of the case, a claimant or an objector would generally be required to provide objective information relevant to his/her case. For instance, an objector lodged an objection because he/she observed that the letterbox of the elector concerned had not been emptied for a year and suspected that the elector concerned was no longer residing at the registered address. For such a case, the objection should be considered as being supported by sufficient information.</p> <p>Dr CHIANG expressed concern about whether a person would be regarded as having made false statements in voter registration ("VR") if the person had inadvertently provided incorrect information in his/her VR application form. She also expressed concern about whether the proposed increase in the maximum penalties for making false statements in VR might dampen the desire to register as electors. The Administration responded that the proposed penalty level was not particularly high as compared with that for other comparable offences. The Registration and Electoral Office ("REO") would implement a number of checking measures to verify the accuracy of the registration particulars. In case of queries about the registration particulars, REO would first seek clarification with the elector concerned. The Administration would not take a case to the court lightly. The Administration considered that the current proposal was able to strike a right balance.</p>	

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002231-002828	Chairman Dr Priscilla LEUNG Administration	<p>Dr Priscilla LEUNG considered that in the abovementioned situation, so long as there was no evidence to prove that the elector had knowingly provided false information in relation to his/her VR, the person's voting right should be retained and, where penalties were warranted, fines instead of imprisonment should be imposed. She urged the Administration to clarify the VR eligibility of a person who had moved to live in the Mainland but still came back to Hong Kong from time to time.</p> <p>The Administration responded that it was studying issues relating to the voting eligibility of Hong Kong permanent residents who resided in the Mainland or overseas but still maintained close connections with Hong Kong. The Administration would seek to formulate appropriate proposals for consultation with the Legislative Council ("LegCo") and the public.</p>	
002829 - 003735	Chairman Mr CHAN Han-pan Administration	<p>While expressing support for the current proposals, Mr CHAN Han-pan considered that if the Police failed to enforce the law against alleged abuse of the objection mechanism, the current proposals would not achieve the purpose of preventing abuse of the mechanism.</p> <p>The Administration explained that to prevent abuse of the objection mechanism, it was proposed to specify in the law that it was the duty of a claimant or an objector ("the appellant") to provide sufficient information to support his/her case, and that RevO might dismiss the case direct if the appellant or his/her representative did not attend the hearing. It was also proposed to prescribe in the law that incontrovertible claim and objection cases could be determined by RevO without a hearing on the basis of written submissions only, so as to reduce possible inconvenience caused to the electors concerned.</p>	
003736 - 004226	Chairman Ms Alice MAK Administration	<p>Referring to the incident in 2015 that an incumbent District Council ("DC") member had been impersonated by a third party to submit an application form to REO for changing her registered address, Ms Alice MAK considered that the current proposals were unable to address cases involving submission of fraudulent registration particulars by bogus electors. The Administration responded that submission of fraudulent registration particulars by bogus electors might involve forgery which was a serious criminal offence under the law. REO would refer suspicious cases to the relevant law enforcement agencies for investigation and follow-up as appropriate.</p> <p>Regarding the proposal to introduce a targeted exemption from criminal liability in respect of a third party (i.e. individuals or bodies that were neither the relevant candidates whose elections were being promoted or prejudiced nor their election expense agents) who incurred merely electricity and/or Internet access charges in</p>	

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		<p>publishing election advertisements ("EAs") on the Internet, Ms MAK enquired whether a third party who placed an online advertisement to promote a candidate, or produced a video for a candidate and posted that video on social media, or forwarded such a video (not produced by him/her) to others through the Internet, would be eligible for the proposed exemption.</p> <p>The Administration explained that the proposed exemption would apply if the election expenses incurred by the third party in publishing EAs were merely electricity and/or Internet access charges. One could not enjoy the proposed exemption if other election expenses were incurred. The proposal would not affect the obligation of candidates or their election expense agents under the existing electoral legislation. The definitions of EAs and election expenses under the existing legislation would also remain intact.</p>	
004227 - 004521	Chairman Mr IP Kin-yuen Administration	<p>Mr IP Kin-yuen sought information on the enforcement actions taken against suspicious cases of making false statements in VR and the number of persons convicted in the past few years.</p> <p>The Administration advised that subsequent to the 2015 DC Ordinary Election and the 2016 LegCo General Election, REO referred respectively 482 and 631 suspicious cases of providing false information in VR to the relevant law enforcement agencies for follow-up. Of these cases, two persons involved were convicted and sentenced to imprisonment; some cases were found unsubstantiated after investigation; and the remaining cases were still under investigation.</p> <p>In reply to Mr IP's enquiry about the penalties for inducing or persuading another person to make a false statement in VR, the Administration advised that such act was also an offence of which the penalty level was now proposed to be increased.</p>	
004522 - 005641	Chairman Dr Helena WONG Administration	<p>Dr Helena WONG enquired whether a registered elector who did not report a change of residential address to REO after moving out of his/her parents' home and voted in the geographical constituency ("GC") of his/her old address would be considered as having breached the electoral laws.</p> <p>The Administration advised that according to the present law, a person had to satisfy all the following requirements in order to qualify for registration as an elector in a GC: (a) he/she was a permanent resident of Hong Kong, (b) he/she was aged 18 years or above, (c) he/she ordinarily resided in Hong Kong; and (d) the residential address in his/her application for registration was his/her only or principal residence in Hong Kong. REO would assign constituencies according to the information recorded in the prevailing Final Register of electors, which was updated</p>	

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		<p>once a year. While as a matter of principle a registered elector should notify REO of any change of his/her residential address as early as practicable, the elector would not breach the electoral laws if he/she missed the statutory deadline for report on change of registration particulars of a VR cycle and would then be assigned to vote in the constituency of his/her old address.</p> <p>Dr WONG sought clarification on the definition of "ordinarily reside in Hong Kong" and whether registered electors who had moved to the Mainland but retained a residential address in Hong Kong were still entitled to vote.</p> <p>The Administration responded that the definition of "ordinarily reside in Hong Kong" was a complicated issue of both law and fact. Whether a person "ordinarily resided in Hong Kong" depended on the facts of each case and involved judgment on the specific circumstances of the case such as that person's linkage or relation with Hong Kong. The Administration would need to consider relevant previous court judgments, if any, and seek legal advice if necessary. Noting the public's concern about the voting eligibility of Hong Kong permanent residents residing in the Mainland, the Administration was looking at the relevant issues with a view to formulating appropriate proposals/guidelines for consultation with LegCo and the public.</p>	
005642 - 010653	Chairman Mr Paul TSE Administration	<p>Mr Paul TSE expressed in-principle support for the legislative proposals.</p> <p>In response to Mr TSE's views regarding the current regulation on publication of EAs on the Internet, the Administration explained that the proposal to introduce a targeted exemption from criminal liability in respect of the activity of a third party on the Internet sought to address concerns of inadvertent breach of electoral laws that might arise from expression of views on the Internet by a third party who incurred merely electricity and/or Internet charges, without exempting those who incurred other election expenses such as the cost of setting up and maintaining online platforms.</p>	
010654 - 011327	Chairman Mr Holden CHOW Administration	<p>Mr Holden CHOW said that to prevent abuse of the VR objection mechanism and minimize nuisance caused to the electors concerned, he supported setting out in the law that RevO might dismiss an objection case direct if the objector or his/her representative did not attend the hearing.</p> <p>Regarding the proposal of processing incontrovertible claim and objection cases by written submissions, Mr CHOW enquired about the actions to be taken by REO in handling such cases. The Administration advised that REO would conduct verification of registration particulars in the same way as what it did at present. Under the existing mechanism, hearings had to be conducted for all</p>	

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		<p>claim and objection cases. However, under the proposal, cases which met the conditions as set out in paragraph 7 of the LegCo Brief would be determined on the basis of written submissions only without a hearing.</p> <p>In response to Mr CHOW's enquiry, the Administration advised that expressing comments in support of a candidate on the Internet might be construed as publishing EAs under the electoral laws. According to the current legislative proposal, a third party who only incurred electricity and/or Internet access charges in publishing EAs on the Internet would be exempted from the criminal liability.</p> <p>Mr CHOW suggested that the Administration should give due regard to the development of the Guangdong-Hong Kong-Macao Greater Bay Area ("Greater Bay Area") in studying issues relating to the requirement of "ordinary reside in Hong Kong" for VR. He opined that electors who opted to live or work in the Greater Bay Area should be allowed to retain their voting rights.</p>	
011328 - 012454	Chairman Dr Helena WONG Administration Mr Paul TSE	<p>Dr Helena WONG's enquiry and the Administration's response regarding the regulation of expenses incurred for the purpose of promoting the election of a candidate before he/she publicly declared an intention to stand as a candidate.</p> <p>Views of Mr Paul TSE and Dr Helena WONG on whether there was a need for prescribing in the law a cap on the election expenses that might be incurred by or on behalf of a candidate.</p>	
012455 - 012730	Chairman Mr Paul TSE	<p>Invitation of public views on the Bill and date of next meeting</p> <p>Closing remarks</p>	