

立法會
Legislative Council

Ref : CB2/BC/5/18

LC Paper No. CB(2)1735/18-19
(These minutes have been seen
by the Administration)

Bills Committee on Electoral Legislation
(Miscellaneous Amendments) Bill 2019

Minutes of the third meeting
held on Friday, 3 May 2019, at 10:45 am
in Conference Room 2 of the Legislative Council Complex

- Members present** :
- Hon CHEUNG Kwok-kwan, JP (Chairman)
 - Hon LUK Chung-hung, JP (Deputy Chairman)
 - Hon WONG Ting-kwong, GBS, JP
 - Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
 - Hon Paul TSE Wai-chun, JP
 - Hon YIU Si-wing, BBS
 - Hon Steven HO Chun-yin, BBS
 - Hon MA Fung-kwok, SBS, JP
 - Hon Charles Peter MOK, JP
 - Hon CHAN Han-pan, BBS, JP
 - Hon KWOK Wai-keung, JP
 - Dr Hon Helena WONG Pik-wan
 - Hon POON Siu-ping, BBS, MH
 - Ir Dr Hon LO Wai-kwok, SBS, MH, JP
 - Hon Alvin YEUNG
 - Hon CHU Hoi-dick
 - Hon Jimmy NG Wing-ka, JP
 - Hon SHIU Ka-fai
 - Hon CHAN Chun-ying, JP
 - Hon LAU Kwok-fan, MH
- Members attending** :
- Hon WU Chi-wai, MH
 - Hon AU Nok-hin
- Members absent** :
- Hon Kenneth LEUNG
 - Hon IP Kin-yuen

- Public Officers :** Mr Andy CHAN Shui-fu, JP
attending Under Secretary for Constitutional and Mainland Affairs
- Ms Cherie YEUNG Lok-sze
Principal Assistant Secretary for Constitutional and Mainland Affairs
- Mr Carlton MAN Cheuk-him
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
- Ms Angie LI Sau-lee
Senior Government Counsel
Department of Justice
- Attendance by :** The Dynamic Island
invitation Mr Felix WU Pat-lun
Spokesperson
- Mr Harry HO
- Miss Christine FONG Kwok-shan
- Hong Kong Fishermen Consortium
- YEUNG Sheung-chun
Deputy Chairman
- Federation of Hong Kong Agricultural Associations
- Mr FUNG Kin-chung
Deputy Chairman

Hong Kong Printers Association

Mr LAU Hoi-tung
Honorary President

Hong Kong Culture Monitor

Miss Clarisse YEUNG Suet-ying
Chairperson

Mr Owan LI

Mr WONG Yu-wing

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

Staff in attendance : Ms Clara TAM
Assistant Legal Adviser 9

Mr Dennis HO
Council Secretary (2) 3

Mrs Fonny TSANG
Legislative Assistant (2) 3

Action

I. Application for late membership
[LC Paper No. CB(2)1351/18-19(01)]

The Chairman referred to Mr AU Nok-hin's letter dated 30 April 2019 regarding his late application for membership of the Bills Committee. The Chairman said that since Mr AU's late application for membership was not made on the ground that the Member concerned was indisposed or away from Hong Kong during the time when membership for the Bills Committee was invited, it would be for the Bills Committee to decide whether there were sufficient grounds to accept the application.

2. Given the diverse views expressed by members, the Chairman put to vote the question as to whether the Bills Committee should accept Mr AU's late application for membership. The voting result was that one member voted for and five members voted against the question, and no member abstained from voting. The Chairman declared that the question was negatived.

II. Meeting with deputations and the Administration

[File Ref: CMAB C1/30/5/4, LC Paper Nos. CB(3)427/18-19, LS57/18-19]

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

4. The Bills Committee received views from nine deputations/individuals on the Electoral Legislation (Miscellaneous Amendments) Bill 2019 ("the Bill"). The major views expressed by the deputations/individuals are summarized as follows:

- (a) some deputations urged the Administration to initiate an overhaul of the functional constituency ("FC") system to broaden the electorate and review the composition of certain FCs, in order to raise the representativeness of these FCs. A deputation suggested that the electorate of the Sports, Performing Arts, Culture and Publication ("SPCP") FC should be broadened to include individual arts workers who had been specified by the Chief Executive ("CE") by notice in the Gazette for the purpose of nominating respective arts interest representatives for appointment to the Hong Kong Arts Development Council under the Hong Kong Arts Development Council Ordinance (Cap. 472). Another deputation (the Hong Kong Printers Association) requested that it should be included in SPCP FC so that the printing sector could be represented. Some other deputations expressed the view that representatives of organic farmers and students should be included as electors in the Agriculture and Fisheries ("A&F") FC and Education FC respectively. The Administration was requested to set out clearly its criteria for determining which corporates could be included as electors of FCs and the procedure for making such applications;
- (b) some deputations, however, considered that the current composition of A&F FC was appropriate. Nevertheless, the Administration should also keep up with the new developments in the A&F sectors through consulting stakeholders, and consider including bodies representing newly emerged trades in the FC concerned so as to ensure representativeness and balanced participation; and
- (c) some deputations expressed support for the proposals of extending the deadline for submitting election returns for CE elections from 30 days to 60 days. Diverse views were expressed on the proposal of raising the limits prescribed for ratifying minor errors or omissions in election returns under the de minimis arrangement

Action

provided in section 37A of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) ("ECICO"). There was also a view that the Administration should step up its monitoring efforts to ensure that the de minimis arrangement was properly implemented, and duly follow up on cases where the cumulative amounts of errors or omissions exceeded the prescribed limits.

5. In response to the deputations' views, the Administration made the following points:

- (a) following the established practice, before each Legislative Council general election, the Administration would conduct a review on the delineation of the electorate of FCs in consultation with relevant bureaux/departments. The review was conducted on the basis of the existing electorate and all relevant requests received from individual bodies/persons since the last review in 2015;
- (b) the proposal to revise the threshold under section 37(2)(b) of ECICO for the submission of invoices and receipts from \$100 to \$500 aimed to help alleviate the workload of candidates when preparing their election returns; and
- (c) with regard to the proposal to raise the limits prescribed for rectifying minor errors or omissions in election returns under the de minimis arrangement provided in section 37A of ECICO, the Administration said that the proposed limits prescribed for various elections were broadly proportionate to the respective election expense limits.

Follow-up action required of the Administration

Admin 6. The Administration was requested to provide supplementary information on the number of invoices and receipts received by the Administration in relation to past CE elections.

[Post-meeting note: The Administration's written response was issued to members vide LC Paper No. CB(2)1579/18-19(01) on 31 May 2019.]

Draft amendments to the Bill

Admin 7. Members noted that the Administration would propose a technical amendment to the long title of the Bill in response to the comment made by the Legal Adviser to the Bills Committee. The Administration undertook to provide its draft amendment to the Bill for the Bills Committee's consideration in due course.

Action

[Post-meeting note: The draft amendment proposed by the Administration was circulated to members vide LC Paper No. CB(2)1364/18-19(01) on 6 May 2019.]

8. The Chairman requested members who intended to propose amendments to the Bill to forward them to the Clerk on or before 15 May 2019 for onward transmission to the Administration for written response. The Chairman said that subject to any draft amendments proposed by members by the deadline, he would decide whether a further meeting was necessary.

III. Any other business

9. There being no other business, the meeting ended at 12:21 pm.

Council Business Division 2
Legislative Council Secretariat
25 June 2019

**Proceedings of the third meeting of the
Bills Committee on Electoral Legislation
(Miscellaneous Amendments) Bill 2019
on Friday, 3 May 2019, at 10:45 am
in Conference Room 2 of the Legislative Council Complex**

Time Marker	Speaker(s)	Subject(s)	Action required
000628 - 000636	Chairman	Opening remarks	
000637 - 001047	Chairman Mr AU Nok-hin Mr SHIU Ka-fai Mr Steven HO Ir Dr LO Wai-kwok Assistant Legal Adviser	Application for late membership	
001048 001504	Chairman Mr WONG Yu-wing	Discussion on the speaking order	
001505 - 001813	Chairman Dynamic Island	Presentation of views	
001814 - 002306	Chairman Mr Harry HO Dr Priscilla LEUNG	Presentation of views Point of order raised by Dr Priscilla LEUNG The Chairman reminded deputations that their oral representations made at the meeting would not be covered by the protection and immunity provided under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) and should be relevant to the Electoral Legislation (Miscellaneous Amendments) Bill 2019 ("the Bill").	
002307 - 002607	Chairman Miss Christine FONG Kwok-shan	Presentation of views	
002608 - 002728	Chairman Hong Kong Fishermen Consortium	Presentation of views	
002729 - 002950	Chairman Federation of Hong Kong Agricultural Associations	Presentation of views	

Time Marker	Speaker(s)	Subject(s)	Action required
002951 - 003257	Chairman Hong Kong Printers Association ("HKPA")	Presentation of views [LC Paper No. CB(2)1343/18-19(01)]	
003258 - 003603	Chairman Hong Kong Culture Monitor	Presentation of views	
003604 - 003909	Chairman Mr Owan LI	Presentation of views	
003910 - 004213	Chairman Mr WONG Yu-wing	Presentation of views	
004214 - 005039	Chairman Administration	Administration's response to deputations' views	
005040 - 005448	Chairman Dr Priscilla LEUNG Administration	Dr Priscilla LEUNG expressed concern that at present, reported breaches of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), however trivial, would be referred to the Independent Commission Against Corruption ("ICAC") for its follow-up investigation. She considered that the Registration and Electoral Office should hire lawyers to settle cases concerning minor inadvertent errors and ensure that only cases of a more serious nature would be referred to ICAC. The Administration undertook to consider Dr LEUNG's suggestion.	
005449 - 010519	Chairman Dr Helena WONG Mr AU Nok-hin Administration	Dr Helena WONG said that the Democratic Party was concerned whether the lack of progress in achieving the ultimate aim of electing all Members of the Legislative Council ("LegCo") by universal suffrage was in contravention with the "principle of gradual and orderly progress" in Article 68 of the Basic Law ("BL 68"). She and Mr AU Nok-hin took the view that even without amending the existing formation method for LegCo as prescribed in Annex II to the Basic Law to reduce the number of functional constituency ("FC") seats or abolish all FC seats altogether, the democratic element of the electoral method could be enhanced if the Administration took bolder steps to broaden the electorate of FCs (e.g. by replacing corporate electors with individual electors). They sought details of the Administration's criteria for determining which corporates could be added or deleted as electors of FCs.	

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		<p>Mr AU Nok-hin further said that he was a candidate for the Wholesale and Retail ("W&R") FC in the 2016 LegCo General Election. He expressed his concern that while he was an eligible candidate in the election because he fulfilled the requirement of having a substantial connection with W&R sectors, he was not eligible to be registered as an elector of the FC concerned. Mr AU was also dissatisfied that the applications for inclusion in FCs from certain bodies (e.g. the Hong Kong Organic Association and the Hong Kong Electronics and Technologies Association) had not been successful.</p> <p>The Administration reiterated the established practice regarding the review on delineation of the electorate of FCs as detailed in paragraph 3 of the LegCo Brief; and that for a corporate to be added to an FC, it should be a representative one and was active in supporting the development of the sector concerned. The Administration further advised that if major adjustments were made to broaden the electorate of FCs significantly, it would be controversial and substantial changes would be involved. This would require careful consideration. In the information technology ("IT") sector, for example, the Administration was working on establishing a common benchmark on eligibility of different IT professionals in Hong Kong for recognition as electors in IT FC. Moreover, according to BL 68, "the actual situation in the Hong Kong Special Administrative Region" had to be taken into account in achieving the ultimate aim of returning all Members of LegCo by universal suffrage.</p>	
010520 - 011539	Chairman Mr CHU Hoi-dick Dr Helena WONG Mr SHIU Ka-fai Administration	<p>Mr CHU Hoi-dick enquired why the proposed inclusion of Hong Kong Veterinary Association Limited ("HKVAL") in the Agriculture and Fisheries ("A&F") FC was not part of the Administration's proposal for the earlier consultation with the Panel on Constitutional Affairs ("the Panel"), and questioned if it was appropriate to add HKVAL to A&F FC, as the veterinary profession only provided ancillary services to the A&F sectors. Mr CHU also considered that bodies such as the Kadoorie Farm and Botanic Garden, the Produce Green Foundation and the Hong Kong Organic Resource Centre should be considered for inclusion in A&F FC because of their close connections with the agricultural sector.</p>	

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		<p>The Administration explained that at the time of consultation with the Panel in January 2019, the Administration was still processing several recent requests for inclusion in FCs, including the one submitted by HKVAL. The proposed inclusion of HKVAL in A&F FC became part of the Bill following the completion of the relevant process, taking into account that the veterinary profession was closely associated with the A&F sectors and in the light of the recent developments of the profession (e.g. the establishment of a local veterinary college and the launch of Hong Kong Strategy and Action Plan on Antimicrobial Resistance (2017-2022)).</p>	
<p>011540 - 012008</p>	<p>Chairman Mr MA Fung-kwok Administration</p>	<p>Mr MA Fung-kwok was concerned that HKPA had not been included in the Sports, Performing Arts, Culture and Publication ("SPCP") FC despite HKPA's repeated requests. He said that while HKPA all along did not consider that it belonged to the insurance sector, it had been registered as an elector of the Insurance FC until it ceased to be an association of underwriters approved by the Insurance Authority. Mr MA raised concern that HKPA was now no longer eligible to vote in any FC despite the fact that it represented a significant number of printing firms and was active in supporting the development of the cultural and creative industries. He enquired whether it was possible to include HKPA in Schedule 1B to the Legislative Council Ordinance (Cap. 542) (i.e., composition of SPCP FC).</p> <p>The Administration explained that until 2016, HKPA had been an association of underwriters approved by the Insurance Authority, and therefore it used to be registered as an elector of the Insurance FC until 2017. The request of including HKPA in SPCP FC as an umbrella organization would involve a significant change to the electorate of SPCP FC.</p> <p>Mr MA took the view that since HKPA was a member of the publication sector, its inclusion in SPCP FC would only be a technical amendment to the relevant electoral legislation. The Administration advised that if the relevant request involved a substantial increase in the number of electors in the publication sector, it would still lead to a significant change to the existing electorate of the FC concerned, while the Bill only sought to</p>	

Time Marker	Speaker(s)	Subject(s)	Action required
		make necessary technical amendments. The Administration would follow up on the request as the opportunity arose in future in accordance with the established practice.	
012009 - 012143	Chairman Hong Kong Culture Monitor Mr Steven HO	Discussion on submission of further views by deputations	
012144 - 012426	Chairman Mr KWOK Wai-keung Administration	Mr KWOK Wai-keung noted that the election expense limit for Chief Executive ("CE") elections was much higher than those of LegCo elections, and enquired about the rationale behind the Administration's proposal to extend the deadline for submitting election return for CE elections from 30 days to 60 days. At Mr KWOK's request, the Administration undertook to provide supplementary information on the number of invoices and receipts received by the Administration in relation to past CE elections.	Admin (paragraph 6 of minutes)
012427 - 013000	Chairman Mr Steven HO Administration	Mr Steven HO made the following points: (a) the election expense limit and financial assistance for A&F FC election were inadequate to meet the actual needs of the candidates concerned; (b) the veterinary profession was an inseparable part of the A&F sectors and was not simply providing ancillary services because it played an important role in the management of livestock; and (c) given the large population size of the fishing community and the relatively small number of livestock farms in Hong Kong, the Administration should in future review the composition of A&F FC with a view to enhancing representativeness and ensuring balanced participation. The Administration might consider including umbrella organizations representing newly emerged trades (e.g. organic farming, inshore small craft fishing boats and fishing operations in distant waters) in A&F FC. The Administration should also step up consultation efforts with stakeholders (including various umbrella organizations) to keep up with the structural changes in the A&F sectors.	

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013001 - 013741	Chairman Mr CHU Hoi-dick Administration	Mr CHU Hoi-dick expressed concern that too few applications for inclusion in FCs were accepted. In response to Mr CHU's enquiries, the Administration advised that HKVAL's application for inclusion in A&F FC was received in the second half of 2018. The application was still being processed while the Panel was consulted on the relevant proposals and the application was accepted in time for the Bill. The Administration also advised that the application for inclusion in A&F FC from the Hong Kong New Territories Local Farmers Association was received in 2016. Mr CHU said that the Administration should in future be more proactive in letting stakeholders in the A&F sectors know the relevant procedures for application as an elector in the A&F FC.	
013742 - 013950	Chairman Administration	Draft amendments to the Bill Closing remarks	

Council Business Division 2
Legislative Council Secretariat
25 June 2019