

**立法會**  
**Legislative Council**

Ref : CB4/BC/3/20

LC Paper No. CB(4)1078/20-21  
(These minutes have been seen  
by the Administration)

**Bills Committee on Public Offices (Candidacy and Taking Up Offices)**  
**(Miscellaneous Amendments) Bill 2021**

**Minutes of the first meeting**  
**held on Thursday, 1 April 2021, at 4:30 pm**  
**in Conference Room 1 of the Legislative Council Complex**

**Members present** : Hon Tommy CHEUNG Yu-yan, GBS, JP (Chairman)  
Hon Holden CHOW Ho-ding (Deputy Chairman)  
Hon WONG Kwok-kin, SBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon YIU Si-wing, BBS  
Hon LEUNG Che-cheung, SBS, MH, JP  
Hon YUNG Hoi-yan, JP  
Dr Hon Pierre CHAN  
Hon CHAN Chun-ying, JP  
Hon LAU Kwok-fan, MH  
Dr Hon CHENG Chung-tai  
Hon Vincent CHENG Wing-shun, MH, JP  
Hon Tony TSE Wai-chuen, BBS, JP

**Public Officers attending** : Item II

Mr Erick TSANG, IDSM, JP  
Secretary for Constitutional and Mainland Affairs

Mr Roy TANG, JP  
Permanent Secretary for Constitutional and Mainland Affairs

Miss Pinky WONG  
Assistant Secretary for Constitutional and Mainland Affairs

Mr Llewellyn MUI  
Deputy Solicitor General (Constitutional Affairs)  
Department of Justice

Miss Selina LAU  
Senior Government Counsel  
Department of Justice

**Clerk in attendance** : Ms Angel WONG  
Chief Council Secretary (4)4

**Staff in attendance** : Ms Clara TAM  
Senior Assistant Legal Adviser 2

Mr Mark LAM  
Assistant Legal Adviser 7

Miss Wincy LO  
Senior Council Secretary (4)4

Ms Rachel WONG  
Council Secretary (4)4

Ms Sandy HAU  
Legislative Assistant (4)4

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Action

**I. Election of Chairman (and Deputy Chairman)**

Election of Chairman

Mr Tommy CHEUNG, member present who had the highest precedence, called for nominations for the chairmanship of the Bills Committee.

2. Mr WONG Kwok-kin nominated Mr Tommy CHEUNG and the nomination was seconded by Ms YUNG Hoi-yan. Mr Tommy CHEUNG accepted the nomination.

3. Mr WONG Kwok-kin, member present who had the second highest precedence, took over the chair and invited further nominations. There being no other nomination, Mr WONG Kwok-kin declared Mr Tommy CHEUNG elected as Chairman of the Bills Committee.

Election of Deputy Chairman

4. The Chairman invited nominations for the deputy chairmanship. Ms YUNG Hoi-yan nominated Mr Holden CHOW and the nomination was seconded by Mr WONG Kwok-kin. Mr Holden CHOW accepted the nomination. There being no other nominations, the Chairman declared Mr Holden CHOW elected as Deputy Chairman of the Bills Committee.

Action

**II. Meeting with the Administration**

- |                                 |    |   |
|---------------------------------|----|---|
| (File Ref.: CMAB C4/9/1         | -- | Legislative Council Brief issued by the Constitutional and Mainland Affairs Bureau                      |
| LC Paper No. CB(3)366/20-21     | -- | The Bill  |
| LC Paper No. LS48/20-21         | -- | Legal Service Division Report   |
| LC Paper No. CB(4)704/20-21(02) | -- | Marked-up copy of the Bill prepared by the Legal Service Division ( <i>Restricted to members only</i> ) |

Discussion

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

**III. Any other business**

6. The Chairman advised that four meetings had been scheduled for the Bills Committee (i.e. 7 April 2021 at 10:45 am; 9 April 2021 at 4:30 pm; 12 April 2021 at 8:30 am; and 13 April 2021 at 8:30 am). Members raised no objection.

7. There being no other business, the meeting ended at 6:24 pm.

Council Business Division 4  
Legislative Council Secretariat  
7 June 2021

**Proceedings of the first meeting of the  
Bills Committee on Public Offices (Candidacy and Taking Up Offices)  
(Miscellaneous Amendments) Bill 2021  
held on Thursday, 1 April 2021, at 4:30 pm  
in Conference Room 1 of the Legislative Council Complex**

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s) / Discussion</b>	<b>Action required</b>
<i>Agenda item I - Election of Chairman (and Deputy Chairman)</i>			
000518-000847	Mr Tommy CHEUNG Mr WONG Kwok-kin Ms YUNG Hoi-yan Mr Holden CHOW	Election of Chairman and Deputy Chairman	
<i>Agenda item II - Meeting with the Administration</i>			
000848-001431	Chairman Administration	Briefing by the Administration on the Public Offices (Candidacy and Taking Up Offices) (Miscellaneous Amendments) Bill 2021 ("the Bill")	
001432-002155	Chairman Mr YIU Si-wing Administration	Mr YIU's support for the Bill  Interpretation of the "acts that undermine or have a tendency to undermine the overall interests of the Hong Kong Special Administrative Region ("HKSAR")" in the proposed section 3AA(3)(g) of the Interpretation and General Clauses Ordinance (Cap. 1)  Avoidance of possible abuse of the mechanism of bringing legal proceedings against Legislative Council ("LegCo") or District Council ("DC") members  Playing and singing of the national anthem in oath-taking ceremonies  Eligibility criteria for authorization as oath administrators	
002156-002844	Chairman Mr CHAN Chun-ying Administration	Avoidance of authorization of oath administrators that may constitute apparent conflict of interest  Expected processing time to be reduced with the implementation of the leap-frog appeal mechanism and suggested measures to reduce processing time	

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
		Implementation timetable for introducing oath-taking requirements to all other public officers, such as members of the Election Committee	
002845-003418	Chairman Mr Tony TSE Administration	Implementation timetable for introducing oath-taking requirements to all other public officers  Interpretation of the "acts that undermine or have a tendency to undermine the overall interests of HKSAR" in the proposed section 3AA(3)(g) of Cap. 1	
003419-004044	Chairman Deputy Chairman Administration	Deputy Chairman's support for the Bill  Whether the proposed section 3AA(3)(a)(i) of Cap. 1 which stipulates that a person commits or intends to commit acts or carry out activities that endanger national security including the commission of an offence under the "Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region" would be regarded as failing to uphold Basic Law ("BL") and bear allegiance to HKSAR might give rise to judicial challenges as HKSAR had not yet enacted legislation on Article 23 of BL, and whether aiders and abettors would fall within scope of the proposed section 3AA(3)(a)(i)	
004045-004232	Chairman Administration	Objectives of the positive and negative lists (i.e. proposed sections 3AA(1)(a) to (f) and 3AA(3)(a) to (i) of Cap.1)	
004233-004954	Chairman Dr CHENG Chung-tai Administration	Reasons for the proposed removal of time limit for instituting legal proceedings against LegCo/DC members by the Secretary for Justice ("SJ") on the grounds of disqualification  Making a false oath under the Crimes Ordinance (Cap. 200) and whether a breach of oath or failure to fulfill the legal requirements and conditions on upholding BL and bearing allegiance to HKSAR would fall within the ambit of Cap. 200	

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
004955-005538	Chairman Mr LAU Kwok-fan Administration	<p>Mr LAU's support for the Bill</p> <p>Implementation timetable for introducing oath-taking requirements to all other public officers</p> <p>Suggestion of adding items concerning the development interests of the People's Republic of China in the positive and negative lists</p> <p>Commencement date of disqualification from holding office if a member is declared as disqualified by the Court</p> <p>Criteria for lifting the immediate suspension of functions and duties of a LegCo/DC member resulting from the legal proceedings brought by SJ</p> <p>Interpretation of the word "intentionally" in the proposed section 20A(2) of the Oaths and Declarations Ordinance (Cap. 11)</p>	
005539-010116	Chairman Mr LEUNG Che-cheung Administration	<p>Mr LEUNG's support for the Bill</p> <p>Suggestions of devising measures to ensure that every DC member is in compliance with the standard and etiquette for singing the national anthem; and establishing a mechanism to ensure that public officers have fulfilled the legal requirements and conditions on upholding BL and bearing allegiance to HKSAR during the term of office</p>	
010117-010743	Chairman Ms YUNG Hoi-yan Administration	<p>Ms YUNG's support for the Bill</p> <p>Reasons for using "作出《基本法》第 23 條規定禁止的行為" in the proposed section 3AA(3)(a)(i) but "犯《中華人民共和國香港特別行政區維護國家安全法》規定的罪行" in the proposed section 3AA(3)(a)(ii) of Cap. 1</p>	
010744-010800	Chairman	The Chairman and the Liberal Party's support for the Bill	

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
010801-011327	Chairman Mr Paul TSE Administration	Ambiguities and uncertainties in the positive and negative lists	
011328-011635	Chairman Mr YIU Si-wing Administration	<p>Proceedings against LegCo/DC members on the grounds of breach of oath or failure to fulfill the legal requirements and conditions to uphold BL and bear allegiance to HKSAR</p> <p>Restrictions on persons who had failed to meet the various requirements in relation to oath taking from participating in public elections</p>	
011636-012318	Chairman Mr Tony TSE Administration	<p>Remuneration of a LegCo/DC member during suspension of functions and duties</p> <p>Factors to be considered by the Court of First Instance for lifting a member's suspension of functions and duties and the implementation of the leap-frog appeal mechanism</p> <p>Remuneration of a LegCo/DC member who was declared as disqualified by the Court, and whether the remuneration paid to the member should be returned from the date of disqualification</p>	
012319-012843	Chairman Dr Pierre CHAN Administration	Meaning of the expression "indiscriminately objects to the Government's motion" in the proposed section 3AA(3)(f)(ii) of Cap. 1, and whether the provision conflicted with Article 73(9) of BL	
012844-013348	Chairman Deputy Chairman Administration	Powers of oath administrators and clarification of the proposed section 24(2A) and (2B) of the District Councils Ordinance (Cap. 547)	
013349-013903	Chairman Mr LAU Kwok-fan Administration	Whether the decision of an oath administrator would be subject to judicial challenges, and whether the functions and duties of a LegCo/DC member would be suspended if the oath administrator invalidated the oath taken at the time of oath taking	

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s) / Discussion</b>	<b>Action required</b>
013904-014315	Chairman Mr LEUNG Che-cheung Administration	Remuneration of a LegCo/DC member if the member was declared as disqualified by the Court, and whether the remuneration paid to the member concerned should be returned from the date of disqualification  Non-exhaustiveness of the negative list	
014316-014914	Chairman Ms YUNG Hoi-yan Administration	Territorial scope of the negative list  Powers of oath administrators and whether an oath administrator could bar a person from taking an oath or determine his/her oath as invalid immediately after the oath was taken where there was sufficient evidence that the person did not uphold BL and bear allegiance to HKSAR	
014915-015503	Chairman Mr Paul TSE Administration	Suggestion of removing the positive and negative lists (i.e. the proposed section 3AA of Cap. 1) and issuing guidelines on the matters set out in the two lists to avoid ambiguities and uncertainties in the interpretation of the expression "upholding BL and bearing allegiance to HKSAR"	
<i>Agenda Item III - Any other business</i>			
015504-015656	Chairman	Meeting arrangement	