

立法會
Legislative Council

Ref : CB4/BC/3/20

LC Paper No. CB(4)1079/20-21
(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 second meeting
held on Wednesday, 7 April 2021, at 10:45 am
in Conference Room 3 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 I

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

Miss Emma LAM
Clerical Assistant (4)4

Action

I. Meeting with the Administration

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|---------------------------------|----|---|
| (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

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

Action

Invitation of public views

2. In view of the COVID-19 epidemic situation, members agreed that only written views on the Public Offices (Candidacy and Taking Up Offices) (Miscellaneous Amendments) Bill 2021 would be invited from the public. In this connection, a notice would be posted on the website of the Legislative Council.

II. Any other business

3. The Chairman reminded members that the next meeting would be held on 9 April 2021 at 4:30 pm.

4. There being no other business, the meeting ended at 12:40 pm.

Council Business Division 4
Legislative Council Secretariat
7 June 2021

**Proceedings of the second meeting of the
Bills Committee on Public Offices (Candidacy and Taking Up Offices)
(Miscellaneous Amendments) Bill 2021
held on Wednesday, 7 April 2021, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
<i>Agenda item I – Meeting with the Administration</i>			
000350-000810	Chairman Mr Tony TSE Dr CHENG Chung-tai Administration	Invitation for public views	
000811-001333	Chairman Mr Tony TSE Administration	Remuneration of a District Council ("DC") member during suspension of functions and duties resulting from the legal proceedings brought by the Secretary for Justice ("SJ")	
001334-002332	Chairman Mr LAU Kwok-fan Administration	Remuneration of a DC member who had resigned before being adjudged as having breached an oath or failed to uphold the Basic Law ("BL") and bear allegiance to the Hong Kong Special Administrative Region ("HKSAR")	
002333-002849	Chairman Mr CHAN Chun-ying Administration	Restrictions on persons who had failed to meet the various requirements in relation to oath taking from participating in public elections, and whether vetting would be conducted for current public officers before the oath-taking ceremony to ensure that they genuinely and truthfully upheld BL and borne allegiance to HKSAR	
002850-003401	Chairman Dr CHENG Chung-tai Administration	Remuneration of a DC member who had resigned before being adjudged as having breached an oath or failed to uphold BL and bear allegiance to HKSAR Powers of oath administrators to invalidate an oath taken	
003402-003836	Chairman Deputy Chairman Administration	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	

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
		evidence that the person did not uphold BL and bear allegiance to HKSAR	
003837-004406	Chairman Mr Tony TSE Administration	Proposed removal of time limit for instituting legal proceedings against Legislative Council ("LegCo")/DC members by SJ on the grounds of disqualification Time limit for an elector to institute legal proceedings against LegCo/DC members on the grounds of disqualification	
004407-005417	Chairman Mr LEUNG Che-cheung Administration	Monitoring of public officers to uphold BL and bear allegiance to HKSAR during the term of office Negative list and protection of LegCo members under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) Whether a person who incited voters to cast blank votes during elections would be regarded as failing to uphold BL and bear allegiance to HKSAR	
005418-010049	Chairman Mr YIU Si-wing Administration	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 the Interpretation and General Clauses Ordinance (Cap. 1), and whether a person who put a video on social media showing acts specified in the proposed section 3AA(3)(h) of Cap. 1 in relation to the national anthem or any other symbol and sign of national sovereignty would be regarded as failing to uphold BL and bear allegiance to HKSAR Time scope of the negative list Authorities that could decide whether or not a person upheld BL and borne allegiance to HKSAR	
010050-010545	Chairman Ms YUNG Hoi-yan	Powers of oath administrators and whether an oath administrator could bar a person	

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
	Administration	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	
010546-011609	Chairman Mr Paul TSE Administration	Protection of LegCo Members under Cap. 382 New mechanism for SJ to bring legal proceedings for disqualification of a LegCo/DC member on the grounds of breach of an oath or failure to uphold BL and bear allegiance to HKSAR, removal of time limit for instituting proceedings, and immediate suspension of functions and duties of the member concerned ("new mechanism")	
011610-012343	Chairman Dr CHENG Chung-tai Administration	New mechanism, and whether the LegCo/DC member concerned might apply for legal aid Interpretation of the expression "indiscriminately objects to the Government's motion" in the proposed section 3AA(3)(f)(ii) of Cap. 1	
012344-012813	Chairman Mr LAU Kwok-fan Administration	Consideration factors and processing time for lifting the suspension of functions and duties resulting from the legal proceedings brought by SJ	
012814-013152	Chairman Deputy Chairman Administration	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	
013153-014722	Chairman Mr Paul TSE Administration	New mechanism; interface between the mechanism and Article 79(7) of BL; and whether the mechanism would be applicable to all other public officers Suggestion of requiring SJ to apply to the Court for suspension of a member's functions and duties rather than an automatic suspension following the	

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
		institution of legal proceedings Ambiguities and uncertainties in the positive and negative lists	
014723-015111	Chairman Dr CHENG Chung-tai Administration	New mechanism, and whether the mechanism would apply to all other public officers	
015112-015337	Chairman Administration	<u>Examination of clauses 1 to 8</u> Members raised no question	
015338-015749	Chairman Administration Senior Assistant Legal Adviser 2	<u>Examination of clauses 9 and 10</u> Discussion on whether possible circumstances in which a person would be regarded as breaching an oath could be included in the proposed section 20A(3)(b) of the Oaths and Declarations Ordinance (Cap. 11)	
015750-015836	Chairman Administration	<u>Examination of clause 11</u> Members raised no question	
<i>Agenda item II – Any other business</i>			
015837-015850	Chairman	Date of next meeting	