

立法會
Legislative Council

Ref : CB4/BC/3/20

LC Paper No. CB(4)1081/20-21
(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 fourth meeting
held on Monday, 12 April 2021, at 8:30 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
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

Member absent : Dr Hon Pierre CHAN

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

Ms Sandy HAU
Legislative Assistant (4)4

Action

I. 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>) |

Action

LC Paper No. CB(4)748/20-21(01) -- Senior Assistant Legal Adviser's letter dated 8 April 2021 to the Administration

LC Paper No. CB(4)748/20-21(02) -- Letter dated 8 April 2021 from Hon Holden CHOW Ho-ding)

Discussion

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

II. Any other business

Submissions from deputations/individuals of the public

2. The Chairman informed members that more than 1 000 submissions had been received from the public. The submission deadline was 14 April 2021 at 5:00 pm.

Date of next meeting

3. The Chairman advised that the next meeting would be held on 13 April 2021 at 8:30 am.

(Post-meeting note: The meeting had been re-scheduled to 15 April 2021 from 12:15 pm to 2:00 pm.)

4. There being no other business, the meeting ended at 10:16 am.

Council Business Division 4
Legislative Council Secretariat
7 June 2021

**Proceedings of the fourth meeting of the
Bills Committee on Public Offices (Candidacy and Taking Up Offices)
(Miscellaneous Amendments) Bill 2021
held on Monday, 12 April 2021, at 8:30 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>			
000351-000423	Chairman	Opening remarks	
000424-000827	Chairman Administration	Administration's reply to the Legal Adviser to the Bill Committee's letter dated 8 April 2021 [LC Paper No. CB(4)759/20-21(01)]	
000828-001213	Chairman Deputy Chairman Administration	Powers of oath administrators set out in the proposed section 20A of the Oaths and Declarations Ordinance (Cap. 11)	
001214-001500	Chairman Mr YIU Si-wing Administration	Circumstances in which an oath taken was determined to be invalid	
001501-002511	Chairman Ms YUNG Hoi-yan Administration	Suggestion of empowering oath administrators to bar a person from taking an oath or determine an oath as invalid immediately after it was taken where there was sufficient evidence that the person did not uphold the Basic Law ("BL") and bear allegiance to the Hong Kong Special Administrative Region ("HKSAR")	
002512-003014	Chairman Mr YIU Si-wing Administration	Relevant authorities to judge whether a Legislative Council ("LegCo")/District Council ("DC") member should be regarded as being absent from a LegCo/DC meeting when his/her duties were being suspended	
003015-005734	Chairman Mr Paul TSE Administration	Factors to decide whether a DC member should be regarded as being absent when his/her duties were being suspended New mechanism for the Secretary for Justice ("SJ") to bring legal proceedings against a LegCo/DC member on the grounds of disqualification, including removal of the time limit for instituting	

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
		proceedings and immediate suspension of functions and duties of the member concerned	
005735-010009	Chairman Mr WONG Kwok-kin Administration	Suggestion of putting in place check and balance, such as the LegCo to decide by a simple majority whether a member's suspension of functions and duties warranted, rather than an automatic suspension following SJ's institution of legal proceedings	
010010-011259	Chairman Senior Assistant Legal Adviser 2 ("SALA2") Administration	Clarification of the proposed sections 73(2A) to 73(2E) Unfairness that might cause by the relevant proceedings brought by SJ to the LegCo/DC members as the relevant evidence might have been diminished after a long lapse of time from the alleged act was committed	
011300-011715	Chairman Administration SALA2	<u>Examination of clause 22</u> Reason(s) for using different wording when referring to an oath (i.e. "指明誓言" and "根據《宣誓及聲明條例》(第 11 章)第 19A 條作出的誓言" respectively in the proposed sections 19(1A)(a)(i) and 19(1A)(b) of the District Councils Ordinance (Cap. 547)	
011716-011927	Chairman Administration	<u>Examination of clauses 23 to 25</u> Members raised no question	
011928-012603	Chairman Administration Mr Paul TSE Deputy Chairman	<u>Examination of clause 26</u> Suggestion of including a provision specifying the remuneration arrangement of a LegCo/DC member during suspension of functions and duties	

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
012604-013213	Chairman Deputy Chairman Administration	SJ's application for an interim injunction to restrain a person acted, or claimed to be entitled to act, as a member while his/her functions and duties as a member were suspended in accordance with the proposed section 79(2F) of Cap. 547	
013213-013808	Chairman SALA2 Administration	Use of "如" in the Chinese text of the proposed new section 79(2D) of Cap. 547 suggested that the member concerned might still attend meetings during suspension of functions and duties	
013809-014409	Chairman Mr Paul TSE Administration	Suggestion of improving the drafting of the proposed new section 79(2D) of Cap. 547 to avoid ambiguity Suggestion of including a provision specifying the remuneration arrangement of a LegCo/DC member during suspension of functions and duties to adhere closely to section 2(1) of the "Interpretation of Article 104 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China"	Admin
014410-014525	Chairman SALA2 Administration	Inconsistency in using "提出法律程序" in the proposed new section 79(2A) of Cap. 547 and "提起法律程序" in the existing sections 79(1) and 79(3) of Cap. 547	Admin
014526-014917	Chairman Administration	<u>Examination of clauses 26(3) to 31</u> Members raised no question	
<i>Agenda item II – Any other business</i>			
014918-015028	Chairman	Completion of the clause-by-clause examination of the Bill Submissions from the public Date of next meeting	