

立法會
Legislative Council

Ref : CB4/BC/5/20

LC Paper No. CB(4)1398/20-21
(These minutes have been seen
by the Administration)

**Bills Committee on Improving Electoral System
(Consolidated Amendments) Bill 2021**

**Minutes of the second meeting
held on Monday, 19 April 2021, at 8:30 am
in Conference Room 1 of the Legislative Council Complex**

- Members present** : Hon Martin LIAO Cheung-kong, GBS, JP (Chairman)
Hon CHEUNG Kwok-kwan, JP (Deputy Chairman)
Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon CHAN Hak-kan, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Frankie YICK Chi-ming, SBS, JP
Hon MA Fung-kwok, GBS, JP
Hon Alice MAK Mei-kuen, BBS, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon Wilson OR Chong-shing, MH
Dr Hon CHENG Chung-tai
- Public Officers attending** : Mr Erick TSANG Kwok-wai, IDSM, JP
Secretary for Constitutional and Mainland Affairs
- Mr Roy TANG Yun-kwong, JP
Permanent Secretary for Constitutional and Mainland Affairs
- Ms Cherie YEUNG Lok-sze
Principal Assistant Secretary (Constitutional and Mainland
Affairs) 2
- Ms Carmen KONG Ka-man
Principal Assistant Secretary (Constitutional and Mainland
Affairs) 3

Mr Llewellyn MUI Kei-fat
Law Officer (Special Duties) (Acting)
Department of Justice

Mr Peter SZE Chun-fai
Senior Assistant Law Draftsman
Department of Justice

Mr Wallace NG Long-ting
Government Counsel
Department of Justice

Miss Celia HO Wai-kwan
Government Counsel
Department of Justice

Clerk in attendance : Ms Joanne MAK
Chief Council Secretary (4) 7

Staff in attendance : Mr Bonny LOO
Senior Assistant Legal Adviser 3

Ms Clara WONG
Assistant Legal Adviser 4

Mr Dennis HO
Senior Council Secretary (4) 7

Ms Louisa YU
Legislative Assistant (4) 7

Action

I. Meeting with the Administration

[File Ref.: CMAB C1/30/5/5, LC Paper Nos. CB(3)444/20-21, LS65/20-21, CB(4)814/20-21(01) and (02)]

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

Discussion/Clause-by-clause examination

Clauses 185 & 401: Registration of Hong Kong Special Administrative Region ("HKSAR") deputies to the National People's Congress ("NPC deputies") and HKSAR members of the Chinese People's Political Consultative Conference National Committee ("CPPCC members") as ex-officio members of the Election Committee ("EC")

2. Members noted that under the reconstitution of EC, all NPC deputies and CPPCC members were ex-officio members of EC. However, under the proposed new section 5I (2) of the Schedule to the Chief Executive Election Ordinance (Cap. 569), if an NPC deputy or CPPCC member was also concurrently a Legislative Council ("LegCo") Member, he/she would have to register as an ex-officio member of the LegCo Members subsector. Mr MA Fung-kwok and Mr WONG Kwok-kin expressed concern as to whether the NPC deputy or CPPCC member would lose his/her ex-officio seat in EC, if he/she did not seek re-election or failed to be re-elected in the 2021 LegCo election in December 2021 and by then the total of 190 seats assigned to the NPC deputies and CPPCC members subsector ("NPC and CPPCC subsector") would have all been filled. As a result, the person concerned could neither register as an ex-officio member of the LegCo Members subsector nor of the NPC and CPPCC subsector. They asked whether the Administration would consider allowing the person concerned to choose whether he/she would like to register in the NPC and CPPCC subsector or the LegCo Members subsector as an ex-officio member, instead of binding him/her to register in the LegCo Members subsector as an ex-officio member from the outset.

3. Permanent Secretary for Constitutional and Mainland Affairs ("PSCMA") advised that if an NPC deputy or CPPCC member was also a holder of specified office in another subsector ("specified subsector") (i.e. subsectors that were not the NPC and CPPCC subsector), he/she could only register as an ex-officio member of that specified subsector. Secretary for Constitutional and Mainland Affairs ("SCMA") explained that as the number of seats of the NPC and CPPCC subsector was fixed at 190, it would not be able to accommodate all the NPC deputies or CPPCC members, of whom there were about 230. It was therefore inevitable that some of them would have to register in other subsectors and the Central Authorities were well aware of the situation.

4. PSCMA further said that if the total number of NPC deputies and CPPCC members who were eligible to be registered as ex-officio members after deducting the number of members registered in specified subsectors exceeded the total number of 190 seats assigned to the NPC and CPPCC subsector, then those NPC deputies and CPPCC members might choose to register as ex-officio

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members in other subsectors with which they had substantial connection. If there were NPC deputies or CPPCC members who chose to register in other subsectors as described above, then the number of ex-officio seats of that subsector would increase and the number of elected seats of that subsector would decrease correspondingly. Moreover, after the NPC deputies and CPPCC members were registered as the EC members of the relevant subsectors, the number of ex-officio EC members, and the number of EC members to be returned by nomination or election for each subsector should remain unchanged during that term of EC. PSCMA explained that the above arrangement was to reflect the principle and intent of the relevant requirements enshrined in the amended Annex I to the Basic Law. He added that all registrations of NPC deputies or CPPCC members should be submitted and coordinated by the Friends of Hong Kong Association Limited.

5. In response to Mr MA Fung-kwok's further enquiry, Principal Assistant Secretary (Constitutional and Mainland Affairs) 3 explained that generally speaking, the holders of the specified offices (i.e. specified persons) in each of the subsectors might register as ex-officio members of that subsector. However, if the specified person was holding more than one specified office, except for certain subsectors, the specified person might designate another person who was holding an office in a relevant body to be registered as an ex-officio member of that subsector.

6. Regarding the explanation of the meaning of "substantial connection" (密切聯繫) in the Schedule (Part 1) to Cap. 569, Mr Paul TSE requested the Administration to provide the judgement of relevant court cases for members' reference. PSCMA agreed to provide the same.

Admin

7. Mrs Regina IP considered that the Commissioner of Civil Aid Service should also be made one of the specified offices. She said that the Civil Aid Service provided important auxiliary emergency service and various community services. She requested the Administration to consider this in future review.

8. With regard to the proposed new section 5K of the Schedule to Cap. 569 on "Validity of registration contingent on declaration", members noted that the relevant registration form contained a declaration to the effect that the person would uphold the Basic Law and pledge allegiance to HKSAR. Ms Alice MAK enquired whether the form would also require the signee to declare his/her nationality and whether he/she was in possession of passports issued by foreign countries (e.g. British Nationals (Overseas) passports).

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9. PSCMA advised that as there was no nationality requirement for candidates of EC, there were no such requirements in the relevant form, nor would candidates be required to provide such information during the nomination stage. It should also be noted that the information provided by a candidate would be made public. That said, PSCMA pointed out that the Candidate Eligibility Review Committee actually could ask the candidate to provide any additional information it considered necessary in the course of its assessment work.

Admin

10. Ms Alice MAK, however, considered that a person who dared not disclose his/her nationality and whether he/she was in possession of passports issued by foreign countries should not be eligible to participate in the EC election and that such information should be made public. SCMA said that the Administration would study how to properly collect relevant information during the nomination process.

Admin

11. In response to Ir Dr LO Wai-kwok's enquiry on the nomination form referred to in the proposed section 7 of the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541I), PSCMA agreed to provide a sample of the form for members' reference.

12. Members noted that the next meeting would be held in that afternoon at 2:30 pm.

II. Any other business

13. There being no other business, the meeting ended at 10:28 am.

**Proceedings of the second meeting of the
Bills Committee on Improving Electoral System
(Consolidated Amendments) Bill 2021
on Monday, 19 April 2021, at 8:30 am
in Conference Room 1 of the Legislative Council Complex**

Time Marker	Speaker(s)	Subject(s)	Action required
000357 - 000520	Chairman	Opening remarks	
000521 - 002208	Chairman Mr MA Fung-kwok Senior Assistant Legal Adviser ("SALA") Deputy Chairman Mr Wilson OR Mrs Regina IP Administration	Continuation of clause-by-clause examination of the Improving Electoral System (Consolidated Amendments) Bill 2021("the Bill") <u>Examination of clauses 185 and 401 of the Bill</u> - Discussion on issues relating to the registration eligibility of becoming ex-officio members of the Election Committee ("EC")	
002209 - 004808	Chairman Mr WONG Kwok-kin Mr MA Fung-kwok Mr Frankie YICK Mr Tommy CHEUNG Mrs Regina IP Administration	- Discussion on the registration of Hong Kong Special Administrative Region ("HKSAR") deputies to the National People's Congress ("NPC deputies"), HKSAR members of the Chinese People's Political Consultative Conference National Committee ("CPPCC members"), and Legislative Council Members as ex-officio members of EC	
004809 - 010324	Chairman Mr Paul TSE SALA Mr MA Fung-kwok Mr Tommy CHEUNG Deputy Chairman Administration	- Concerns on the meaning of "substantial connection" in the Schedule to the Chief Executive Election Ordinance (Cap. 569) - Concerns on matters relating to the registration of NPC deputies and CPPCC members as ex-officio members of EC	Admin. to provide information (para. 6 of minutes)
010325 - 011452	Chairman Ms Alice MAK Mr Paul TSE Mr WONG Kwok-kin Mrs Regina IP Administration	- Concerns as to whether the persons seeking registration/nomination as EC members should be required to declare their nationalities and whether they were in possession of passports issued by foreign countries	Admin. to study how to properly collect relevant information during the registration/nomination process (para. 10 of minutes)

Time Marker	Speaker(s)	Subject(s)	Action required
011453 - 013957	Chairman Deputy Chairman Mr Paul TSE Administration	- Discussion on issues relating to ex-officio members of EC	
013958 - 014642	Chairman Deputy Chairman Administration	<u>Examination of clauses 403-405 and 411 of the Bill</u> - Enquiries relating to the designated bodies of certain EC subsectors	
014643 - 020214	Chairman Ir Dr LO Wai-kyok Ms Alice MAK Mr Paul TSE Administration	<u>Examination of clauses 187, 190, 194, 407, 409 and 410 of the Bill</u> - Discussion on the procedures for nominating members of EC	Admin. to provide a sample of the relevant nomination form (para. 11 of minutes)
020215 - 020231	Chairman Members	Date of next meeting and closing remarks	

Council Business Division 4
Legislative Council Secretariat
20 August 2021