

立法會
Legislative Council

Ref : CB4/BC/5/20

LC Paper No. CB(4)1401/20-21
(These minutes have been seen
by the Administration)

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

**Minutes of the fifth meeting
held on Wednesday, 21 April 2021, at 8:30 am
in Conference Room 2 of the Legislative Council Complex**

Members present : Hon Martin LIAO Cheung-kong, GBS, JP (Chairman)
Hon CHEUNG Kwok-kwan, JP (Deputy Chairman)
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

Member absent : Hon Tommy CHEUNG Yu-yan, GBS, JP

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

Miss Annet LAI Chau-mei
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 Emily LIU
Legislative Assistant (4) 6

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), CB(4)836/20-21(01) and CB(4)827/20-21(01)]

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

(At 9:43 am, the Deputy Chairman took the chair in the temporary absence of the Chairman. The Chairman resumed the chair at 9:45 am.)

Discussion/Clause-by-clause examination

Clauses 266 & 342: Delineation of boundaries of geographical constituencies ("GCs") for the 2021 Legislative Council ("LegCo") General Election ("LCGE")

2. Members noted that the approved maps of GCs for the 2021 LCGE were described in the proposed new Schedule 6 to the Legislative Council Ordinance (Cap. 542). They enquired about the factors considered in the delineation of the GC boundaries. The Chairman raised concerns that the delineation might cause confusion to electors. Using the Sha Tin District as an example, he said that "City One" and "Yue Tin Court", as well as "Prima Villa" and "Yu Chui Court", which were all adjacent communities, were now included in the "New Territories North East" and "New Territories South East" GCs respectively. He expressed concerns as to whether the delineation would lead to confusion in voting.

3. Principal Assistant Secretary (Constitutional and Mainland Affairs) 2 ("PAS(CMA)2") explained that the proposed boundaries of the 10 LegCo GCs were based on the District Council constituency area ("DCCA") boundaries for the 2019 District Council Ordinary Election as recommended by the Electoral Affairs Commission ("EAC") and approved by the Chief Executive in Council. The delineation of the proposed GC boundaries followed the established criteria adopted by EAC to ensure that each GC comprised a number of contiguous whole DCCAs and that the projected population of each GC did not deviate from the resulting number (i.e. multiplying the population quota by the number of members to be returned by that GC) by more than 15%.¹ The community identities, preservation of local ties and the physical features of the areas concerned were also taken into account. PAS(CMA)2 added that as the total number of GCs would be increased from five to 10, it was inevitable that some area within certain Districts had to be split and incorporated into the boundaries of two different proposed GCs, so as to strike a good balance and minimize the impact. Permanent Secretary for Constitutional and Mainland Affairs ("PSCMA") also added that no single DCCA was split under the proposal.

¹ The population quota is the quotient in dividing the projected population of Hong Kong by the total number of elected seats from all GCs, which is 379,010. The resulting number is given by multiplying the population quota by the number of LegCo Members to be returned by that GC pursuant to electoral law. Therefore, the resulting number is $379,010 \times 2 = 758,020$.

Action

4. In response to members' concern as to whether the delineation of the proposed GC boundaries would lead to confusion among GC electors on the polling day, PSCMA advised that the allocated polling station and its address and location map would be clearly shown on the poll cards. The Administration was confident that electors should not find it difficult in ascertaining the location of the polling stations assigned to them. PSCMA further said that to secure the use of venues as polling stations that were most convenient to electors, the Bill sought to empower the Chief Electoral Officer to require schools and non-governmental organizations receiving grants from the Government to make available their premises for use as polling and/or counting stations in public elections.

5. Members noted that the projected population (as at 2021) of each proposed GC and its deviation from the resulting number were provided in Annex H to the LegCo Brief. Dr CHENG Chung-tai enquired whether the GC boundaries would be further adjusted in the light of population changes in different GCs in the future. PSCMA advised that for the 2025 LCGE, EAC would continue to perform its statutory function of reviewing the GC boundaries in accordance with the existing criteria set out in the Electoral Affairs Commission Ordinance (Cap. 541), which included the projected population of each GC.

Clause 308: Death or disqualification of a validly nominated candidate for GC before date of election

6. Members noted that the proposed new section 42C of Cap. 542 stipulated that, after the close of nominations for an election for a GC or functional constituency ("FC"), but before the date of the election, if a validly nominated candidate died or was disqualified from being nominated as a candidate, the Returning Officer must declare that the proceedings for the election were terminated ("the proposed termination arrangement"). They enquired about the rationale behind the proposed termination arrangement.

7. PSCMA explained that according to the existing Cap. 542, after the close of nominations for an election for a traditional FC, but before the date of the election, if a validly nominated candidate died or was disqualified from being nominated as a candidate, the Returning Officer must terminate the election process for that FC. The proposed termination arrangement was exactly based on the aforesaid arrangements which had all along been applied to elections of traditional FCs, where it was likely to have only two candidates contesting for one seat. PSCMA pointed out that when the Government drafted the relevant provisions in 1999, the original proposal was to allow the GC, FC and Election Committee constituency election to continue in those circumstances.

Action

During the Bills Committee stage of the LegCo (Amendment) Bill 1999, LegCo Members considered that an FC election was different from other elections in the sense that an FC election usually comprised electors from a small number of representative organizations. If a candidate from a particular organization could no longer contest in the election due to death or disqualification and yet the election continued, the electors in that organization would be deprived of an opportunity to nominate another candidate to represent them. In the end, the Government moved a committee stage amendment such that the FC election would be terminated if a candidate died or was disqualified after the nomination period but before the polling day. PSCMA said following the established practice for FCs since 1999, the same arrangement was now proposed to be adopted for GC elections to ensure that electors under the proposed the "double-seat, single-vote" election method would not be deprived of a choice in the event of the death of disqualification of a candidate in their GC.

8. In response to members' concerns about the reimbursement of election expenses and the provision of financial assistance following the termination of a GC election, PSCMA advised that financial assistance would not be payable to the candidates concerned in a terminated election where no votes had been cast. Ms Alice MAK said that the arrangement was unfair to the candidate who had not been disqualified but could not claim any election expenses just because his/her rival had been disqualified. She reminded the Administration that GC elections often involved electioneering activities of much larger scales than FCs and objected to taking reference from the FC elections in this regard. Mr WONG Kwok-kin suggested that the Administration should make reference to the experience of disbursing the declared election expenses for candidates who ran in the discontinued 2020 LCGE. PSCMA agreed to consider members' views and suggestion.

Admin

9. Some members considered that some persons with an ulterior motive might try to sabotage the GC elections by sending persons who had high risks of being disqualified from being validly nominated to run for the GC elections with an aim to trigger the proposed termination arrangement. In light of members' concerns, the Chairman requested the Administration to reconsider the proposed termination arrangement.

Admin

10. Members noted that the next meeting would be held on Thursday, 22 April 2021, from 9:00 am to 1:00 pm.

Action

II. Any other business

11. There being no other business, the meeting ended at 10:29 am.

Council Business Division 4
Legislative Council Secretariat
20 August 2021

**Proceedings of the fifth meeting of the
Bills Committee on Improving Electoral System
(Consolidated Amendments) Bill 2021
on Wednesday, 21 April 2021, at 8:30 am
in Conference Room 2 of the Legislative Council Complex**

Time Marker	Speaker(s)	Subject(s)	Action required
000411 - 000530	Chairman	Opening remarks	
000531 - 002805	Chairman Dr Priscilla LEUNG Dr CHENG Chung-tai Administration	Continuation of clause-by-clause examination of the Improving Electoral System (Consolidated Amendments) Bill 2021 ("the Bill") <u>Examination of clauses 9, 76(2), 80(7), 265, 266(2) and (3), 342 and 359 of the Bill</u> - Concerns about the delineation of boundaries of geographical constituencies ("GCs") for the 2021 Legislative Council ("LegCo") General Election	
002806 - 003823	Chairman Mr MA Fung-kwok Administration	<u>Examination of clauses 294(11)-(13) and 311 of the Bill</u> - Discussion on the voter registration arrangements for the new LegCo functional constituency ("FC") of "Hong Kong Special Administrative Region Deputies to the National People's Congress, Hong Kong Special Administrative Region Members of the National Committee of the Chinese People's Political Consultative Conference and Representatives of Relevant National Organizations" and the Heung Yee Kuk FC	
003824 - 012202	Chairman Mrs Regina IP Ms Alice MAK Mr WONG Kwok-kin Mr CHAN Hak-kan Mr Frankie YICK Mr MA Fung-kwok Deputy Chairman Administration	<u>Examination of clauses 94-96, 151, 155, 300, 307(1), (3), (4) and (6), 308 and 315 of the Bill</u> - Concerns about the proposed termination arrangement upon the death or disqualification of a validly nominated candidate after the close of nominations for a GC election but before the date of the election, and the provision of financial assistance following the termination of the election	Admin. to reconsider the proposed termination arrangement (paras. 8 and 9 of minutes)

Time Marker	Speaker(s)	Subject(s)	Action required
012203 - 020307	Chairman Dr Priscilla LEUNG Administration	<u>Examination of clauses 80(15), (17), (18) and (20), 84(4)-(6), (8) and (9), 92(2), 97, 98, 105(1), 108(1), 109(1)-(2) and (5)-(15), 110(4)-(10), 111(1), (6), (7), (13) and (14), 117(3), 125, 126, 133(2)-(4), 140(8), 142(7) and (8), 143(5) and (8), 150(3), 153(2), 154, 158(1), 159(1), 262(4), 302, 309(1)-(3) and (6)-(9), 318, 319(1) and (4)-(7), 320-323, 325, 334, 361(1) and (3)-(8), 363-365, 369 and 370</u> - Discussion on the proposed consequential legislative amendments in respect of the abolition of the list voting system for LegCo GCs and the District Council (Second) FC	
020308 - 020334	Chairman Members	Date of next meeting and closing remarks	

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