

立法會
Legislative Council

LC Paper No. LS27/2025

**Paper for the House Committee Meeting
on 28 March 2025**

**Legal Service Division Report on
Electoral Legislation (Miscellaneous Amendments) Bill 2025**

I. SUMMARY

- 1. The Bill**

The Bill seeks to amend the Electoral Affairs Commission Ordinance (Cap. 541) and the Chief Executive Election Ordinance (Cap. 569), and their subsidiary legislation to:

 - (a) make technical revisions in relation to the delineation of geographical constituency boundaries for the Legislative Council (“LegCo”) general elections;
 - (b) enhance the counting procedures for functional constituencies;
 - (c) consolidate ballot paper accounts; and
 - (d) make related or technical amendments to the electoral legislation.
- 2. Public Consultation**

It is mentioned in the LegCo Brief that the Administration has considered the opinion of LegCo Members and other stakeholders. Upon the Legal Service Division’s enquiry, the Administration clarified that it has taken into account views and opinions expressed by LegCo Members, and that expressed in the media and by members of the public, etc. The Administration has also consulted the Electoral Affairs Commission. According to the Administration, the stakeholders generally supported the legislative proposals.
- 3. Consultation with LegCo Panel**

The Panel on Constitutional Affairs was consulted on various proposed legislative amendments for improving electoral arrangements at its meeting on 16 December 2024. Members generally supported the legislative proposals and expressed various views.
- 4. Conclusion**

The Legal Service Division is scrutinizing the legal and drafting aspects of the Bill. As the Bill seeks to revise the electoral procedures and arrangements under various items of electoral legislation, Members may wish to form a Bills Committee to study the Bill in detail.

II. REPORT

The date of First Reading of the Bill is 26 March 2025. Members may refer to the Legislative Council (“LegCo”) Brief (File Ref: CMAB C1/30/5/6) issued by the Constitutional and Mainland Affairs Bureau on 19 March 2025 for further details.

Object of the Bill

2. The Bill seeks to amend the Electoral Affairs Commission Ordinance (Cap. 541) and the Chief Executive Election Ordinance (Cap. 569), and their subsidiary legislation to:

- (a) make technical revisions in relation to the delineation of geographical constituency boundaries for the LegCo general elections;
- (b) enhance the counting procedures for functional constituencies (“FCs”);
- (c) consolidate ballot paper accounts; and
- (d) make related or technical amendments to the electoral legislation.

Background

3. The Chief Executive (“CE”) has specified 7 December 2025 as the date for holding the general election for the Eighth LegCo. Further, the Election Committee (“EC”) Subsector By-elections will be held on 7 September 2025 to fill the vacancies of elected members of EC so that they could nominate candidates in the LegCo general election and vote in the Election Committee constituency (“ECC”). According to paragraph 4 of the LegCo Brief, to ensure the smooth conduct of the said two elections, the Administration proposes to make certain amendments to the relevant electoral legislation. The Bill is therefore introduced to revise certain electoral procedures and arrangements. Key provisions of the Bill are summarized in the ensuing paragraphs.

Provisions of the Bill

Delineation of geographical constituency boundaries for the Legislative Council general elections

4. LegCo general election is composed of the elections for geographical constituencies (“GCs”), FCs and ECC. At present, in relation to a LegCo general

election, section 18 of Cap. 541 provides that the Electoral Affairs Commission (“Commission”) shall submit to CE a report containing recommendations for the delineation of GCs and the name proposed by the Commission for each constituency. Section 20(2) and (4)(a) of Cap. 541 further provides that in making such recommendations the Commission shall ensure that each proposed GC is constituted by two or more contiguous whole District Council (“DC”) constituencies, and that the Commission shall have regard to existing boundaries of Districts. After the improvement on district governance and reforms to DCs in 2023, DCGCs have been substantially modified in that the original 452 constituencies have been merged into 44 constituencies as provided in Schedule 8 to the District Councils Ordinance (Cap. 547). As stated in paragraph 7 of the LegCo Brief, under the circumstances, the delineation of LegCo GCs no longer has any direct connection with DCGCs.

5. Clause 3 of the Bill seeks to repeal section 20(2) and amend section 20(4) of Cap. 541 to the effect of removing the connection between the delineation of GC boundaries for LegCo general elections, and DC constituencies and the Districts.

Counting procedures for functional constituencies

6. At present, section 78A(4) of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D) provides that the votes cast for the candidates for ECC may be counted by using an approved programme¹ and a computer. However, such arrangement is currently not applicable to elections for GCs and FCs.

7. Clause 18 of the Bill seeks to add a new section 77AA to Cap. 541D to provide for the procedures of counting of votes for FCs with the use of an approved programme² so that manual sorting of ballots papers by constituency before counting would no longer be necessary.

8. Clauses 13(1) and 17 of the Bill seek to amend section 73B(1) and section 77 of Cap. 541D respectively to the effect that the current arrangements for the sorting of and verifying the number of FC ballot papers at the central counting station and the current procedures of the counting of votes for FCs would continue to be applicable when the counting is done without the use of an approved programme.

¹ Section 78A(6) of Cap. 541D defines “approved programme” to mean any computer software that the Commission is satisfied is programmed to count the votes for ECC so as to give an accurate result. Clause 19 of the Bill seeks to repeal section 78A(6) of Cap. 541D as clause 12 of the Bill proposes to provide for a new definition of “approved programme” (see footnote 2).

² Clause 12 of the Bill seeks to add a new definition of “approved programme” to section 69A(1) of Cap. 541D for the interpretation of Division 2 of Part 4 of Cap. 541D. According to this proposed new definition, “approved programme” means any computer software that the Commission is satisfied is programmed to count the votes recorded on the ballot papers for one or more constituencies so as to give an accurate result. The effect is that the proposed new definition would not only apply to the counting of ECC votes.

Such current arrangements include that the Returning Officer for a FC must sort FC ballot papers according to each FC, and count and record the number of the ballot papers for each FC.

Consolidation of ballot paper accounts

9. In relation to LegCo general elections, the existing section 64 of Cap. 541D provides that the Presiding Officer (“PRO”) must prepare a statement in the specified form and show the number of ballot papers for the constituency supplied to PRO under section 37(2) of Cap. 541D and account for those ballot papers under the following heads: (a) the number of ballot papers estimated by PRO to be in the ballot box or boxes; (b) the number of un-issued ballot papers; (c) the number of unused ballot papers; and (d) the number of spoilt ballot papers. At a polling station used for polling for more than one constituency, PRO must make a separate statement for each constituency. In relation to EC subsector elections, section 62 of the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541I) also provides that a similar statement must be prepared for each subsector. According to paragraph 11 of the LegCo Brief, the compilation of the relevant accounts is labour-intensive and time-consuming, and it also has a bearing on the earlier commencement of counting work after the close of poll.

10. Clause 11 of the Bill seeks to repeal section 64 of Cap. 541D and substitute it with a proposed new section 64 to provide that for each type of the ballot papers (i.e. ECC ballot papers, FC ballot papers or GC ballot papers) issued by a polling station, PRO must prepare a statement in the specified form that shows: (a) the total number of ballot papers issued by the polling station; (b) the number of unused ballot papers; (c) the number of spoilt ballot papers; and (d) the number of tendered ballot papers. Clause 30 of the Bill seeks to repeal section 62 of Cap. 541I and substitute it with a proposed new section 62 to provide that for the ballot papers issued by a polling station for EC subsector elections, PRO must similarly prepare a statement in the specified form that shows, among others, the total number of ballot papers issued by the polling station. The effect of clauses 11 and 30 of the Bill is that PRO would no longer need to compile an account for each individual constituency or subsector.

Compilation and publication of provisional and final registers of voters for subsectors

11. At present, section 14(1) of the Schedule to Cap. 569 provides that the Electoral Registration Officer (“ERO”) must compile and publish in accordance with the regulations made under section 7 of Cap. 541 (a) not later than 1 August in each year, a provisional register of voters for subsectors; and (b) not later than 25 September in each year, a final register of voters for subsectors. According to paragraph 13 of the LegCo Brief, as the polling date of the 2025 EC subsector by-election is set for 7 September 2025, to enable the by-election to be conducted on the basis of the latest voter situation, the Administration proposes to introduce provisions to empower ERO

to advance by means of Gazette notice the deadlines for specific registration procedures related to EC subsector registers in the year of LegCo general election.

12. Clause 38 of the Bill seeks to add new section 14(1AB) to the Schedule to Cap. 569 to provide that despite section 14(1) of the Schedule to Cap. 569, if a subsector provisional register and a subsector final register are required to be compiled and published in a year in which a general election is also held under the Legislative Council Ordinance (Cap. 542), (a) ERO may, by notice published in the Gazette, do any of the following: (i) specify an earlier date in the year by which the subsector provisional register must be so compiled and published; (ii) specify an earlier date in the year by which the subsector final register must be so compiled and published; and (b) the register concerned must be compiled and published not later than the earlier date so specified.

13. In view of the proposed new section 14(1AB) of the Schedule to Cap. 569, consequential amendments are also proposed to be made to the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541B) (clause 5 of the Bill) and the Election Committee (Registration) (Voters for Subsectors) (Members of Election Committee) (Appeals) Regulation (Cap. 569B) (clause 39 of the Bill).

Related and technical amendments

14. The Bill also proposes to make other related and technical amendments, including amendments relating to the name of and other information relating to any deceased or disqualified candidate printed on the ballot papers (e.g. clauses 7 and 27 of the Bill).

Commencement

15. The Bill contains no commencement provision. By virtue of section 20(2)(a) of the Interpretation and General Clauses Ordinance (Cap. 1), the Bill (if passed) would come into operation on the day the enacted Ordinance is published in the Gazette.

Public Consultation

16. According to paragraph 18 of the LegCo Brief, the Administration has considered the opinion of LegCo Members and other stakeholders. Upon the Legal Service Division's enquiry, the Administration clarified that it has taken into account views and opinions expressed by members of the Panel on Constitutional Affairs, other LegCo Members, and that expressed in the media and by members of the public, etc.

The Administration has also consulted the Commission. According to the Administration, the stakeholders generally supported the legislative proposals.

Consultation with LegCo Panel

17. As advised by the Clerk to the Panel on Constitutional Affairs, the Administration consulted the Panel on various proposed legislative amendments for improving electoral arrangements at its meeting on 16 December 2024. Members generally supported the enhancement of the electoral arrangements, including the adoption of more information technology and smart technologies to improve efficiency, but also expressed concerns over the safety and security, privacy protection, user-friendliness, public perception, etc. To ensure the smooth conduct of the upcoming elections, Panel members suggested that the Administration should strengthen collaboration among relevant government departments, conduct regular drills, and enhance training for polling station staff.

Conclusion

18. The Legal Service Division is scrutinizing the legal and drafting aspects of the Bill. As the Bill seeks to revise the electoral procedures and arrangements under various items of electoral legislation, Members may wish to form a Bills Committee to study the Bill in detail.

Prepared by

Rachel DAI
Senior Assistant Legal Adviser
Legislative Council Secretariat
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