



Legislative Council (Amendment) Bill 2011

1. The Law Society has reviewed the Legislative Council (Amendment) Bill (Bill) and notes the proposed changes to the existing electoral system raise serious constitutional concerns.

Public consultation appropriate

2. The Bill was gazetted on 3 June 2011 and the Government has indicated that it wants Legco to pass the Bill before the summer recess – there is no justification for such haste. The Government has decided not to issue a consultation paper which is contrary to the practice of the Constitutional and Mainland Affairs Bureau (CMAB) which has issued Consultation Papers in respect of all constitutional reform ever since 1997. CMAB has not offered any explanation why a full consultation should not take place before such a major piece of legislation which affects the electorate's rights is placed before the legislature.
3. The timetable below shows the short timeframe within which the Administration is attempting to have this Bill passed. It clearly shows the public has not been given adequate time to digest the complicated proposals.

May 17	Announcement made by the Secretary for Constitutional and Mainland Affairs (SCMA)
May 24	SCMA briefed the Legco Panel on Constitutional Affairs
June 3	Legislative Council (Amendment) Bill was gazetted
June 10	Bills Committee formed
June 17 – June 24	Six Bills Committee meetings held within a week
July 15	Date when the Administration plans to pass the Bill

4. The current arrangement of by-election in the event of death or resignation has been in place for some time and has been serving the community well. On a change of such significance and magnitude, the Law Society regrets the failure of the CMAB to conduct a comprehensive public consultation before the Bill was gazetted. The Hong Kong electorate is entitled to discuss and convey to the Government their views on fundamental changes to the electoral system which affect their fundamental right to vote as enshrined in Article 68 of the Basic Law.

Derogation from fundamental rights not justified

5. The CMAB has not provided sufficient justification for its proposal to introduce new arrangements which derogate from the fundamental right of Hong Kong electors to vote to fill vacancies arising under Section 15 of the Legislative Council Ordinance.

The Law Society recommends the Government should withdraw the Bill in its current form, and re-issue a full consultation with an adequate period for full consultation on its proposal to abolish by-elections and replace such elections with a "Precedence List" for the Geographical Constituencies and the District Council (second) FCs.

**Council
The Law Society of Hong Kong
28 June 2011**



President Mr. Junius Ho



President Mr. Junius Ho (Middle), Vice Presidents Mr. Dieter Yih (Right) and Mr. Ambrose Lam (Left) announced the Law Society's viewpoints on the proposed replacement mechanism.

The Law Society's announcement can be viewed [here](#).