

**Table of Comparison between
the Basic Law and the Chief Executive Election Bill**

Provision of the Chief Executive (CE) Election Bill (Clause Number and Heading)	Relevant Article of the Basic Law (BL)	Remarks (if any)
1. Short title and commencement	—	Normally required for a Bill.
2. Interpretation	—	Normally required for a Bill.
3. Term of office of Chief Executive	46	BL 46 stipulates that the term of the CE shall be five years and a person may serve for not more than two consecutive terms.
4. Vacancy in office	—	The clause provides for the circumstances under which the office of the CE becomes vacant.
5. Declaration of vacancy	53	A procedural step required when the office of the CE becomes vacant and a new CE has to be selected within 6 months.
6. Election to return candidate for appointment to fill vacancy in office	45, 53 & Annex I	BL 45 provides that the CE shall be selected through election held locally. Paragraph 1 of Annex I stipulates that the CE shall be
7. Election by Election Committee	Paragraph 1 of Annex I	elected by a broadly representative Election Committee (EC) and be appointed by the CPG. Following BL 53, in the event that the office of CE becomes vacant, a new CE with a five year term shall be elected within 6 months.
8. Constitution of Election Committee	Annexes I & II	It is clear from the BL that the ECs referred to in Annexes I and II are one and the same.
9. Term of office of Election Committee	Paragraph 2 of Annex I	Paragraph 2 of Annex I stipulates that the term of the EC shall be five years.

Provision of the Chief Executive (CE) Election Bill <i>(Clause Number and Heading)</i>	Relevant Article of the Basic Law (BL)	Remarks (if any)
10. Polling date	—	How polling date is to be fixed is part and parcel of the method for the selection of the CE.
11. Appointment of another polling date		
12. Publication of polling date		
13. Eligibility for nomination as candidate	44	This clause follows the qualification requirements of a CE provided for in BL 44.
14. Disqualification from being nominated (a) a person holding the office of the CE for the second consecutive term (b) a judicial officer (c) a prescribed public officer (d) a bankrupt (e) a person holding a passport or travel document other than the HKSAR passport, the Certificate of Identity or any entry permit issued by an authority in any part of the People's Republic of China (f) a person convicted of prescribed offences (g) the mentally disordered	46 85 — 47 43, 44 47 47	BL 46 stipulates that a person may serve for not more than two consecutive terms. This is necessary to ensure judicial independence as guaranteed by BL 85. This is necessary to maintain the political neutrality of the public service. Similar restriction exists in LegCo and DC elections. This is to ensure that the CE is a person of integrity, dedicated to his or her duties as required by BL 47. This is necessary in view of the unique and important constitutional roles of the CE as the head and representative of HKSAR conferred on him by BL 43, and in view of the BL 44 requirement that the CE shall have no right of abode in any foreign country. This is necessary to ensure that the CE is a person of integrity, dedicated to his or her duties as required by BL 47.

Provision of the Chief Executive (CE) Election Bill <i>(Clause Number and Heading)</i>		Relevant Article of the Basic Law (BL)	Remarks (if any)
17.	Determination of validity of nomination	—	These are part and parcel of the method for the selection of the CE.
18.	Publication of nomination		
19.	Withdrawal of candidature		
20.	Disqualification from being elected	—	See clauses 13 and 14 above
21.	Postponement or adjournment of polling or counting of votes	—	These are part and parcel of the method for the selection of the CE.
22.	The only candidate shall be returned		
23.	A poll shall be conducted in contested election		
24.	Voting by members of Election Committee	Paragraph 5 of Annex I	Paragraph 5 of Annex I provides that the EC shall, on the basis of the list of nominees, elect the CE designate by secret ballot on a one-person-one-vote basis. The requirement of secret ballot is reflected in clause 24(2).
25.	Disqualification from voting	—	This is to ensure that only EC members who are not disqualified may make nomination.
26.	System of voting	—	These are part and parcel of the method for the selection of the CE.
27.	Death or disqualification of candidate before close of polling		
28.	Death or disqualification after close of polling but before declaration of result		
29.	Declaration and publication of result		
30.	Winning candidate presumed to be duly elected		

Provision of the Chief Executive (CE) Election Bill <i>(Clause Number and Heading)</i>	Relevant Article of the Basic Law (BL)	Remarks (if any)
31. Member of Legislative Council deemed to have resigned if returned for appointment as Chief Executive	48, 64 & 73	<p>The powers and functions of the CE (BL 48) and of the LegCo (BL 73) are different. BL 64 requires the HKSAR Government to be accountable to LegCo. If a person is to hold both offices at the same time, it will seriously undermine the checks and balances enshrined under the BL.</p>
32. Winning candidate to declare he is not a member of political party	43, 45, 47 & 48	<p>BL 43 provides that the CE is the head of the HKSAR and is accountable to the CPG and the HKSAR. BL 45 provides that the method for selecting the CE shall be specified in the light of the actual situation of the HKSAR and in accordance with the principle of gradual and orderly progress. BL 47, among other things, requires the CE to be a person of integrity, dedicated to his or her duties. BL 48 sets out the powers and functions of the CE. Having regard to these BL provisions on the CE, we consider it necessary that a member of political party must run in his own individual capacity at the CE election. If elected, he must resign from his party and undertake not to join any political party or be bound by the discipline of any political party during his term of office. This is to ensure that, in discharging his duties, the CE will act impartially and in the overall interests of the community rather than the interests of the political party to which he belongs.</p>

Provision of the Chief Executive (CE) Election Bill <i>(Clause Number and Heading)</i>	Relevant Article of the Basic Law (BL)	Remarks (if any)		
33. Election may be questioned only by election petition made on specified grounds	—	These are part and parcel of the method for the selection of the CE.		
34. Who may lodge election petition				
35. Period within which election petition and appeal must be lodged				
36. Respondent to election petition				
37. Court to have jurisdiction to determine election petition				
38. Determination of election petition				
39. Acts of person not invalid if ruled not to be elected				
40. Time limit for legal challenges				
41. Chief Justice may make rules				
42. Appointment of Returning Officers and assistants				
43. Offence to obstruct or hinder electoral officers				
44. Electoral Affairs Commission may give direction to electoral officers				
45. Death or incapacity of electoral officer not to terminate authority				
46. Candidate entitled to send letters to members of Election Committee free of charge			—	Administrative arrangement commonly available to candidates in LegCo and District Councils elections.

Provision of the Chief Executive (CE) Election Bill <i>(Clause Number and Heading)</i>	Relevant Article of the Basic Law (BL)	Remarks (if any)
47. Regulation	—	These are the usual enabling provisions for making subsidiary legislation and amending the Schedule.
48. Amendment of schedule		
49, 53 & 54 Consequential amendments to the High Court Ordinance (Cap. 4) and the Hong Kong Court of Final Appeal Ordinance (Cap. 484)	—	These are part and parcel of the method for the selection of the CE.
50. Consequential amendments to the Post Office Regulations (Cap. 98, sub. leg)	—	Provisions to implement the administrative arrangement for two rounds of free postage to be made available to each candidate of the CE election.
51-52. Consequential amendments to the Maximum Scale of Election Expenses (Legislative Council) Order (Cap. 288 sub. leg)	—	Technical amendments to ensure that the election expense limit already set for EC Subsector elections will continue to be applicable.
55-62. Consequential amendments to the Electoral Affairs Commission Ordinance (Cap. 541)	—	These are part and parcel of the method for the selection of the CE.
63-75. Consequential amendment to the Legislative Council Ordinance (Cap. 542)	—	This is necessary to remove redundant provisions in the Legislative Council Ordinance consequent to the enactment of the CE Election Bill.
76-77. Consequential amendments to the Electronic Transaction (Exclusion) Order (Cap. 553, sub. leg.)	—	This is to ensure that the submissions required for the CE election are made in paper form, in line with the requirements in all public elections.
78-82. Consequential amendments to the Elections (Corrupt and Illegal Conduct) Ordinance (ECICO) (Cap. 554)	—	This is to ensure that the ECICO is fully compatible with the CE election.

Provision of the Chief Executive (CE) Election Bill <i>(Clause Number and Heading)</i>	Relevant Article of the Basic Law (BL)	Remarks (if any)
Schedule	Annex I	The Schedule sets out in detail how the EC is to be formed in accordance with the principles and parameters stipulated in Annex I to the BL.

Constitutional Affairs Bureau
3 April 2001

CS721a