

A BILL

To

Amend the Chief Executive Election Ordinance, the Legislative Council Ordinance, the District Councils Ordinance and the Village Representative Election Ordinance to remove restrictions on—

- (a) registration of persons who have been sentenced to death or imprisonment, persons who are serving a sentence of imprisonment and persons who have been convicted of certain election-related or bribery-related offences as electors under the Legislative Council Ordinance and the Village Representative Election Ordinance; and
- (b) voting at elections of the Chief Executive, members of the Legislative Council, members of District Councils, members of the Election Committee and village representatives by those persons.

Enacted by the Legislative Council.

PART 1

SHORT TITLE

1. Short title

This Ordinance may be cited as the Voting by Imprisoned Persons Ordinance.

PART 2

AMENDMENTS TO THE CHIEF EXECUTIVE ELECTION
ORDINANCE**2. Disqualification from voting**

(1) Section 26(*a*) of the Chief Executive Election Ordinance (Cap. 569) is amended by adding “or” at the end.

(2) Section 26(*b*) is repealed.

(3) Section 26(*c*) is amended by repealing “(*c*)”.

(4) Section 26(*c*) is amended by repealing “; or” and substituting a comma.

(5) Section 26(*d*) is repealed.

3. Election Committee

The Schedule is amended by repealing section 30(1)(*b*), (*c*) and (*d*).

PART 3

AMENDMENTS TO THE LEGISLATIVE COUNCIL
ORDINANCE**4. Who is eligible to be registered as an elector:
geographical constituencies**

Section 24 of the Legislative Council Ordinance (Cap. 542) is amended by adding—

“(3) Subsection (2)(*b*) does not apply to a person who—

(*a*) is serving a sentence of imprisonment; and

(*b*) does not have a home in Hong Kong outside the prison.”.

5. Elector to reside in Hong Kong

(1) Section 28 is amended by adding—

“(1A) If—

(*a*) a person serving a sentence of imprisonment applies for registration as an elector in the register of geographical constituencies; and

(b) at the time of the application, the person does not have a home in Hong Kong outside the prison, the prescribed address, as defined in subsection (1B), is deemed to be the person's only or principal residence in Hong Kong for the purposes of subsection (1).

(1B) In subsection (1A), "prescribed address" (訂明地址) means—

(a) the last dwelling-place in Hong Kong at which the person resided and which constituted the person's sole or main home; or

(b) if no address is established to the satisfaction of the Electoral Registration Officer to be the last dwelling-place in Hong Kong at which the person resided and which constituted the person's sole or main home, the residential address of the person furnished under regulation 4(1)(b) or 18(1) of the Registration of Persons Regulations (Cap. 177 sub. leg. A) and last recorded under those Regulations."

(2) Section 28 is amended by adding—

"(2A) If—

(a) an elector is serving a sentence of imprisonment; and

(b) the elector no longer has a home in Hong Kong outside the prison,

the residential address of the elector last notified to the Electoral Registration Officer is deemed to continue to be the elector's only or principal residence in Hong Kong for the purposes of subsection (2)."

6. When person is disqualified from being registered as an elector

Section 31(1)(a), (b) and (c) is repealed.

7. When an elector is disqualified from voting at an election

Section 53(5)(a), (b) and (c) is repealed.

PART 4

AMENDMENT TO THE DISTRICT COUNCILS ORDINANCE

8. When an elector is disqualified from voting at an election

Section 30(*b*), (*c*) and (*d*) of the District Councils Ordinance (Cap. 547) is repealed.

PART 5

AMENDMENTS TO THE VILLAGE REPRESENTATIVE ELECTION ORDINANCE

9. When an elector is disqualified from voting at an election

Section 14(*b*), (*c*) and (*d*) of the Village Representative Election Ordinance (Cap. 576) is repealed.

10. When a person is disqualified from being registered as an elector

Section 16(*a*), (*b*) and (*c*) is repealed.

Explanatory Memorandum

Under the current laws of Hong Kong, 3 types of persons (persons who have been sentenced to death or imprisonment, persons who are serving a sentence of imprisonment and persons who have been convicted of certain election-related or bribery-related offences) are prohibited from being registered as voters and electors in, and from voting at, elections of the Chief Executive, members of the Legislative Council, members of District Councils, members of the Chief Executive Election Committee and village representatives.

2. The object of this Bill is to amend the Chief Executive Election Ordinance (Cap. 569), the Legislative Council Ordinance (Cap. 542), the District Councils Ordinance (Cap. 547) and the Village Representative Election Ordinance (Cap. 576) to remove those prohibitions.

Part 1 of the Bill

3. Clause 1 provides for the short title of the Ordinance.
4. The Bill contains no commencement clause. If enacted, the Ordinance will come into operation on the day on which it is published in the Gazette.

Part 2 of the Bill

5. Part 2 contains amendments to the Chief Executive Election Ordinance (Cap. 569) to remove the prohibition mentioned in paragraph 1 in relation to election of the Chief Executive and members of the Chief Executive Election Committee.

Part 3 of the Bill

6. Part 3 contains amendments to the Legislative Council Ordinance (Cap. 542).
7. Section 24 of that Ordinance provides that a person who is registered as an elector in an existing final register of geographical constituencies is not entitled to be included as an elector in any subsequent register of geographical constituencies if the Electoral Registration Officer is satisfied that the person no longer resides at the residential address recorded against the person's name in that existing register and that Officer does not know the person's new principal residential address. Clause 4 adds a new provision to provide that an imprisoned person who is a registered elector and who no longer has a home in Hong Kong outside the prison is not to be regarded as having ceased to reside at the recorded residential address so that the person is entitled to be included as an elector in any subsequent register.
8. Section 28 of that Ordinance provides that—
 - (a) a person who seeks to be registered as an elector in the register of geographical constituencies must satisfy the Electoral Registration Officer that the residential address notified in the person's application for registration is the person's only or principal residence in Hong Kong; and
 - (b) the name of an elector may be omitted from the final register of geographical constituencies if the Electoral Registration Officer is satisfied that the residential address last notified to that Officer is no longer the elector's only or principal residence in Hong Kong.

9. Clause 5 introduces amendments to section 28 of that Ordinance to—
- (a) allow an imprisoned person who does not have a home in Hong Kong outside the prison to use the last dwelling-place or the residential address recorded under the Registration of Persons Regulations (Cap. 177 sub. leg. A) for registration purposes; and
 - (b) ensure that the names of imprisoned persons who are registered electors will not be omitted by reason of their no longer having a home outside the prison.
10. Clauses 6 and 7 remove the prohibition mentioned in paragraph 1 in relation to registration as an elector for a constituency and voting at a Legislative Council election.

Part 4 of the Bill

11. Clause 8 removes the prohibition mentioned in paragraph 1 in relation to voting at a District Council election.

Part 5 of the Bill

12. Clauses 9 and 10 remove the prohibition mentioned in paragraph 1 in relation to registration as an elector for, and voting at, a village representative election.