

**Bills Committee on Chief Executive Election (Amendment) Bill 2010
and Legislative Council (Amendment) Bill 2010**

**Follow up on the issues raised at the Meetings
on 25, 27 and 29 January 2011**

**Hong Kong permanent citizens who are not of Chinese nationality
with right of abode in foreign countries to stand as candidates in
specified functional constituencies, candidates entitled to send letters
to electors free of postage and composite employment estimates on
agriculture, forestry and fishing industry**

As requested by Members at the meetings on 25, 27 and 29 January 2011, this paper sets out the arrangements for permanent residents of Hong Kong who are not of Chinese nationality or who have the right of abode in foreign countries to stand as candidates in specified functional constituencies (“FC”) under section 37 of the Legislative Council Ordinance (“LCO”) (Cap. 542). It also sets out the arrangements for candidates to send letters to electors free of postage under section 43 of the LCO, and the composite employment estimated figure on the agriculture, forestry and fishing industry.

**Hong Kong permanent citizens who are not of Chinese nationality
with right of abode in foreign countries to stand as candidates in
specified functional constituencies**

2. Article 67 of the Basic Law provides that the Legislative Council (“LegCo”) of the Hong Kong Special Administrative Region shall be composed of Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country. However, permanent residents of the Region who are not of Chinese nationality or who have the right of abode in foreign countries may also be elected members of the LegCo of the Region, provided that the proportion of such members does not exceed 20 percent of the total membership of the Council.

3. Furthermore, sections 37(2)(f) and (3) of the LCO provide that permanent residents of Hong Kong who are not Chinese citizens with right of abode in foreign countries can be nominated as candidates in 12 specified FCs¹.

4. Article 67 of the Basic Law only specifies the maximum proportion of the total membership of the LegCo for permanent residents who are not of Chinese nationality or who have the right of abode in foreign countries. It is not a mandatory requirement that such proportion should be reached.

5. Views were received on this issue during the public consultation exercise from 18 November 2009 to 19 February 2010 for the “Consultation Document on the Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012”. Among the written submissions received, there were noticeably more views that the existing arrangement that permanent residents of Hong Kong who are not of Chinese nationality or who have the right of abode in foreign countries may stand in the elections for 12 FC seats should be maintained. Also, among the opinion polls conducted during the consultation period, the one conducted by Bauhinia Foundation Research Centre indicated that more than half of the respondents consider that the existing arrangement should be maintained.

6. After consideration of the views collected, the Government proposes to maintain the existing arrangement, that is, sections 37(2)(f) and (3) of the LCO shall remain unchanged.

Candidates entitled to send letters to electors free of postage

7. Sections 43(1)-(2) of the LCO specify that one letter, addressed to each elector for the geographical constituency (“GC”)/FC for which a list of candidates/candidate is validly nominated, may be sent free of postage by or on behalf of the list of candidates/candidate.

¹ The 12 functional constituencies specified are legal FC; accountancy FC; engineering FC; architectural, surveying and planning FC; real estate and construction FC; tourism FC; commercial (first) FC; industrial (first) FC; finance FC; financial services FC; import and export FC; and insurance FC.

8. Some Members suggested that the Government should arrange for a list of candidates/candidate to choose to send out one letter to electors with the same registered address in order to save paper. We have been proactively finding means to reduce paper consumption in the electoral arrangements. We will examine this suggestion when we formulate the practical arrangements for the elections.

9. There is no mandatory requirement in sections 43(1)-(2) of the LCO that the list of candidates/candidate must send one letter to each and every elector of the relevant constituency. In case a list of candidates/candidate chooses to ask the Government to provide address labels of several electors residing in the same address, and to send out one letter to these electors, in principle, there is no need to amend sections 43(1)-(2) of the LCO. However, the Registration and Electoral Office has to further consider the feasibility of the concerned arrangement. There is also a need to consider electors' right to gain equal access to the election platform of candidates.

10. Section 43(4) of the LCO specifies that the letter must relate to the election concerned and must comply with requirements and limitations prescribed by the regulations in force under the LCO and the Electoral Affairs Commission Ordinance (Cap. 541).

11. Specifications of the letter sent by candidates are provided for in sections 101A(1) and (3) of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D). According to these provisions, the letter sent must contain materials relating only to the candidature of the candidate or candidates on the list, or of the candidate, at the election concerned, otherwise the list of candidates/candidate is liable for payment of postage for all the letters in that bulk mailing.

12. Some Members proposed to allow the list of candidates/candidate to print in the same leaflet materials relating to the candidature of the lists of candidates or candidates from different GCs or FCs and send the letter free of postage. Section 43(4) provides that the letter must relate to the election concerned. It does not stipulate that the letter must contain only election-related materials of the list of

candidates/candidate concerned. At this stage, we do not see the need to amend section 43. As the proposal involves a new arrangement, it will be considered when we formulate the practical electoral arrangements.

13. Some Members asked about the expenditure for free postage in previous Legislative Council elections. For Members' information, in the 2004 LegCo Election, the expenditure was around \$27.68 million and for the 2008 LegCo Election, around \$32.22 million.

Composite employment estimates on agriculture, forestry and fishing industry

14. Some Members asked about the employment statistics for the agriculture, forestry and fishing industry. The statistics on employment and vacancies collected by the Census and Statistics Department ("C&SD") do not cover some economic activities where self-employment is more prevalent, including agriculture, forestry and fishing. Nonetheless, when the C&SD conducts another survey (i.e. the General Household Survey), it compiles estimates on the employment situation of the agriculture, forestry and fishing industry. The composite employment estimated figure for the agriculture, forestry and fishing industry in 2009 is around 6 300 people.

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