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

PURPOSE

This paper reports on the deliberations of the Bills Committee on Chief Executive Election (Amendment) Bill 2010 and the Legislative Council (Amendment) Bill 2010 ("the Bills Committee").

BACKGROUND

Existing methods for selecting the Chief Executive and for forming the Legislative Council

2. In accordance with the provisions of Annex I to the Basic Law ("BL"), the Chief Executive ("CE") is elected by a broadly representative Election Committee ("EC") and appointed by the Central People's Government ("CPG"). EC is composed of 800 members from four sectors made up of 38 subsectors. The term of office of EC is five years and will commence on 1 February in the year during which the term of office of the CE is to expire. The bloc vote system is adopted for the EC subsectors election and the majority runoff system is adopted for the CE election.

3. Currently, there are 60 seats in the Legislative Council ("LegCo"), half of them returned by geographical constituencies ("GCs") through direct elections, and the other half by functional constituencies ("FCs"). For direct elections in GCs, the 30 seats are returned from the following five GCs: Hong Kong Island to return six Members; Kowloon East to return four Members; Kowloon West to return five Members; New Territories East to return seven Members; and New Territories West ("NTW") to return eight Members. The list system operating under the largest remainder formula, which is a form of proportional representation voting system, is adopted.

4. For FC elections, 30 seats are returned from 28 FCs. Of these 28 FCs, the Labour FC is to return three Members and the remaining 27 FCs are to return one Member each. The preferential elimination system of voting is adopted for the election for the four FCs which have a relatively small electorate base, i.e. the Heung Yee Kuk ("HYK") FC, the agriculture and fisheries FC, the insurance FC and the transport FC. The first past the post voting system is adopted for the election of the other 24 FCs.

The two electoral methods for 2012

5. The specific methods for selecting CE and for forming LegCo (the "two electoral methods") are specified in Annex I and Annex II to BL respectively. In accordance with BL and the "Interpretation of Article 7 of Annex I and Article III of Annex II to BL" adopted by the Standing Committee of the National People's Congress ("NPCSC") on 6 April 2004, it is necessary to go through a "five-step mechanism" for amending the two electoral methods -

Step One: CE shall make a report to NPCSC as to whether there is a need to amend the two electoral methods;

Step Two: A determination shall be made by NPCSC that the two electoral methods may be amended;

Step Three: The motions on the amendments to the two electoral methods shall be introduced by the Hong Kong Special Administrative Region ("HKSAR") Government to LegCo, and be endorsed by a two-thirds majority of all the Members of LegCo;

Step Four: Consent shall be given by CE to the motions endorsed by LegCo; and

Step Five: The relevant amendments to Annex I and Annex II to BL shall be reported by CE to NPCSC for approval or for the record respectively.

6. After consideration of the "Report on the Public Consultation on Constitutional Development and on whether there is a need to amend the methods for selecting CE of HKSAR and for forming LegCo of HKSAR in 2012" submitted by CE on 12 December 2007, NPCSC made a decision on 29 December 2007 on issues relating to the methods for selecting CE and for forming LegCo in the year 2012 and on issues relating to universal suffrage ("the 2007 NPCSC Decision"). The 2007 NPCSC Decision is summarized below -

- (a) universal suffrage for electing CE and for election of all the Members of LegCo by universal suffrage may respectively take place in 2017 and thereafter;
- (b) the election of the fourth term CE in 2012 and the fifth LegCo in 2012 shall not be by means of universal suffrage;
- (c) the half-and-half ratio between Members returned by FCs and Members returned by GCs through direct elections shall remain unchanged for the fifth LegCo;
- (d) the procedures for voting on bills and motions in LegCo shall remain unchanged; and
- (e) subject to the above not being contravened and consistent with BL 45 and BL 68, and the provisions of Annex I and Annex II to BL, the two electoral methods for 2012 may be appropriately amended.

7. At the Council meeting on 14 April 2010, the Chief Secretary for Administration made a statement on a package of proposals for the methods for selecting CE and for forming LegCo in 2012 published on the same day. According to the Administration's original proposal for forming LegCo, all the five new FC seats and the existing District Council ("DC") FC seat shall be returned through election from among elected DC members, and these six DC FC seats shall be returned under the proportional representation system.

8. On 21 June 2010, CE announced at a press conference on constitutional reform package that the Executive Council had given its approval-in-principle to the "one-person-two-votes" proposal for returning the five new FC seats in 2012. According to the Government's announcement, the proposal would be implemented by the following electoral arrangements under local legislation -

- (a) candidates for the five new FC seats must themselves be elected DC members who must be nominated by elected DC members and would be elected, through one-person-one-vote, by all registered voters who currently do not have a vote in FCs; the electorate base would be about 3.2 million; and
- (b) the original DC FC seat would be returned through election from among elected DC members, i.e. appointed DC members would not take part in the election.

9. On 24 and 25 June 2010, LegCo passed by a two-thirds majority the motions put forth by the Government concerning the draft amendments to the two electoral methods for 2012. According to the draft amendments to the method for the selection of CE in 2012, the number of members of EC will be increased from the current 800 to 1 200. The number of seats for each of the four sectors of EC will be increased by 100. According to the draft amendment to the method for the election of LegCo in 2012, the number of members returned in GC and FC elections will each be increased from 30 to 35.

10. CE gave consent to the draft amendments on 29 June 2010 and reported to NPCSC on 28 July 2010. On 28 August 2010, NPCSC approved the amendment to Annex I to BL and recorded the amendment to Annex II to BL respectively.

OBJECTS OF THE BILLS

11. The objects of the Chief Executive Election (Amendment) Bill 2010 ("CEEB") are to increase the number of seats for each EC sector to 300, allocate the additional seats among the EC subsectors and make changes in relation to DCs and Chinese medicine subsectors and other related matters. The objects of the Legislative Council (Amendment) Bill 2010 ("LCB") are to enlarge LegCo by adding five GC seats and creating a new DC FC ("DC (second) FC") of five seats and to make other changes related to LegCo elections.

THE BILLS COMMITTEE

12. At the House Committee meeting on 17 December 2010, members formed a bills committee to study CEEB and LCB. Mr TAM Yiu-chung and Mr Jeffrey LAM were elected as Chairman and Deputy Chairman of the Bills Committee respectively. The membership list of the Bills Committee is in **Appendix I**.

13. The Bills Committee has held a total of 11 meetings (comprising 16 two-hour sessions) to study the two Bills. The Bills Committee has also received views from 78 organizations and individuals at one of these meetings. The names of organizations and individuals that/who have submitted views to the Bills Committee are in **Appendix II**.

DELIBERATIONS OF THE BILLS COMMITTEE

The Chief Executive Election (Amendment) Bill 2010

Nomination threshold for the Chief Executive election

(Clause 3)

14. The number of members of EC is to be increased from 800 to 1 200 (clause 5(1)). With the current nomination threshold maintained at the ratio of one-eighth of the total membership of EC, a candidate for a CE election has to be nominated by 150 members of EC. The Administration has not proposed to set any upper limit of the number of subscribers to be obtained by a candidate.

15. Members note that Dr Margaret NG will move a Committee Stage amendment ("CSA") to set the upper limit of nomination at 165 subscribers i.e. 110% of the proposed nomination threshold. The Administration, however, believes that it is feasible for more than one candidate to secure the support of 150 EC members and the CE election in 2012 will be a contested one. The Administration does not consider it necessary to cap the number of subscribers to be obtained by a candidate.

The four sectors of the Election Committee and the allocation of seats among the subsectors

(Clauses 5 and 14)

16. In accordance with the amendment to Annex I to BL, the number of members of EC will be increased from 800 to 1 200, and the number of members of the four sectors of EC is to be increased by the same proportion. Accordingly, the Administration has proposed that the number of members of the four sectors of EC will be increased by the same proportion. According to the Administration's proposals in CEEB, for the first three sectors, the number of seats allocated to the existing 32 subsectors will be increased generally by proportion according to the existing distribution of seats. For the fourth sector, among the 100 new seats, 75 will be allocated to elected DC members, 10 to LegCo Members, 10 to members of Chinese People's Political Consultative Conference ("CPPCC") and five to HYK.

17. Ms Audrey EU and Mr Alan LEONG are of the view that to facilitate the full implementation of universal suffrage for the selection of CE in 2017, the Administration should broaden the electorate base of the EC subsectors to make EC more broadly representative. They consider that the Administration should include representatives from other sectors of the community currently not covered under EC, in order to facilitate its transformation into the broadly

representative nominating committee in 2017. Dr Priscilla LEUNG has suggested that new subsectors or their representatives (e.g. real estate agents, ethnic minorities, small and medium size enterprises, women and youth) should be added to the relevant sectors of EC. Mr LEUNG Kwok-hung is of the view that if universal suffrage for CE is to be implemented in 2017, more progressive changes should be made in the 2012 CE election so as to comply with the principle of gradual and orderly progress as laid down in BL45.

18. The Administration has stressed that the proposed increase of the membership of EC from 800 to 1 200, which is in line with the principle of gradual and orderly progress, would enhance the representativeness of EC and help transform EC into the nominating committee when universal suffrage for CE is implemented in 2017. The composition of the four sectors of the current EC is broadly representative and is consistent with the principle of balanced participation. It is therefore considered appropriate to allocate the additional seats to their subsectors by proportion according to the existing distribution of seats. The Administration has further advised that it had considered proposals of adding new subsectors to EC. However, the community is unlikely to reach consensus at this stage on the proposals as a broad range of different organizations are covered.

19. Mr Albert HO is of view that all of the 100 new seats in the fourth sector of EC should be allocated to elected DC members to enhance the democratic elements of EC. The Administration, however, has stressed that its proposal of allocating 75 of the 100 new seats in the fourth sector of EC to elected DC members who have public mandate would significantly enhance the democratic elements of EC and it is considered appropriate to allocate the remaining 25 seats to LegCo Members, members of CPPCC and HYK.

20. Dr Margaret NG has expressed grave reservation about the Administration's proposal of allocating the new EC seats to the existing subsectors in the first three sectors by proportion according to the existing distribution of seats as it would result in great disparity in voting weight. She has pointed out that there are significant differences in the electorate base among the subsectors of the four sectors of EC such as the agriculture and fisheries subsector, the labour subsector and the social welfare subsector; and yet the Administration has proposed that the number of seats of each of these subsectors be increased from 40 to 60. Dr NG is of the view that the allocation of new seats to the existing subsectors of EC should be in proportion to the size of their electorate, rather than the existing distribution of seats. She has informed the Bills Committee that she will move CSAs to CEEB to such an effect.

21. The Administration has explained that the Administration's proposal aims at enhancing the democratic elements of the EC election mainly through increasing the proportion of elected DC members in the fourth sector of the EC. As regards the first three sectors of EC, the Administration considers it appropriate to follow the established mechanism of increasing the number of seats of the subsectors by the same proportion in compliance with the principle of balanced participation.

Allocation of seats and electoral arrangements for District Council subsectors
(Clauses 4, 5, 7, 8, 9 and 10)

Allocation of seats between the DC subsectors

22. The Administration has proposed that the current arrangement should be adopted to group the 18 DCs into two subsectors, i.e. one for the urban area and the other for the New Territories. As regards the allocation of the 117 seats between the two DCs subsectors, it is proposed that the number of seats allocated to each of the DCs subsectors should be proportional to the number of elected DC members in the DCs covered by the subsectors concerned. Accordingly, the number of seats allocated to the Hong Kong and Kowloon DCs subsector will be 57, and that for the New Territories DCs subsector will be 60.

Voting system for the DCs subsectors

23. The Administration has proposed that the current voting system for the EC subsectors i.e. the bloc voting system be retained for the two DCs subsectors. Some members including Dr Margaret NG and Mr Andrew CHENG have expressed concern that the proposed adoption of the bloc voting system for the DC subsectors in EC would enable dominant political parties with the most elected DC members to pocket most of the seats. Mr CHENG considers that the proportional representation system should be adopted.

24. The Administration has explained that for the next term of DC, 412 elected members would be returned and the number of seats for DC subsectors would be increased from 42 for the current term to 117 for the next term. Adopting the "list proportional system" would undermine the representativeness and credibility of the elected members given that under this system, a candidate for a DC subsector would only need to obtain 3.5 votes to be elected, or only three or even two votes for the remaining seats under the largest remainder formula. As the "bloc vote system" has been in use for elections of all subsectors for many years and given the proportion of seats to votes is rather small for DC subsectors, the Administration considers it appropriate to retain the "bloc vote system" with which electors are more familiar and which is simpler to operate.

25. Members note that Dr Margaret NG will move CSAs to the effect that the "multiple seats, single vote" system will be adopted for the DC subsectors under which each elector can only cast one vote and candidates who receive the greatest numbers of votes are returned.

Voting, nomination and candidacy in the DCs subsector election

26. The Administration has proposed that only elected DC members could register as voters, nominate candidates and be nominated as candidates in the DCs subsectors. To avoid the DCs subsectors having a narrow electorate base, elected DC members may only be registered as voters in the DCs subsectors and not the other EC subsectors even if they are eligible. As regards the registration process, since the next EC subsector elections would likely be held about one month after the next DC election, the Administration has further proposed that the newly elected DC members should be automatically registered in the DCs subsectors after the DC election in November 2011. Besides, to avoid any possible dual registration in the EC subsectors, the Administration has also proposed that if a newly elected DC member has already been registered as a voter in another subsector, his or her name would be removed from the final register of such subsector at the same time when the person concerned is automatically registered in the DCs subsectors. In case the person concerned ceases to serve as an elected DC member in future, he or she could apply to be registered as voter once again in one of the non-DCs subsectors for which he or she is eligible.

27. Some members including Mr Albert HO, Mr Alan LEONG and Mr LEUNG Kwok-hung are of the view that elected DC members should be given the option to be registered as voters in other EC subsectors. The Administration has explained that the proposed arrangement also applies to voters in the HYK, agriculture and fisheries, insurance and transport subsectors in view of their small electorate base. If an elected DC member does not wish to be registered as a voter in the relevant DCs subsector, he or she could request to have his/her name removed from the final register of the subsector concerned, but could not be registered as a voter in other EC subsectors.

28. Mr IP Kwok-him has expressed support for the Administration's proposal that elected DC members could only be registered as voters in the DCs subsectors given the small electorate base and the significant increase in the number of EC seats (i.e. 117) to be returned by elected DC members. He also considers the automatic registration arrangement proposed by the Administration practical and less cumbersome.

29. The legal adviser to the Bills Committee has observed that the use of the phrase "is registered or applies to be registered" in the proposed section 12(11)(g) and (h) of the Schedule to the CE Election Ordinance (Cap. 569) appears to be inconsistent with the automatic registration arrangement proposed by the Administration. The Administration has agreed to amend clause 7(3) of CEEB to the effect that under the proposed sections 12(11)(g) and (h) of the Schedule to the Ordinance, "registered or applies to be registered" would be changed to "eligible to be registered".

"Special Member" seats and the method for selecting these Members
(Clause 6)

30. The Administration has proposed that from February 2012 when the new term of EC commences, 10 "Special Member" seats would be created temporarily in the fourth sector of EC to make up the difference of 10 seats until the number of LegCo seats increases from 60 to 70 in October 2012. Four seats of "Special Member" would be allocated to members of CPPCC, two to HYK, two to Hong Kong and Kowloon DCs and two to New Territories DCs.

31. Some members including Dr Margaret NG and Ms Audrey EU have expressed objection to the Administration's proposed allocation. They consider that these seats should be opened up to persons from different backgrounds to broaden the representativeness of EC. Members note that Dr Margaret NG will move a CSA to allocate all the 10 seats to elected DC members.

32. The Administration has explained that with the proposed increase of the membership of EC from 800 to 1 200, the Administration has the responsibility to make a proposal to fill all the 10 vacancies as far as practicable when EC is established in February 2012. It is the Administration's view that with the increase in the number of elected DC members in EC from the current 42 to the proposed 117 and the proposed allocation of four "Special Members" seats to DCs, the proportion of the number of elected DC members in EC is significant.

33. Dr Margaret NG and Ms Audrey EU do not subscribe to the Administration's view, pointing out that according to the proposals for the methods of selecting CE in 2007 and for forming LegCo in 2008 put forward by the Administration in 2005, all elected DC members would be included in EC. They consider that as the Administration has all along attached great importance to the participation of elected DC members in the two electoral methods for 2012, all of them should be included in EC.

The proposal of including registered Chinese medicine practitioners in the
Chinese medicine subsector

(Clause 5)

34. According to the Administration, when the Chinese medicine subsector was established in 2001, the registration system for Chinese medicine practitioners ("CMPs") was not yet fully developed. The Chinese Medicine subsector was, therefore, constituted by members of 10 representative bodies of CMPs¹, who are CMPs entitled to vote at the general meetings of the respective bodies. Such members are eligible for registration as voters in the Chinese medicine subsector. Since the establishment of the registration system for CMPs under the Chinese Medicine Ordinance (Cap. 549), there are currently about 6 000 Registered CMPs and 2 700 Listed CMPs. It is proposed that Registered CMPs should be eligible for registration as voters in the Chinese medicine subsector. This arrangement is in line with other professional subsectors such as the medical subsector in which statutory qualifications are adopted for delineating the electorate. To avoid disenfranchising eligible members of the 10 specified bodies from registering as voters in the Chinese medicine subsector, it is further proposed that eligible members of the 10 bodies (including Listed CMPs) will continue to be eligible for voting in this subsector.

35. The Administration has informed the Bills Committee that there are a total of some 5 900 eligible voters in these 10 bodies. While there are overlaps in the memberships of these 10 bodies, each eligible voter could only cast one vote.

36. The Administration has further informed the Bills Committee that it would move a CSA to clause 5(42) to amend "Hong Kong Chinese Overseas Physician Association (僑港中醫公會)" in the Chinese medicine subsector as "Hong Kong Chinese Medicine Practitioners Association Limited (僑港中醫師公會有限公司)" to reflect the change of name. For the same purpose, a CSA will also be moved to add a new provision to amend "Hong Chi Association – Hong Chi Pinehill Advanced Training Centre (匡智會—匡智松嶺青年訓練中心)" in the education subsector as "Hong Chi Association – Hong Chi Pinehill

¹ The 10 specified bodies are –

- (a) The Hong Kong Association of Traditional Chinese Medicine Limited;
- (b) International General Chinese Herbalists and Medicine Professionals Association Limited;
- (c) Sin-Hua Herbalists' and Herb Dealers' Promotion Society Limited;
- (d) Society of Practitioners of Chinese Herbal Medicine Limited;
- (e) The Hong Kong T.C.M. Orthopaedic and Traumatic Association Limited;
- (f) The Hong Kong Federation of China of Traditional Chinese Medicine;
- (g) Hong Kong Acupuncturists Association;
- (h) Hong Kong Chinese Herbalists Association Limited;
- (i) Association of Hong Kong & Kowloon Practitioners of Chinese Medicine Limited; and
- (j) Hong Kong Chinese Overseas Physician Association.

Integrated Vocational Training Centre (匡智會—匡智松嶺綜合職業訓練中心)".

Voting system for the CE election

37. Mr WONG Kwok-kin has pointed out that under the existing voting system for the CE election, a candidate who had obtained more than half of the total number of valid votes cast would be returned in a CE election. There is concern about the legitimacy of the elected candidate should only a small number of EC members cast their votes in the election. It is suggested that amendment to the CE Election Ordinance be made to provide that a successful candidate for the CE election should obtain more than 50% of the votes of all EC members, with a view to enhancing the legitimacy of the CE-elect.

38. To enhance the representativeness of the CE-elect, the Administration has agreed to move CSAs to add new sections 2A, 3A, 3B and 3C in CEEB for the purpose of amending sections 11, 22, 26A and 27 of the CE Election Ordinance. New sections 3B and 3C specify that a candidate shall only be elected as CE if the candidate obtains more than 600 valid votes under an election with one candidate only and a contested election respectively. New section 3A provides that after the required voting process, if no candidate can obtain more than 600 valid votes, the election will be terminated and a new round of nomination and election will commence. New section 2A specifies the fixing of a new polling date.

39. Dr Margaret NG is of the view that while the amendments proposed by the Administration might be able to enhance the representativeness of the CE-elect, they would not serve any purpose in substance if the Administration insists on not capping the number of subscribers to be obtained by a candidate. She has pointed out that a prospective candidate might be able to secure a large number of nominations, making it difficult for other intending candidates to secure an adequate number of nominations. She has reiterated that the Administration should set an upper limit of nominations in order to make CE election a fair and truly contested one.

Political affiliation of the Chief Executive

40. According to section 31 of the CE Election Ordinance, the winning candidate in a CE election is required to make a statutory declaration that he or she is not a member of any political party. According to the package of proposals for the two electoral methods in 2012 as announced by the Chief Secretary for Administration on 14 April 2010, this current requirement should not be changed

but can be reviewed in the longer term. Members note that Dr Margaret NG will move CSA to remove the requirement.

41. The Administration has advised that it is the general view of the community that the relevant requirement should be maintained for the CE election in 2012. The Administration believes that it would enable CE to balance various interests of the different sectors of the community in discharging his or her duties for the overall interests of Hong Kong.

Commencement dates

(Clause 1)

42. Under clause 1(3) of CEEB, sections 4, 5(38), 5(40), 7, 8, 9, 10 of the CE Election (Amendment) Ordinance 2010 (which relate to DC subsectors election) shall come into operation on 25 September 2011. The Administration has explained to the Bills Committee that only the DC members newly elected in November 2011 are eligible under the Ordinance for participating in the new DC subsectors election to be held in December 2011 and the proposed LegCo DC (first) FC election to be held in 2012. Other DC members do not have this right. However, where by-election(s) for the existing DC FC of the current term LegCo is/are needed, ex-officio and appointed DC members are still eligible for participating in such by-election(s). To safeguard the rights of ex-officio and appointed DC members to participate in the by-election(s) for the current-term LegCo, it is proposed that the provisions which stipulate that only elected DC members are eligible to participate in the new DC subsectors election will come into operation only after the publication of the 2011 final register of electors on 25 September 2011 by the Electoral Registration Officer ("ERO").

43. Members note that section 5(35) of the CE Election (Amendment) Ordinance 2010 (which increases the number of seats for LegCo subsector from 60 to 70) will come into operation in 2012 when the term of office of the Fifth LegCo starts. For the remaining provisions of the Ordinance, they will come into operation on the day on which the Ordinance is published in the Gazette for the purpose only of enabling arrangements to be made for holding subsectors election (other than DC subsectors election) in 2011.

44. The Administration has further explained to the Bills Committee that the aim of these remaining provisions is to introduce changes to the number of seats in the subsectors, the eligibility of electors and electoral arrangements. These provisions shall formally come into operation on 1 February 2012 when the new EC is formed. To cater for the subsectors election in 2011 (e.g. to enable the election of the number of members required for the new term although the

number of seats has yet to be formally increased during the election period), these provisions should come into operation only for this purpose on the day on which the Ordinance is gazetted. In accordance with clause 1(2)(b) of CEEB, insofar as the provisions have not come into operation as mentioned above (such as the increase in the number of seats), these provisions will come into operation on 1 February 2012.

The Legislative Council (Amendment) Bill 2010

Number of Members to be returned from each GC (Clause 4)

45. According to the amendment to Annex II to BL, the number of LegCo seats for the Fifth LegCo in 2012 will be increased to 70 with five new seats to be returned by GCs through direct election and another five returned by FCs. According to section 19(2) of the Legislative Council Ordinance (Cap. 542) ("LCO"), the number of Members to be returned for each GC is not less than four nor greater than eight. The Administration has proposed to retain the number of GCs at five. Clause 4(2) of LCB seeks to adjust the number of seats for each of the five GCs at not less than five nor greater than nine. Members note that recommendations on allocating the 35 seats to five GCs will be made by the Electoral Affairs Commission ("EAC") in accordance with relevant legislation and up-to-date population projections available around the first quarter of 2011.

46. The Administration has explained that according to the population projections, the population of NTW would reach two million in 2012. Hence, consideration could have been given to allocating 10 seats to the NTW GC. However, such an allocation would only require candidates to obtain 10% of the valid votes cast to win a seat. Furthermore, according to past experience with the proportional representation list-voting system, the last seat may be won by a candidate who has obtained 5% (or even less than 5%) of the valid votes cast for the constituency. The Administration has pointed out that under section 60C of LCO, a candidate who is not elected or a list of candidates for which no candidate is elected and who has obtained less than 5% of valid votes cast for the constituency will not be entitled to the financial assistance. Under section 4(3) of the LegCo (Subscribers and Election Deposit for Nomination) Regulation (Cap. 542C), a candidate who is not elected or a list of candidates for which no candidate is elected and who has obtained less than 3% of valid votes will have the election deposit forfeited. Although a candidate/list of candidates would be eligible for financial assistance and refund of election deposit if the candidate/at least one candidate on the list is elected as a Member, regardless of the number of valid votes received by the candidate/list of candidates, allowing a candidate

who has obtained 5% or less than 5% of the valid votes to win a seat is not considered as an appropriate design for the election arrangement in Hong Kong. Accordingly, it is proposed that the ceiling for the number of seats to be allocated to a GC should be set at nine instead of 10.

47. Mr LAU Kong-wah and Mr IP Kwok-him consider the Administration's proposal of allocating five to nine seats for each GC appropriate. They, however, have pointed out that it is important to ensure the representativeness and legitimacy of elected LegCo Members. If there are too many seats in a GC, it might result in cases where a Member could be elected with very few votes. With the increase in population and in the number of GC directly elected seats, the Administration should, in the long run, consider increasing the number of GCs, say from five to six, with a view to reducing the disparity in the number of seats among GCs.

48. Mr Albert HO, Ms Emily LAU and Ms Audrey EU are of the view that it is undesirable to retain the number of GCs at five after the total number of GC seats has been increased to 35. They have pointed out that for the NTW GC which is expected to have as many as nine seats, a large number of candidates/lists of candidates would compete for the seats, making it difficult for electors to get well-informed of the platform of the candidates. Mr HO considers it absurd if a candidate could win a seat with less than 5% of the total number of valid votes cast for the constituency. These members have suggested that the number of GCs be increased so that each GC would have only five or six seats, for example, the NTW GC and the NT East GC could be divided into two GCs each. Alternatively, the Administration should consider allocating the 35 GC seats evenly among the five GCs to prevent a GC from having as many as nine seats.

49. The Administration has advised that it had considered the proposal put forward by some political parties (including the Democratic Alliance for the Betterment and Progress of Hong Kong and the Democratic Party) for increasing the number of GCs to six. The Administration's view is that the implication of re-delineating the existing GC boundaries on the work of incumbent Members and electioneering activities should be duly considered in determining the number of GCs to be demarcated and the range of seats to be returned from each GC. Its proposal of increasing the upper and lower limits of the number of seats for each GC has taken into account the increase in population and the need to provide adequate room for EAC to allocate the increased number of seats among the five GCs. The Administration would take into account the experience of the 2012 LegCo election and consider Members' views in any future review.

50. In response to Members' enquiry, the legal adviser to the Bills Committee has advised that in the event that clause 4(2) is negated, the existing stipulation on the upper and lower limits of seats for each GC as provided under section 19(2) of LCO would continue to apply. In other words, the number of seats for each of the five GCs should be between the range of four to eight. Members note that if that is the case, no additional seat would be allocated to NTW GC which already has eight seats and changes can be made to the boundaries of the existing GCs to rationalize the allocation of the 35 seats. Under section 18(2) of LCO, the allocation of seats to the five GCs would be made by way of an order published in the Gazette.

Financial assistance scheme for the 2012 LegCo election
(Clause 38)

51. The subsidy rate of the financial assistance scheme for candidates was increased from \$10 per vote to \$11 per vote for the 2008 LegCo election. Currently, candidates standing for LegCo GC or FC elections who are elected or who have received 5% of valid votes or more cast in the constituency concerned are eligible for financial assistance. The amount payable as financial assistance in respect of a list of candidates or a candidate is the lower of either the amount obtained by multiplying the total number of valid votes cast for the list of candidates or the candidate by \$11 or 50% of their declared election expenses. Clause 38 provides that the rate of financial assistance to eligible candidates of LegCo election will be increased from \$11 to \$12.

52. Ms Emily LAU has expressed strong dissatisfaction that the subsidy rate per vote would only be slightly increased from \$11 to \$12 with the cap of financial assistance payable maintained at 50% of the declared election expenses. She has urged the Administration to enhance the financial assistance for the 2012 LegCo election to enable people with limited means to participate in the election. Ms LAU has pointed out that most of the candidates standing for the past two LegCo elections were unable to obtain financial assistance to cover half of their election expenses. She has suggested that the subsidy rate per vote should be increased to \$15.

53. The Administration has stressed that the proposed increase of the subsidy rate per vote has taken into account the cumulative inflation rate of about 9% since the last adjustment. The existing practice that candidates would need to meet half of their election expenses is considered reasonable and has been functioning well. However, the Administration would review whether it is feasible technically to make further adjustment to the financial assistance scheme.

54. The Administration has subsequently informed the Bills Committee that CSAs would be moved to LCB to the effect that the amount of financial assistance payable in respect of a list of candidates/a candidate would be capped at 50% of the maximum amount of election expenses that may be incurred by or on behalf of the candidates on the list of candidates for GC election or 50% of the maximum amount of election expenses that may be incurred by or on behalf of the candidate for FC election, instead of 50% of their declared election expenses. However, the amount payable would not exceed their declared election expenses.

New District Council Functional Constituency

Creation of the new DC FC (Clauses 3 and 5)

55. Under LCB, the existing DC FC will be renamed as the DC (first) FC and the new DC FC will be named as the DC (second) FC. The Administration has proposed that the five new DC FC seats would be returned from the whole HKSAR as a single constituency in accordance with the proportional representation list system.

56. Ms Audrey EU and Mr Alan LEONG have expressed objection to adding any new FCs and have grave reservation about the proposed creation of the new DC FC. They are concerned that adding more FC seats would make it more difficult to abolish the FC system in future. These members have also asked whether the "one-person-two-votes" election method for the new DC FC would continue to exist after 2012 and become a model for the implementation of universal suffrage for forming LegCo.

57. Ms Emily LAU and Dr Priscilla LEUNG have expressed support for the proposed creation of the new DC FC which they consider has enabled Hong Kong to take a step forward closer to the implementation of universal suffrage for LegCo.

58. The Administration's position is that the proposed creation of the five new DC FC seats in 2012 will enhance the democratic elements of the FC elections and facilitate the implementation of universal suffrage for the LegCo election in 2020. Arrangements for the 2016 LegCo election will be dealt with in the years between 2012 and 2016 while the model for implementing universal suffrage in the 2020 LegCo election between 2016 and 2020. The electoral arrangements for 2020 must comply with the principles of universality and equality, but the model for the implementation of universal suffrage should be the task of the next-term Government.

*Eligibility for candidature, nomination and voting
(Clauses 11, 13, 15, 17 and 43)*

59. According to the proposals in LCB, candidates for the new DC FC seats must be nominated by elected DC members (including elected DC members who are also members of the HYK). Elected DC members may choose to nominate candidates either for the existing DC FC seat or for the five new DC FC seats. Candidates are limited only to elected DC members. Appointed and ex-officio DC members are not allowed to stand for election. Elected DC members may only be registered as electors in the existing DC FC. If the person concerned wishes to stand for election in a FC other than the new DC FC or the existing DC FC, he or she may be nominated only if he or she has a substantial connection with that FC. On voting right, subject to the following three circumstances, registered electors who are not entitled and who have not opted to vote in the other FCs may vote in the new DC FC -

- (a) elected DC members (including those who are eligible for registration for the HYK FC) may only be registered for the existing DC FC;
- (b) ex-officio members may only be registered for the HYK FC; and
- (c) persons who are eligible for registration in HYK, agriculture and fisheries, insurance and transport FCs may only be registered for the FCs concerned.

60. Mr LEUNG Kwok-hung has expressed objection to the "one-person-two-votes" proposal for returning the five new DC FC seats because it does not provide for equality in the right to nominate and the right to stand for election. He considers the proposal a retrogressive step in democratic development.

61. Mr WONG Kwok-kin has informed the Bills Committee that he would move CSA to enlarge the eligibility for candidature for the new DC FC seats to a member of any DC established under the District Councils Ordinance (Cap. 547) who is elected or has been elected. He has explained that the CSA is proposed on the following considerations -

- (a) the proposed eligibility in LCB would hinder quality and well-experienced candidates from participating in the new DC FC election;

- (b) it is unfair to these candidates if they are required to participate in DC elections with much smaller constituency areas before standing for the new DC FC election; and
- (c) it is also unfair to the community of the DC constituency areas concerned as the primary purpose of the elected DC members concerned is to stand for the new DC FC election rather than to serve the community of the relevant districts.

According to the latest CSA provided by Mr WONG Kwok-kin, he would move CSA to enlarge the eligibility for candidature for the new DC FC seats to cover not only a member of any DC established under the District Councils Ordinance (Cap. 547), but also a member of any District Board established under the District Boards Ordinance (Cap. 366) before 1999.

62. Dr Margaret NG has informed the Bills Committee that she would move CSAs to LCB to enlarge the eligibility for candidature and extend the nomination right to all persons who are eligible to be nominated as candidates at DC elections including all DC electors. She would also move CSAs to the effect that the five DC FC seats are to be returned from each of the existing five GCs by the single seat, single vote system.

63. The Administration has advised that the democratic elements embedded in the "one-person-two-votes" proposal for returning the new DC FC seats in 2012 are very clear as only elected DC members would be eligible to nominate and be nominated as a candidate and candidates would be elected by a large electorate base of over 3.2 million registered electors. When the "one-person-two-votes" proposal for returning the five new FC seats in 2012 was announced on 21 June 2010, the Secretary for Justice had elaborated on the following salient features considered by the Government with respect to the new DC FC election method -

- (a) first, candidates must themselves be elected DC members;
- (b) second, candidates must be nominated by elected DC members; and
- (c) third, candidates will be elected, through one-person-one-vote, by the registered electors in Hong Kong less those electors who currently have the right to vote in other FCs.

64. The Administration has stressed that it has made it clear that the election for these five new seats would be FC election, as opposed to GC direct election. There is legal consideration in restricting the right of nomination and the right to stand as candidates to elected DC members. It would be difficult for the

Administration to support any proposal of further relaxing the proposed eligibility for candidature and expanding the nomination right for the new DC FC seats. The Administration has stressed that the relevant electoral arrangements for the new DC FC are based on this understanding when Members supported the two motions to amend the two electoral methods for 2012 on 24 and 25 June 2010.

65. Article 67 of BL provides that LegCo of HKSAR 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 LegCo of the Region, provided that the proportion of such members does not exceed 20 percent of the total membership of the Council. Furthermore, sections 37(2)(f) and (3) of 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 FCs.

66. Ms Audrey EU considers that the two DC FCs should be added to the list of FCs for which persons who had the right of abode in foreign countries could stand in the elections, given the Administration's policy intention of enhancing the participation of elected DC members who have public mandate in the FC elections. The legal adviser to the Bills Committee has pointed out that as the composition of LegCo would be expanded to 70 Members, the number of such seats could be increased proportionally from 12 to 14 according to the requirement under BL67 that they should not exceed 20% of the total membership of the Council. The legal adviser to the Bills Committee has sought clarification on whether the Administration's proposal of maintaining the existing number of seats in specified FCs for which persons with right of abode in foreign countries could stand for election is in compliance with BL67.

67. According to the Administration, BL67 only specifies the maximum proportion of the total membership of 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. The Administration has advised that it has sought the views of the Department of Justice which has advised that the requirement of BL67 would be complied with so long as the number of LegCo Members who are not of Chinese nationality or who have the right of abode in foreign countries does not exceed 20% of the total membership of LegCo. Views were received on this issue during the public consultation exercise 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 considered that the existing arrangement should be maintained. The Administration has therefore proposed that sections 37(2)(f) and (3) of LCO shall remain unchanged.

Transitional arrangement for the compilation of the first register of electors for the new DC FC
(Clause 37(1))

68. According to clause 37(1) of LCB, registered electors for GCs will be registered as electors for new DC FC (i.e. the DC (second) FC). They can however choose not to be so registered. Registered electors for any FCs (other than the HYK, agriculture and fisheries, insurance, transport and the existing DC FC FCs) will be allowed to choose whether they would like to register in the new DC FC or remain in their respective FCs. According to the Administration, the Registration and Electoral Office ("REO") will send letters to these persons informing them that they may switch to the new DC FC by submitting written applications by a specified date.

69. Noting that persons who are eligible to be registered as electors for traditional FCs but have not done so would be registered under the new DC FC, Mr LAU Kong-wah has enquired how and when these persons would be notified of the arrangement and their choice to opt to register in the new DC FC or a traditional FC.

70. The Administration has advised that for persons eligible for registration under the new DC FC who are not registered in the 28 existing FCs, they would be registered under the new DC FC as a transitional arrangement in 2012. REO would send letters to inform them of the registration arrangement. Unless they indicate to REO their objection to such registration, they would be so registered in the new DC FC. After enactment of LCB, REO would work out details of the practical electoral and registration arrangements and publicize the relevant arrangements.

71. Noting that under the proposed new sections 20ZC and 25(2A), persons registered or eligible to be registered as electors of traditional FCs would be given the option to choose to register in the new DC FC or the traditional FCs, Dr Margaret NG, Ms Audrey EU and Mr Alan LEONG have queried whether these provisions as presently drafted are consistent with the policy intention in respect of the voting right of the new DC FC and its composition. According to

their understanding, the policy intention is that the five new DC FC seats are to be returned by persons who currently do not have a right to vote in FCs.

72. The Administration has advised that given that the DC (second) FC is a new FC, the Administration considers that, as a matter of principle, persons registered or eligible to be registered as electors of traditional FCs should also be given the choice to register in the new DC FC. When the Administration briefed the Panel on Constitutional Affairs ("the CA Panel") on the legislative proposals on local legislation to implement the two electoral methods for 2012 at its meeting on 30 October 2010, the Administration had informed members of its proposal that persons registered or eligible for registration as electors in the traditional FCs would be given a choice to opt to register in the traditional FCs or the new DC FC.

73. Mr LAU Kong-wah, Mr IP Kwok-him and Mr Paul TSE are of the view that as the new DC FC is a FC, persons registered or eligible to be registered as electors in the traditional FCs should also be given an option to choose to register in the new DC FC in line with the arrangements for other FCs.

74. The Administration has informed the Bills Committee that technical amendments would be introduced to Clause 37 of the Bill to reflect the arrangements to be adopted by ERO in respect of the voter registration ("VR") for the DC (second) FC. As a one-off transitional arrangement, ERO would prepare the first register of electors for the DC (second) FC by using the 2011 GC final register as the basis, and deleting from it the electors of the existing FCs and those who elect not to be registered in the DC (second) FC. For any person who, according to the VR procedures, elects to be registered in the DC (second) FC during the 2012 VR cycle, and any elector of the existing FCs² who elects to be registered in the DC (second) FC, they would be included in the first register of electors for the DC (second) FC. ERO would put in place appropriate measures to tie in with the VR arrangements for the DC (second) FC. ERO would inform those GC electors who are not electors of the existing FCs that they would be registered in the DC (second) FC, unless they elect not to be so registered. ERO would also inform those electors of the existing FCs that they can choose to be registered in the DC (second) FC and not be registered as electors for the FC for which the electors are currently registered as electors. According to the Administration, this is consistent with the existing provision that an elector can choose to be registered in one FC if the elector is eligible for registration in more than one FC. ERO will amend the VR application form in due course to facilitate persons applying for registration as electors to indicate their choice.

² Not applicable to HYK FC, agriculture and fisheries FC, insurance FC, transport FC and DC (first) FC.

*Nomination threshold
(Clause 43)*

75. According to clause 43, candidates on a nomination list for the DC (second) FC must be nominated by not less than 15 elected DC members. An elected DC member can only nominate one nomination list and can only make nomination for either the DC (first) FC or the DC (second) FC.

76. Some members including Mr Albert HO, Ms Emily LAU, Mr LEE Wing-tat and Ms Audrey EU are of the view that the nomination threshold for the new DC FC should be lowered to 10 instead of 15 so as to allow more candidates to participate in the election.

77. The Administration has advised that the nomination threshold for the DC (second) FC is proposed after taking into account the proposals put forward by various political parties which range from 10 to 20 subscribers. The Administration considers that the proposed nomination threshold of 15 is a low threshold and is reasonable, given that for a list of five candidates, each candidate on average only needs to have three nominations. With the proposed nomination threshold of 15, it is envisaged that the 412 elected DC members of the fourth term DC could nominate up to some 20 candidates/lists of candidates and this would ensure sufficient competition in the new DC FC election. Moreover, it is possible for different political parties to form a list of candidates to participate in the new DC FC election.

78. Mr Albert HO considers the Administration's explanation unacceptable. He has pointed out that it would not be easy for a political party/group, and an independent candidate in particular, to secure 10 nominations. Moreover, the Administration should be well aware that it is quite impossible for the second candidate on a list to be returned in the new DC FC election. Mr HO has stressed that as a political party/group would need time to build up its support at district level, the Administration should have allowed more room for any political party/group to participate in the election.

*Election expenses limit for the DC (second) FC
(Clause 46)*

79. For the 2008 LegCo election, the election expenses limits were also increased by 5% as follows -

<u>GC</u>	<u>Election Expense Limit</u>
Hong Kong Island	\$2,100,000
Kowloon East	\$1,575,000
Kowloon West	\$1,575,000
New Territories East	\$2,625,000
New Territories West	\$2,625,000

<u>FC</u>	<u>Election Expense Limit</u>
HYK, agriculture and fisheries, insurance and transport FCs	\$105,000
FCs with not more than 5 000 registered electors	\$168,000
FCs with 5 001 to 10 000 registered electors	\$336,000
FCs with over 10 000 registered electors	\$504,000

80. Clause 46 provides that the maximum amount of election expenses that can be incurred at a DC (second) FC election by or on behalf of all the candidates on a list is \$6 million.

81. Ms Audrey EU has pointed out that with the proposed election expense limit of \$6 million and the cap on financial assistance payable being maintained at 50% of the declared election expenses, a candidate running for the DC (second) FC seats would have to fork out \$3 million, which is roughly equivalent to the total amount of remuneration for a LegCo Member during the four-year term of office. She considers the arrangement unreasonable.

82. The Administration has advised that it had considered the proposals put forward by various political parties ranging from \$4 million to \$8 million. The proposed limit of \$6 million is set on the basis of an estimation of the election expenses required for the election. The printing of about \$3.2 million promotional leaflets is estimated to cost about \$3 million and a further \$2 million to \$3 million will be needed for banners and other electioneering activities. However, the proposed \$6 million is the upper limit and a candidate could spend less than that. The Administration has further pointed out that it has been a long-standing practice that candidates would need to meet half of their election expenses and the same would also apply to the new DC FC election.

Electorate of traditional functional constituencies
(Clauses 6 to 9, 13, and 32 to 36)

83. According to the Administration, its general policy position is that there should be no substantial changes to the traditional FCs. As a regular exercise

before each LegCo election, the Administration will review whether there is a need to propose technical adjustments to the electorate of the traditional FCs to reflect their latest developments.

84. Ms Miriam LAU and Mr Paul TSE have expressed grave disappointment at the Administration's refusal to take heed of the requests made repeatedly by many representative trade organizations over the years to be included as constituents of the traditional FCs such as the transport FC. Ms Audrey EU considers that the absence of proposals to expand the electorate base of traditional FCs is inconsistent with the principle of gradual and orderly progress under BL. These members have urged the Administration to broaden the electorate base of the traditional FCs to enhance their representativeness during the current legislative exercise.

85. The Administration has informed the Bills Committee that after having considered the relevant applications submitted by more than 100 bodies for inclusion in the electorate of 16 different FCs since the enactment of the LegCo (Amendment) Ordinance 2003, the Administration would move CSAs -

- (a) to add 28 corporate electors (including franchisees and licensees of the Airport Authority Hong Kong, land transport service providers such as taxi associations and company, non-franchised bus associations, car park companies, company managing tunnel, cross-boundary bus association, driving training bodies, logistics association and vehicle maintenance association) into the transport FC;
- (b) to add eligible members of Hong Kong Chinese Prepared Medicine Traders Association Limited, Hong Kong Chinese Medicine Industry Association Limited and Hong Kong Chinese Patent Medicine Manufacturers' Association Limited (around 300 eligible electors) into the wholesale and retail FC; and
- (c) to add members of the Hong Kong Information Technology Joint Council Limited (about 100 eligible electors) into the information technology FC.

86. The Administration has informed the Bills Committee that in considering the inclusion of the proposed bodies in the electorate of their respective FC, the Administration has taken into account applicable factors including their contribution to the industry/sector, their representativeness, their level of participation in the sector, the membership size and their scale of operation.

87. Dr Margaret NG considers that the Administration should enhance the transparency of the nature of body electors in FCs to address the concern that they are prone to manipulation. She is of the view that the Administration should verify the status of the registered body electors of FCs on a regular basis to ensure that they remain to be eligible for registration as electors, i.e. whether they are still active and representative. The Administration has explained that REO would update the electoral records of the body electors before every LegCo general election to reflect the latest developments.

88. Amendments are introduced in LCB to update the names of certain bodies which are registered, or are eligible to be registered as electors. According to the Administration, the updating is technical but is required because these bodies are not operating under their old names. The updating does not change the composition of the electorate of the FCs concerned. The Administration has informed the Bills Committee that it would move CSAs to update the names of four more bodies in FCs. In addition, section 20Z(1)(ii) of LCO specifies that bodies that are holders of Public Non-exclusive Telecommunications Service ("PNETS") licences are eligible to be registered as electors for the information technology FC. As the Telecommunications Authority decided to create a new "Class 3 Service" under the Services-Based Operator licence to replace the PNETS licence and has ceased to issue or renew any PNETS licence with effect from 30 October 2009, the Administration would move a CSA to amend section 20Z(1)(ii) to replace PNETS licences by the Services-Based Operator license (Class 3 Service).

89. Dr Margaret NG has informed the Bills Committee that to broaden the electorate size of traditional FCs, she would move CSAs to abolish corporate votes and corporate nominations in the elections of a number of FCs³ and

³ These FCs are -

- (a) for the commercial (first) functional constituency, in section 20P;
- (b) for the commercial (second) functional constituency, in section 20Q;
- (c) for the industrial (first) functional constituency, in section 20R;
- (d) for the industrial (second) functional constituency, in section 20S;
- (e) for the agriculture and fisheries functional constituency, in section 20B;
- (f) for the insurance functional constituency, in section 20C;
- (g) for the transport functional constituency, in section 20D;
- (h) for the education functional constituency, in section 20E;
- (i) for the real estate functional constituency, in section 20N;
- (j) for the tourism functional constituency, in section 20O;
- (k) for the finance functional constituency, in section 20T;
- (l) for the financial services functional constituency, in section 20U;
- (m) for the sports, performing arts, culture and publication functional constituency, in section 20V;
- (n) for the import and export functional constituency, in section 20W;
- (o) for the textiles and garment functional constituency, in section 20X;
- (p) for the wholesale and retail functional constituency, in section 20Y; and
- (q) for the information technology functional constituency, in section 20Z.

substitute them with directors of the company or all practitioners/members of the FCs concerned to the effect that all members of the industry are eligible to register as electors and all registered electors are eligible to nominate candidates. CSA would also be moved to expand the electorate of the labour FC to include all members of the trade unions registered under the Trade Unions Ordinance (Cap. 332).

90. According to the Administration, it is well aware that certain political parties/groups including the Civic Party and the Liberal Party have views about the electorate base of the traditional FCs. There are suggestions that "corporate votes" of the traditional FCs should be replaced with "director's and individual votes", and the voting right should be expanded to all practitioners/members of FCs. However, these suggestions are not in compliance with the understanding when the motions to amend the two electoral methods for 2012 were endorsed by LegCo that democratic elements of the FC system would be enhanced through the implementation of the "one-person-two-votes" proposal for returning the new DC FC seats in 2012 and no substantial changes would be made to the electorate base of traditional FCs. It is therefore difficult for the Administration to support the CSAs to be moved by Dr Margaret NG.

Overseas government organizations
(Clause 14)

91. According to the Administration, there are views that overseas government organizations should not be eligible to be registered as FC electors. The Administration has proposed new provisions in LCB that consular posts as prescribed in the Consular Relations Ordinance (Cap. 557), and international organizations under the International Organizations (Privileges and Immunities) Ordinance (Cap. 558) and International Organizations and Diplomatic Privileges Ordinance (Cap. 190) are no longer eligible to be registered as corporate electors. As most of the consular posts and international organizations are not registered as electors, it is expected that only a small number of such corporate electors would be affected.

92. The Administration has informed the Bills Committee that the above amendments are also applicable to the EC subsectors with the same electorate as the corresponding FCs, such as the commercial (first) and commercial (second) subsectors. After review of those subsectors which include corporate voters but do not have a corresponding FC or have an electorate different from that of the FC (i.e. Hong Kong Chinese Enterprises Association subsector, Employers' Federation of Hong Kong subsector and Social Welfare subsector), the Administration considers that although it is rather remote that an overseas

government organization would participate in the election of these subsectors given their nature, it is prudent to cover all possibilities as far as possible in CEEO. The Administration will move CSA to add a new section 7(5) in CEEB to provide expressly that overseas government organizations are not eligible to be registered as corporate voters in any EC subsector.

Commencement dates

(Clause 1)

93. Clause 1(2) of LCB provides that all provisions of the LegCo (Amendment) Ordinance 2010 (except sections 24 and 37(2)) shall come into operation on the day on which the Ordinance is published in the Gazette for the purpose only of enabling arrangements to be made for the holding of EC subsectors election in 2011 and the holding of the LegCo general election in 2012. The Administration has explained that the purposes of these provisions include the increase of seats for GCs, establishment of the new DC (second) FC, renaming of the existing DC FC, etc. These provisions shall come into operation on the commencement of the term of office of the next term of LegCo. However, to facilitate the preparation for the holding of the EC subsectors election in 2011 and the holding of the LegCo general election in 2012, the provisions have to come into operation on the date the Ordinance is gazetted for the purpose of enabling arrangements to be made for those elections. These provisions, in so far as they have not come into operation as mentioned above (e.g. the increase in the number of seats of LegCo), will come into operation on the commencement of the next term of LegCo, according to clause 1(4) of the Bill.

94. As regards the commencement dates of sections 24 and 37(2) of the LegCo (Amendment) Ordinance 2010, the Administration has explained to the Bills Committee that section 24 specifies that only electors whose names are included in the final register of FCs published for 2011 are entitled to vote at a by-election held between the date of the publication and 31 May 2012⁴. The purpose is to state clearly that the by-election(s) held during the period would be conducted according to the final register of FCs published for 2011. The Administration has further explained that clause 8 of CEEB specifies that elected DC members in the 2011 DC election, including those who have been registered as voters in other subsectors, shall be automatically registered as voters in the DCs subsectors. Section 37(2) of the LegCo (Amendment) Ordinance 2010 provides that despite the above arrangement, if an elector for any FC is elected as an elected DC member in the 2011 DC election, the name and relevant particulars of

⁴ Section 36(2)(a) of LCO provides that a by-election to fill a vacancy occurring in the membership of LegCo is not to be held within the four months preceding the end of that Council's current term of office. 31 May 2012 is the last day on which any by-election of the fourth term of LegCo is to be held.

the elector must remain in the final register of that constituency published for 2011 until the publication of the 2012 provisional register of electors for the DC (first) FC. This arrangement is to enable elected DC members in the 2011 DC election who have also been registered in other FCs to participate in any by-election during the period.

95. The legal adviser to the Bills Committee has pointed out that according to section 4(3) of LCO, each term of office of LegCo is to begin on a date to be specified by CE in Council. It is considered that the commencement date specified in clause 1(4) of LCB should be amended from 1 October 2012 to the date on which the next term of LegCo commences.

96. The Administration has advised that when formulating clause 1(4) of LCB, it has made reference to the arrangement that 1 October was specified as the date on which the term of office started for the past LegCo terms. In view of the arrangement on the specification of the commencement of the term of office of LegCo under section 4(3) of LCO, the Administration has agreed to move CSA to specify the commencement date in clause 1(4) of LCB as the date on which the term of office of the fifth term of LegCo commences in 2012 instead of the original formulation of 1 October 2012.

Voter registration

97. At the request of the Bills Committee, the Administration has provided information on the various statutory deadlines in respect of VR in 2011 and 2012 and explained the relevant procedures to members.

98. Noting that the date of publication of the 2011 provisional register (15 August 2011) comes before the deadline for updating of electors' records (29 August 2011), Ms Emily LAU and Mr Albert HO consider the arrangement unsatisfactory. In their view, to ensure fairness of election, no more updating of records should be allowed after the provisional register has been published for public inspection because the public would not have any opportunity to lodge objections to those changes made after the publication of the provisional register. Ms Emily LAU considers that there should not be any overlap in the period for the public to make an objection to or to make a claim on the registration on the provisional register or to apply for updating registration particulars and that for the Revising Officer to make determination on the objections and claims.

99. The Administration has explained that there is a practical need for setting the deadline for updating voters' records after the date of publication of the provisional register to allow time for voters to update their records after

inspection of the provisional register. REO would bring to the attention of the Revising Officer any changes in registration particulars of electors relating to cases of objections/claims being handled by the Revising Officer. Objections/claims made by the public on the registration of the final register would be handled in the next VR cycle.

100. Members have stressed that the public must be clearly informed of the relevant arrangements and deadlines, and the procedures for electors to exercise their choice should be simple and convenient. The Administration must also ensure that electors of the traditional FCs would be well-informed of the impact of the new DC FC on their voting right.

101. The Administration has explained that REO in 2011 would focus its work on the DC election to be held in November 2011 and the EC subsector elections in December 2011. The Administration has undertaken to consult the CA Panel in April 2011 on the arrangements and publicity for the 2011 VR campaign. The Administration has also assured members that REO would start its publicity work on the electoral arrangements for the new DC FC election as early as practicable in 2012.

Distribution of election-related materials

102. Members in general are of the view that the Administration should introduce measures to facilitate candidates to adopt more environmental-friendly means to distribute their election-related materials, and if necessary, introduce legislative amendments required to implement such measures during the current legislative exercise.

103. Sections 43(1)-(2) of LCO specify that one letter, addressed to each elector for 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. Ms Audrey EU has suggested that a list of candidates/candidate should be allowed 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. She has sought clarification on whether this is permissible under section 43 of LCO as currently worded. Ms EU has reiterated that to promote party politics, the Administration should ensure that there is adequate flexibility under the relevant electoral legislation for candidates to distribute election-related materials.

104. Ms Emily LAU has suggested that consideration should be given to requiring electors to choose the means through which to receive election-related

materials (e.g. whether they wish to receive hardcopies or electronic copies, and whether they agree that the materials be sent to them on a household basis). She considers that arrangements should be made to facilitate a list of candidates/candidate to send out one letter to electors with the same registered address.

105. Mr Paul TSE has suggested that an allowance should be provided to candidates (e.g. in the form of an election publicity voucher) in lieu of free postage to provide financial incentive and more flexibility to candidates in distributing their election-related materials by environmental-friendly means.

106. The Administration has advised that there is no mandatory requirement in sections 43(1)-(2) of 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 REO 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 LCO. However, REO has to further consider the feasibility of the concerned arrangement. The Administration has stressed that there is also a need to consider electors' right to gain equal access to the election platform of candidates.

107. The Administration has further advised that section 43(4) of 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 LCO and the EAC Ordinance (Cap. 541). Specifications of the letter sent by candidates are provided for in sections 101A(1) and (3) of the EAC (Electoral Procedure) (LegCo) Regulation (Cap. 541D). 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. As the proposal involves a new arrangement, it would be considered when the practical electoral arrangements are formulated.

108. Mr TAM Yiu-chung and Mr LAU Kong-wah have stressed that candidates' existing entitlement to send letters to electors free of postage should be retained. They have pointed out that given the large electorate size of the new DC FC, candidates for this FC might find it necessary to reach their electors through posting.

109. The Administration has assured the Bills Committee that it would examine Members' suggestions when formulating the practical arrangements for the elections. The Administration has undertaken to revert to the CA Panel on the relevant issues including use of environmental-friendly means for the

distribution of election-related materials during the discussion on practical electoral arrangements for the upcoming elections.

COMMITTEE STAGE AMENDMENTS

110. The Administration will move CSAs to CEEB and LCB. The Bills Committee raises no objection to these CSAs. Mr WONG Kwok-kin and Ms Emily LAU will move CSAs to amend LCB, and Dr Margaret NG will move CSAs to amend CEEB and LCB.

RESUMPTION OF SECOND READING DEBATE ON THE BILLS

111. The Bills Committee raises no objection to the resumption of the Second Reading debate on the Bills at the Council meeting of 2 March 2011, subject to the CSAs to be moved by the Administration.

CONSULTATION WITH THE HOUSE COMMITTEE

112. The Bills Committee reported its deliberations to the House Committee on 18 February 2011.

Council Business Division 2
Legislative Council Secretariat
25 February 2011

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

Membership list

Chairman	Hon TAM Yiu-chung, GBS, JP
Deputy Chairman	Hon Jeffrey LAM Kin-fung, SBS, JP
Members	Hon Albert HO Chun-yan Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP Dr Hon Margaret NG Hon CHEUNG Man-kwong Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP Dr Hon Philip WONG Yu-hong, GBS Hon WONG Yung-kan, SBS, JP Hon LAU Kong-wah, JP Hon LAU Wong-fat, GBM, GBS, JP Hon Miriam LAU Kin-yea, GBS, JP Hon Emily LAU Wai-hing, JP Hon Andrew CHENG Kar-foo Hon Timothy FOK Tsun-ting, GBS, JP Hon Abraham SHEK Lai-him, SBS, JP Hon Frederick FUNG Kin-kee, SBS, JP Hon Audrey EU Yuet-mee, SC, JP Hon Vincent FANG Kang, SBS, JP Hon WONG Kwok-hing, MH Hon LEE Wing-tat Hon CHEUNG Hok-ming, GBS, JP Hon WONG Ting-kwong, BBS, JP Hon Ronny TONG Ka-wah, SC Hon CHIM Pui-chung Prof Hon Patrick LAU Sau-shing, SBS, JP Hon Cyd HO Sau-lan Dr Hon LAM Tai-fai, BBS, JP Hon CHAN Kin-por, JP Dr Hon Priscilla LEUNG Mei-fun

Hon WONG Kwok-kin, BBS
Hon IP Kwok-him, GBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon Paul TSE Wai-chun
Dr Hon Samson TAM Wai-ho, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon WONG Yuk-man

Total : 38 Members

Clerk Miss Flora TAI

Legal Adviser Mr Arthur CHEUNG

Date 4 January 2011

《 2010年行政長官選舉(修訂)條例草案 》及
《 2010年立法會(修訂)條例草案 》委員會
Bills Committee on Chief Executive Election (Amendment) Bill 2010
and Legislative Council (Amendment) Bill 2010

曾向法案委員會表達意見的團體/個別人士名單
List of organizations/individuals which/who have
submitted views to the Bills Committee

<u>名稱</u>	<u>Name</u>
1. 一零憲章	Charter 10
2. 中國香港柔道總會	The Judo Association of HK, China
* 3. 中華文化產業協會	中華文化產業協會
4. 公民英語小組	CP English Language Group
5. 公民黨	Civic Party
* 6. 公共巴士同業聯會	Public Omnibus Operators Association Ltd
7. 王文傑先生	Mr WONG Man-kit
8. 牛頭角 Teen 網絡	Ngau Tau Kok Teen Network
9. 古麗芳女士	Ms KU Lai-fong
10. 民主動力	Power for Democracy
11. 民主發展資源中心	Democracy & Reform Resources Center
12. 何偉明先生	Mr Raymond HO
* 13. 吳貴雄先生	Mr NG Kwai-hung
14. 李達怡先生	Mr Jacky LEE
15. 沙田青年協會	Shatin Youths Association
16. 沙田健青體育會	Sha Tin Kin Ching Sports Association
17. 拒絕假普選聯盟	Union of Refusing Legislation for False Universal Suffrage
18. 東九龍居民委員會	East Kowloon District Residents' Committee
19. 東九龍青年社	East Kowloon Youth Society
20. 林戈娛樂制作公司	Lam Kwo Entertainment Co.
21. 油尖旺社團聯會	Yau Tsim Mong Federation of Association
22. 油麻地居民權益關注會	Yau Ma Tei Concern for Resident Rights Association
23. 油塘家園	Yau Tong Home Land

24.	物流理貨職工會	Logistics Cargo Supervisors Association
25.	邵耀健先生	Mr SIU Yu-ken
26.	長沙灣街坊福利會	長沙灣街坊福利會
27.	青年民建聯	Young Democratic Alliance for Betterment and Progress of Hong Kong
28.	青言社	青言社
29.	南青鋒	Southern Keen Youth
30.	南區社會服務協會	Southern Social Service Association
31.	政改關注組	政改關注組
32.	紅燒老鴿同鄉會	Redburn Old Bird Association
33.	香港人網	Hong Kong Reporter
34.	香港人權監察	HK Human Rights Monitor
35.	香港文職及專業人員總會	香港文職及專業人員總會
36.	香港印刷業商會	The Hong Kong Printers Association
* 37.	香港各界文化促進會	Hong Kong Culture Association Limited
38.	香港佛山工商聯會	香港佛山工商聯會
39.	香港南安公會	The Naman (Hong Kong) Association Ltd.
40.	香港政治經濟文化學會	Hong Kong Political Economic and Cultural Society
41.	香港星火網絡協進會	Hong Kong Starfire Network Association
42.	香港書刊業商會	Hong Kong Book & Magazine Trade Association Ltd.
43.	香港泰拳理事會有限公司	Hong Kong Muay-Thai Association Ltd.
44.	香港專上學生聯會	The Hong Kong Federation of Students
45.	香港翔韻藝術團	Melody Art Troupe H.K.
46.	香港新界工商業總會	Hong Kong New Territories Commercial and Industrial General Association Ltd.
47.	香港資訊科技聯會	Hong Kong Information Technology Joint Council
48.	香港僑界社團聯會	Hong Kong Federation of Overseas Chinese Associations Limited
49.	香港漳州同鄉總會	Zhang Zhou District Association of HK
50.	香港漁民團體聯會	Hong Kong Fishermen Consortium

51.	香港福建三明聯會	Hong Kong Fukien Sanming Association Limited
52.	香港福建社團聯會	HK Federation of Fujian Associations
53.	香港舞蹈聯會	Association of HK Dance Organization
54.	香港廣東社團總會	Federation of Hong Kong Gongdong Community Organizations
55.	香港影業協會	Hong Kong Motion Picture Industry Association
* 56.	家維區居民聯會	家維區居民聯會
* 57.	海泓社區服務協會	Hoi Wang Community Service Association
58.	海港運輸業總工會	Harbour Transportation Workers General Union
59.	神州青年服務社	China Youth Service & Recreation Centre
60.	荃灣青年會	Tsuen Wan Youth Association
* 61.	高家廣先生	Mr KO Ka-kwong
* 62.	張博文先生	Mr Arnold CHEUNG
* 63.	強烈要求取消區議會當然議員制 facebook 群組及反對當然議員可參 選新區議會界別 facebook 專頁	強烈要求取消區議會當然議員制 facebook 群組 及反對當然議員可參選新區議會界別 facebook 專頁
64.	彩虹之友社	Choi Hung Friends' Association
65.	彩雲邨居民促進會	彩雲邨居民促進會
66.	莊澤權先生	Mr Charles CHONG
67.	陳建業先生	Mr CHAN Kin-yip
68.	陳廣錫先生	Mr Wade CHAN Kwong-shik
69.	陳曉津先生	Mr CHAN Hiu-chun
70.	逸東社區網絡協會	Yat Tung Community Network Association
71.	順利區社區事務促進會	順利區社區事務促進會
72.	馮漢光先生	Mr FUNG Hon-kwong
73.	黃群先生	Mr WONG Kwan
74.	愛民邨居民聯會	Oi Man Estate Resident Association
75.	新世紀論壇	New Century Forum Ltd
76.	新界青年聯會	Federation of New Territories Youth
77.	新馬泰歸僑華人聯合會	The Singapore & Malaysia & Thai Overseas Returned Chinese
78.	新蒲崗居民聯會	San Po Kong Residents Association
* 79.	維港關愛協會	Victoria Harbour Association

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| 80. | 維園行動 | Victoria Park in Action |
| 81. | 樂民新村居民協會 | 樂民新村居民協會 |
| 82. | 選民力量 | Power Voters |
| 83. | 嶺大學生會 | Lingnan University Students' Union |
| 84. | 鍾宏安先生 | Mr Edmon CHUNG |
| 85. | 鍾蔭祥先生 | Mr CHUNG Yam-cheung |
| * 86. | 關卓鉅先生 | Mr KWAN Cheuk-kui |
| 87. | 蘇晁鋒先生 | Mr Clovis SO |
| 88. | 灣仔社團活動中心 | Wanchai Community Activities Centre |
| 89. | 灣仔區議會議員黎大偉先生 | Mr David LAI, member of Wan Chai District Council |

* 只提交書面意見的團體/個別人士
Organizations/individuals which/who have submitted written views only