

**Bills Committee on
Legislative Council (Amendment) Bill 2011**

Replacement Mechanism

Introduction

During the discussions of the Bills Committee on the Legislative Council (Amendment) Bill 2011, various Members pointed out that the replacement mechanism based on the “precedence list of candidates with the largest remaining number of votes” should not be used to cover incidents whereby Members have passed away or are unable to discharge their duties due to serious illness. This is because such Members do not leave their office intentionally or voluntarily, and therefore should be differentiated from those resigning from office on their own initiative.

2. Various Members also pointed out that if a LegCo Member resigns and is replaced by a candidate on the precedence list, its replacement Member may come from a different political party. This will have two effects-

- (a) the 30,000 to 50,000 votes which supported the election of the resigning Member would lose their effect; and
- (b) the proportion of seats under the proportional representation election system would be changed as a result.

Revised replacement mechanism

3. We note the views that vacancies arising from death and serious illness of Members should be differentiated from those due to voluntary resignation of Members. However, we consider it important to ensure that a consistent approach is adopted for handling vacancies which arise due to various reasons.

4. Having given the above views very close and careful consideration, the Government has concluded that we should revise the replacement mechanism as follows-

- (a) henceforth, if any vacancy arises under section 15 of the Legislative Council Ordinance or Article 79 of the Basic Law (including those due to death, serious illness, resignation, or disqualification of Members due to other reasons), the vacancy will be filled by the candidate who is of the highest order of the

priority among the candidate list of the Member who has resigned from or vacated his seat;

- (b) this will then preserve the choice of voters expressed through the previous general election. The proportion of seats allocated among different political parties and lists will be maintained;
- (c) for voters concerned, they will know clearly that in the general election, their support for a particular list of candidates representing a particular political party or grouping can be retained for the four-year term;
- (d) if the candidates remaining on the candidate list of the Member vacating his seat do not wish or are ineligible to fill the vacancy, or if there is no other candidate remaining on the candidate list, then the precedence list of candidates with the largest remaining votes will be used to fill the vacancy according to the proposals embodied in the Amendment Bill and Committee Stage Amendments already presented; and
- (e) if the vacancy cannot be filled by sub-paragraph (a) and (d) above, a by-election will be held to fill the vacancy.

5. The revised scheme will continue to ensure that-

- (a) if Legislative Council Members choose to resign, there will be no unnecessary by-elections;
- (b) Members who resign will be replaced within a short period either by the candidates from his own candidate list or a replacement from the precedence list of candidates with the largest remaining votes;
- (c) there will be no unnecessary public expenditure incurred; and
- (d) the smooth operation of the Legislative Council and service to the public will be maintained to the largest extent possible.

6. Committee Stage Amendments (“CSAs”) putting the above proposals into effect will be put to the Bills Committee separately, together with other CSAs already discussed.

Constitutional & Mainland Affairs Bureau
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