

## **Legislative Council Panel on Constitutional Affairs**

### **2010 - 11 Policy Agenda**

#### **INTRODUCTION**

This paper briefs Members on the initiatives of the Constitutional and Mainland Affairs Bureau (CMAB) set out in the 2010-11 Policy Agenda in relation to constitutional development, elections, human rights and Basic Law.

#### **POLICY AGENDA**

2. We will pursue four new initiatives and will continue to implement five on-going initiatives.

##### New Initiatives

- (a) Introduce legislative amendments into the Legislative Council (“LegCo”) to prescribe, under local legislation, the detailed arrangements regarding the methods for selecting the Chief Executive (“CE”) and for forming the LegCo in 2012.
- (b) Work closely with the Electoral Affairs Commission (“EAC”) to make practical arrangements to ensure that the 2011 District Council (“DC”) election, the 2011 Election Committee (“EC”) subsector elections and associated electoral arrangements will be conducted in fair, open and honest manner in accordance with the relevant legislation.

- (c) Introduce legislative amendments to increase the number of elected seats for the 2011 DC election, and put forth proposals concerning the abolition of the DC appointment system for consultation with the LegCo and the public.
- (d) On the review of the Personal Data (Privacy) Ordinance, put forth relevant proposals on legislative amendments.

#### On-going Initiatives

- (e) Continue our work on the promotion of human rights.
- (f) Continue our work on facilitating ethnic minorities to integrate into the community, including sponsoring NGOs to operate support service centres and other specific support services for ethnic minorities and monitoring the implementation of the Administrative Guidelines on Promotion of Racial Equality.
- (g) Make practical preparations for conducting public consultation on the proposed way forward on the recommendations of the Law Reform Commission on stalking.
- (h) Continue to implement the Political Appointment System.
- (i) Continue to facilitate the implementation of “One Country, Two Systems” and to demonstrate its success; and to strengthen our efforts in promoting public awareness and understanding of the Basic Law.

Details of the above initiatives are set out in the following paragraphs.

## **Methods for selecting the CE and for forming the LegCo in 2012**

3. The draft amendments to the two electoral methods for the selection of the CE and for the formation of the LegCo in 2012 were passed by a two-thirds majority of the LegCo on 24 and 25 June respectively. The CE gave consent to the draft amendments on 29 June. The amendments to Annexes I and II of the Basic Law were approved or recorded respectively by the Standing Committee of the National People's Congress.

4. We are pursuing the electoral arrangements through local legislation. Main issues being considered are as follows:

### **CE Election Committee Subsector Election**

- (a) allocation of seats among the subsectors under the first, second and third sectors of the EC;
- (b) transitional arrangement for the allocation of the 10 seats in the fourth sector from February to September 2012 prior to the addition of 10 LegCo seats in September 2012;
- (c) the grouping and demarcation of the DC subsectors in the fourth sector and arrangement for electing the 117 seats allocated to the DCs;
- (d) the arrangement for the DC members who will be returned in the DC election in November 2011 to be registered as voters for the DC subsectors;

## LegCo Election

- (e) for the five new DC seats in the functional constituencies (“FC”);
  - (i) whether the five seats should be returned from the whole SAR as a single constituency or delineated into more than one constituency;
  - (ii) whether a “list proportional representation system” or a “single transferrable voting system” should be used to implement the proportional representation system;
  - (iii) whether to provide the choice to the 225 000 electors registered in the traditional FCs so that they could choose to register in the new DC FC;
  - (iv) the number of subscribers required for nominating candidates in the new DC FC; and
  - (v) the election expense limit for the new DC FC.
- (f) the arrangement for the financial assistance for candidates;
- (g) for geographical constituencies (“GCs”), the number of GCs to be demarcated and the range of seats to be returned from each GC; and
- (h) certain technical amendments relating to traditional FCs.

The Administration will consult the LegCo Panel on Constitutional Affairs in late October on the major legislative proposals regarding the two electoral methods for 2012. It is our plan to introduce legislative amendments to implement the two electoral methods to the LegCo in autumn this year so that the Bills can be passed by the LegCo as soon as possible in 2011.

### **Electoral arrangements on DC election and EC subsector elections in 2011**

5. The Administration will work closely with the EAC to make practical arrangements to ensure that the 2011 DC election, the 2011 EC subsector elections and associated electoral arrangements will be conducted in a fair, open and honest manner in accordance with the relevant legislation. The EAC is making preparations on the practical arrangements for these two elections and will consult the LegCo Panel on Constitutional Affairs in 2011.

### **Elected seats for 2011 DC election and abolition of DC appointment system**

6. The Administration has introduced into the LegCo a piece of subsidiary legislation providing for an increase in the number of elected seats for the 2011 DC election. The subsidiary legislation will be examined by a subcommittee on subsidiary legislation established by the LegCo. Separately, the Administration will put forth proposals concerning the abolition of the DC appointment system for consultation with the LegCo and the public.

### **Review of the Personal Data (Privacy) Ordinance**

7. The Administration, with the support of the Privacy Commissioner for Personal Data (PCPD), has conducted a comprehensive review of the Personal Data (Privacy) Ordinance (PDPO)

to examine whether its existing provisions still afford adequate protection to personal data having regard to developments over the last decade or so. In this regard, we published the Consultation Document on Review of the PDPO and conducted public consultation on our proposals last year.

8. We have consolidated and analysed the views received in the public consultation. Views received reflect that many proposals to strengthen the protection of personal data privacy have gained general support from the public. Separately, the community has recently expressed concerns about the transfer of customer personal data by some enterprises for direct marketing purposes without explicitly and specifically informing the customers of the purpose of the transfer and the identity of the transferees. We have examined these concerns carefully and will put forward new proposals to strengthen the protection of personal data privacy in this regard.

9. We will publish next week the Consultation Report on Review of the Personal Data (Privacy) Ordinance to set out our legislative proposals, and will brief Members on the proposals. The Report will facilitate further public discussion. We will also arrange public forums and discussion sessions with the public and stakeholders to gauge public views on these proposals.

### **Promotion of human rights**

10. We are committed to protecting and promoting human rights in Hong Kong. In this regard, there is an extensive mechanism for the protection and promotion of human rights, including the rule of law, an independent judiciary and various institutions such as the Equal Opportunities Commission (EOC), the Privacy Commissioner for Personal Data and The Ombudsman. We also report to the United Nations periodically on the implementation of relevant human rights conventions.

11. We will continue to undertake measures, including publishing and distributing publicity materials and sponsoring community projects, to promote the protection of human rights. As in previous years, funds have been earmarked for the Children's Rights Education Funding Scheme and the Equal Opportunities (Sexual Orientation) Funding Scheme. The EOC also organises various programmes to promote equality under the various anti-discrimination ordinances. We will continue to maintain regular dialogue with relevant community groups and human rights organisations through various channels to enhance promotion activities.

### **Promotion of racial equality**

12. We have issued the Administrative Guidelines on Promotion of Racial Equality to provide general guidance to concerned Government bureaux and departments and relevant public authorities to promote racial equality and ensure equal access by ethnic minorities to public services in key areas concerned, and to take this into account in their formulation, implementation and review of relevant policies and measures. Relevant authorities have also drawn up checklists of measures under the Guidelines to enhance the transparency of their work. The checklists cover the areas of community services, social welfare, education, employment, medical and health and vocational training. We will keep the operation of the Guidelines under review in the light of implementation experience.

### **Law Reform Commission's Report on stalking**

13. The LRC Report on Stalking proposed the introduction of anti-stalking legislation, in order to render the pursuit of a course of conduct causing another person alarm or distress a criminal offence and a civil wrong. Some aspects of the proposal are controversial and they have attracted concerns among interested parties in the community. In particular, media associations have expressed concerns about the impact

of the proposal on press freedom.

14. We need to address the concerns raised by various parties and to reach a general consensus within the community. We are assessing the implications of the LRC's proposal in consultation with relevant bureaux/departments and in the light of the latest overseas developments. We will formulate the proposed way forward and make practical preparation for conducting public consultation on the proposal in the coming year.

### **Political Appointment System**

15. The HKSAR Government will continue to implement the Political Appointment System. Regarding the filling of the outstanding positions of Under Secretaries and Political Assistants in the Government, our consistent position is that, if there are suitable candidates, such positions will be filled. If necessary, this could be done in phases.

### **Implementation of "One Country, Two Systems" and promotion of the Basic Law**

16. To enhance public understanding of the Basic Law, we have set aside \$16 million for 2010-11 for organising various promotional activities. We will continue adopt "The 20th Anniversary of the Promulgation of the Basic Law" as the main theme in the upcoming promotion activities, so as to enable the public to have a better understanding of the relationship between the Central Authorities and the HKSAR, and the importance of the Basic Law to Hong Kong's implementation of "One Country, Two Systems", "Hong Kong People ruling Hong Kong" and a high degree of autonomy. We will continue to make use of the electronic media as the main promotional channel, including TV programmes, game shows and Announcements of Public Interest to enhance the effect of the promotional activities. Besides, we will continue to cooperate with community groups and organisations in



organising various activities to promote the important concepts of the Basic Law to different sectors of the community.

## **CONCLUSION**

17. Members are invited to note the content of this paper.

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