

File Ref.: CAB C5/6

Election of a new Chief Executive
Pursuant to Article 53 of the Basic Law: Timetable

INTRODUCTION

This paper informs Members of the timetable for the election of a new Chief Executive (CE).

BACKGROUND

2. On 10 March 2005, Mr TUNG Chee-hwa tendered to the Central People's Government (CPG) his resignation from the office of the CE. The resignation was approved by the CPG on 12 March 2005 and the office of the CE became vacant on the same date.

TIMETABLE FOR THE ELECTION OF A NEW CE

(i) Polling date for CE election and the nomination period

3. According to Article 53 of the Basic Law (BL), in the event that the office of the CE becomes vacant, a new CE shall be selected within six months in accordance with the provisions of Article 45 of the BL. In accordance with the relevant provisions of the BL, the Chief Executive Election Ordinance (CEEEO), Cap. 569 and other enactments which apply to the election of the CE, the major steps leading up to election of a new CE are set out at **Annex A**.

4. Section 10 of the CEEEO provides that where a vacancy arises in the office of the CE because the incumbent is removed from office by the CPG in accordance with the BL, the polling date to elect a new CE shall, where the 120th day after the date on which the office becomes vacant -

- (a) is a Sunday, be that Sunday; or
- (b) is not a Sunday, be the Sunday immediately following that day.

5. The office of the CE became vacant on 12 March 2005. The 120th day after the date on which the vacancy arises is 10 July 2005. Since 10 July 2005 is a Sunday, it will then be the polling date.

6. The CEEO further provides that the nomination period shall not be less than 14 days, and shall terminate on a day earlier than 21 days before the polling date.

(ii) EC: supplementary nominations and by-elections

7. The new CE will be elected by an 800-member Election Committee (EC), in accordance with the BL and the CEEO. The current EC was constituted under the CEEO and has a term of five years. Since the polling date to elect the new CE is 10 July 2005, the current EC will be responsible for electing the new CE.

8. According to latest available information, there are 33 vacancies in the EC, involving 17 subsectors (see **Annex B** for details). The Registration and Electoral Office (REO) will further verify the figures prior to the publication of the EC provisional register. According to the CEEO, once a vacancy for the office of the CE has been declared, a number of statutory steps have to be taken by the EAC to fill the vacancies in the EC:

- (i) In the case of the religious subsector, the six vacancies shall be filled by nominations by the relevant designated bodies.
- (ii) In the case of the other 16 subsectors, the 27 vacancies will be filled by by-elections. Having regard to the relevant statutory procedures to be taken before by-elections are held (including the publication of a provisional register of EC members), it is expected that the polling date will be in early May 2005.

9. According to the CEEO, a final register of EC members shall be published within seven days after the publication of the by-election results. Any person claiming to be a candidate at a by-election may, within that same period, appeal against the result to the Revising Officer (who, according to the CEEO, shall be a magistrate or a legal officer within the meaning of the Legal Officers Ordinance). The Election Committee (Appeals) Regulation provides that the Revising Officer shall make a ruling on any appeal within 20 days after the publication of the Final Register. Where appropriate, the ruling will be incorporated in the Final Register.

10. Following the completion of the above procedures, nomination of candidates for the CE election will then begin.

11. A table setting out the major steps leading up to the CE election polling date on 10 July 2005 is at **Annex A**.

FINANCIAL IMPLICATIONS

12. It is estimated that the CE election and the EC subsector supplementary nominations and by-elections will cost about \$22 million, including the staff cost of some 24 civil servants on secondment from other departments and about 160 temporary non-civil service staff. The REO will endeavour to absorb the expenses within their provision earmarked for by-elections and other purposes. If necessary, supplementary provisions will be sought towards the end of the 2005-06 financial year.

Constitutional Affairs Bureau
12 March 2005

Key Dates for Election of Chief Executive (CE)

Procedure		Statutory Requirement
1	The office of the Chief Executive (CE) becomes vacant ¹	
2	Acting CE declares the vacancy	Declaration shall be made within 21 days after the Acting CE becomes aware of the vacancy ²
Publication of Election Committee (EC) Provisional Register		
3	Electoral Registration Officer (ERO) publishes a provisional register of EC members.	The provisional register shall be published within 14 days after the making of a vacancy declaration ³
4	Lodging of notices of claim or objection as regards the EC provisional register Revising Officer holds hearings as regards the claims and objections received	Not later than the 7 th day after the publication of the EC provisional register ⁴ Not later than the 20 th day after the publication of the EC provisional register ⁵

¹ Section 4 of the Chief Executive Election Ordinance (Cap. 569) provides that the office of the CE becomes vacant :

- (a) if the CE dies; or
- (b) if the Central People's Government removes the CE from office in accordance with the Basic Law.

² Section 5(2) of the Chief Executive Election Ordinance (Cap. 569).

³ Section 4(1) of the Schedule of the Chief Executive Election Ordinance (Cap. 569).

⁴ Sections 30 and 31 of the Electoral Affairs Commission (Registration) (Electors for LegCo Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541B).

⁵ Sections 3(5) and 5(f) of the Election Committee (Registration) (Voters for Subsectors) (Members of Election Committee) (Appeals) Regulation (Cap. 569B).

Procedure		Statutory Requirement
	Revising Officer notifies the ERO of rulings	Revising Officer shall, as regards hearings concluded not later than the 20 th day after the publication of the EC provisional register, notify ERO of the rulings not later than the 21 st day after that date of publication ⁵
EC Subsector By-elections and Publication of EC Final Register		
5	When dealing with procedures 3 and 4, Registration and Electoral Office (REO) will in parallel make pre-nomination preparation (including appointing Returning Officers, publishing electoral guidelines, booking polling and counting stations)	
6	Publishing Gazette notice specifying the names of the subsectors for which by-elections are to be held, the by-election date and nomination period	As soon as practicable after the number of members representing each subsector is ascertained, the Chief Electoral Officer must publish the by-election date, nomination period, etc ⁶
7	Nomination period for subsector election	Must not be less than 7 days ⁷
8	Canvassing period for subsector election (between the end of nomination period and polling day)	Must not be less than 12 days ⁸
9	Polling day, counting of votes and declaration of election results	Early May

⁶ Sections 4(2) and 4(3) of the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541I).

⁷ Section 5(2) of the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541I).

⁸ Section 5(3) of the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541I).

Procedure		Statutory Requirement
10	Publication of a final register of EC members	Within 7 days after the publication of election results ⁹
11	Deadline for lodging appeals against election results	Not later than 7 days after the publication of election results ¹⁰
12	Hearings and rulings on appeals against election results	Not later than 20 days after the publication date of final register ¹¹
13	Revising Officer notifies ERO of his rulings so that the ERO can incorporate them in the final register	Not later than 3 working days after the expiry of the period regarding hearings and rulings on appeals ¹²
CE Election		
14	Pre-nomination preparation for CE election (including appointing Returning Officer, publishing electoral guidelines, specifying nomination period, etc.) It is expected that the bulk of the early-stage preparatory work is to be done in parallel with procedures for EC subsector elections	
15	Nomination period for CE election	Shall not be less than 14 days ¹³
16	Canvassing period for CE election (between the end of nomination period and polling day)	Shall not be less than 21 days ¹³
17	CE Election Day	10 July

⁹ Section 40(2) of the Schedule of Chief Executive Election Ordinance (Cap.569).

¹⁰ Section 3(4) of Election Committee (Appeals) Regulation (Cap.569A).

¹¹ Sections 5 and 6 of Election Committee (Appeals) Regulation (Cap.569A).

¹² Section 8(2) of Election Committee (Appeals) Regulation (Cap.569A).

¹³ Section 15(2) of Chief Executive Election Ordinance (Cap.569).

Number of Vacancies in Election Committee as at 9 March 2005

Name of Subsector/Sub-subsector	No. of Seats	No. of EC Members	No. of Vacancies			
			Deceased	Resigned	Deemed to have Resigned	Total
FIRST SECTOR						
CATERING	11	11				0
COMMERCIAL (FIRST)	12	12				0
COMMERCIAL (SECOND)	12	12				0
EMPLOYERS' FEDERATION OF HONG KONG	11	11				0
FINANCE	12	11			1	1
FINANCIAL SERVICES	12	12				0
HONG KONG CHINESE ENTERPRISES ASSOCIATION	11	11				0
HOTEL	11	11				0
IMPORT AND EXPORT	12	11			1	1
INDUSTRIAL (FIRST)	12	10			2	2
INDUSTRIAL (SECOND)	12	11	1			1
INSURANCE	12	12				0
REAL ESTATE AND CONSTRUCTION	12	12				0
TEXTILES AND GARMENT	12	11	1			1
TOURISM	12	12				0
TRANSPORT	12	12				0
WHOLESALE AND RETAIL	12	12				0
SECOND SECTOR						
ACCOUNTANCY	20	18	2			2
ARCHITECTURAL, SURVEYING AND PLANNING	20	19			1	1
CHINESE MEDICINE	20	19	1			1
EDUCATION	20	20				0
ENGINEERING	20	18	2			2
HEALTH SERVICES	20	20				0
HIGHER EDUCATION	20	19	1			1
INFORMATION TECHNOLOGY	20	20				0
LEGAL	20	18			2	2
MEDICAL	20	20				0
THIRD SECTOR						
AGRICULTURE AND FISHERIES	40	38	2			2
LABOUR	40	39			1	1
RELIGIOUS	40	34	5	1		6
SOCIAL WELFARE	40	40				0
SPORTS, PERFORMING ARTS, CULTURE AND PUBLICATION						
SPORTS SUB-SUBSECTOR	10	10				0
PERFORMING ARTS SUB-SUBSECTOR	10	10				0
CULTURE SUB-SUBSECTOR	10	10				0
PUBLICATION SUB-SUBSECTOR	10	10				0
FOURTH SECTOR						
NATIONAL PEOPLE'S CONGRESS	36	36				0
LEGISLATIVE COUNCIL	60	60				0
CHINESE PEOPLE'S POLITICAL CONSULTATIVE CONFERENCE	41	39	1	1		2
HEUNG YEE KUK	21	17	2		2	4
HONG KONG AND KOWLOON DISTRICT COUNCILS	21	18	1		2	3
NEW TERRITORIES DISTRICT COUNCILS	21	21				0
TOTAL	800	767	19	2	12	33