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

Chief Executive Election (Amendment) Bill 2010

**Committee Stage Amendments
Proposed by the Administration**

         This paper briefs Members on the Committee Stage Amendments ("the CSAs") on the Chief Executive Election (Amendment) Bill 2010 ("the Bill") proposed by the Administration. We propose the following CSAs to the Bill. Full text of the draft CSAs is attached at the <u>Annex</u> for Members' reference.

Voting System of the Chief Executive ("CE") Election

2.   To enhance the representativeness of the CE-elect, we have briefed Members on the proposed amendments concerning the voting system of the CE election in the Bills Committee meeting on 29 January. For details, please refer to the Bills Committee paper (CB(2)936/10-11(01)).

3.   Following the discussion at the Bills Committee, we propose to add new sections 2A, 3A, 3B and 3C in the Bill to amend the Chief Executive Election Ordinance ("the Ordinance") (Cap. 569) sections 11, 22, 26A and 27 respectively. New sections 3B and 3C specify that a candidate shall only be elected as the 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.

Name Change of Organizations

4.   To reflect the change of name for one member each from the Chinese Medicine subsector and the Education subsector, we propose to amend section 5(42) and to add a new provision accordingly. The proposed amendment was mentioned at the Bills Committee meeting on 20 January.

District Council Subsectors

5.   In the 2011 District Council ("DC") subsector election, we have proposed the arrangement of automatic registration of voters, so that there will be no need for the newly elected DC members to apply for registration. In accordance with the views of the Legal Adviser of the Bills Committee, we now propose an amendment to section 7(3) of the Bill, so that under the proposed sections 12(11)(g) and (h) of the Schedule to the Ordinance, "registered or applies to be registered" will be changed to "eligible to be registered". This will help take forward the automatic registration.

Overseas Government Organizations

6.   There are views that overseas government organizations are not eligible to be registered as Legislative Council Functional Constituencies ("FC") electors. We have proposed new provisions in the Legislative Council (Amendment) Bill 2010 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.

7.   As explained in a previous Bills Committee meeting, the above amendments to the Legislative Council Ordinance (Cap. 542) are also applicable to the Election Committee subsectors with the same electorate as the corresponding FCs, such as Commercial (first) and Commercial (second) subsectors. The Government has also reviewed 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). In view of the nature of these subsectors, we consider that it is rather remote that an overseas government organization would participate in the election of these subsectors. Nevertheless, to cover all possibilities as far as possible in the Ordinance, we propose to add a new section 7(5) in the Bill to provide expressly that overseas government organizations are also not eligible to be registered as corporate voters in any EC subsector.

Constitutional and Mainland Affairs Bureau
February 2011

KM0109

CHIEF EXECUTIVE ELECTION (AMENDMENT) BILL 2010

COMMITTEE STAGE

Amendments to be moved by the
Secretary for Constitutional and Mainland Affairs

Clause	Amendment Proposed
New	By adding before clause 3–

"**2A. Section 11 amended (Fixing new polling date under certain circumstances)**

Section 11(2)(b)–

Repeal

"or (1)"

Substitute

", (1) or (3)".".

New	By adding after clause 3–

"**3A. Section 22 amended (Termination of election proceedings)**

After section 22(2)–

Add

"(3)　If–

　　(a)　at the close of nominations 2 or more candidates are validly nominated; and

　　(b)　a poll is conducted under section 24 and, under section 27(2A), no candidate is returned at the election,

the Returning Officer must–

(c) publicly declare that no candidate is returned at the election;

(d) publish the declaration and the result of the poll in the Gazette; and

(e) by a public declaration, terminate the proceedings for the election.".

3B. Section 26A amended (System of voting: only one candidate)

(1) Section 26A(3)–

Repeal

"half of the total number of valid votes cast in the poll, he shall be"

Substitute

"600, the candidate is".

(2) Section 26A(4)–

Repeal

"half of the total number of valid votes cast in the poll, he shall not be"

Substitute

"600, the candidate is not".

3C. Section 27 amended (System of voting: contested election)

(1) Before section 27(1)–

Add

"(1A) This section applies to an election in which at the close of nominations 2 or more candidates are validly nominated.".

(2) Section 27(1)–

Repeal

"half of the total number of valid votes cast in any round of voting, he shall be"

Substitute

"600 votes in any round of voting, the candidate is".

(3) Section 27(2)–

Repeal

everything after paragraph (b)

Substitute

"a single round of voting must be conducted for the 2 candidates.".

    (4)   After section 27(2)–

Add

"(2A) If in a round of voting conducted under subsection (2), no candidate obtains more than 600 votes, no candidate is returned at the election and section 22(3) applies.".

    (5)   Section 27(3)(b)(ii)(A)–

Repeal

"he does not obtain more than half of the total number of valid votes cast"

Substitute

"the candidate does not obtain more than 600 votes".

    (6)   Section 27(4)(b)(ii)(A)–

Repeal

"he does not obtain more than half of the total number of valid votes cast"

Substitute

"the candidate does not obtain more than 600 votes".".

5(42)   In the proposed paragraph (1)(j), by deleting "Hong Kong Chinese Overseas Physician Association" and substituting "Hong Kong Chinese Medicine Practitioners Association Limited".

5   By adding after subclause (43)–

"(44) The Schedule, section 2, Table 5, item 6, column 3, paragraph (4)–

Repeal subparagraph (d)

Substitute

"(d)   Hong Chi Association – Hong Chi Pinehill Integrated Vocational Training Centre;".".

7(3)   (a)   In the proposed section 12(11)(g), by deleting "registered or applies" and substituting "eligible".

    (b)   In the proposed section 12(11)(h), by deleting "registered or applies" and substituting "eligible".

7   By adding–

"(5)   The Schedule, section 12, after subsection (20)–

Add

"(21)   A consular post to which any privilege and immunity are accorded pursuant to the Consular Relations Ordinance (Cap. 557) is not eligible to be registered as a voter for any subsector.

(22)   An organization to which section 2 of the International Organizations and Diplomatic Privileges Ordinance (Cap. 190) applies or an international organization defined in section 2 of the International Organizations (Privileges and Immunities) Ordinance (Cap. 558) is not eligible to be registered as a voter for any subsector."