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## Legislative Council (Amendment) Bill 2010

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# A BILL

## To

Amend the Legislative Council Ordinance to add 10 seats to the Legislative Council 5 of which are to be returned from the existing geographical constituencies and 5 from a new District Council functional constituency to be added to the existing functional constituencies; to make provision for the filling of the seats of such constituencies; to provide that only elected District Council members may be registered as electors for the existing District Council functional constituency (to be renamed as the District Council (first) functional constituency) and that such electors may not be registered as electors for any other functional constituency; to amend the lists of persons of whom functional constituencies are composed; to disqualify consular posts and certain international organizations from being registered as corporate electors; to increase the financial assistance to candidates in a Legislative Council election; to make consequential and incidental amendments to the subsidiary legislation made under that Ordinance; to amend the Maximum Amount of Election Expenses (Legislative Council Election) Regulation to prescribe the maximum amount of election expenses for the new District Council functional constituency and to make consequential and incidental amendments.

Enacted by the Legislative Council.

## **Part 1**

### **Preliminary**

#### **1. Short title and commencement**

- (1) This Ordinance may be cited as the Legislative Council (Amendment) Ordinance 2010.
- (2) This Ordinance (except sections 24 and 37(2)) comes into operation on the day on which it is published in the Gazette for the purpose only of enabling arrangements to be made for—
  - (a) the holding of the elections of members of the Election Committee under the Chief Executive Election Ordinance (Cap. 569) in 2011; and
  - (b) the holding of the Legislative Council general election in 2012.
- (3) Sections 24 and 37(2) come into operation on the day on which this Ordinance is published in the Gazette.
- (4) This Ordinance, in so far as it has not come into operation under subsections (2) and (3), comes into operation on 1 October 2012.

#### **2. Enactments amended**

The enactments specified in Parts 2, 3, 4 and 5 are amended as set out in those Parts.

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## Part 2

### Amendments to Legislative Council Ordinance (Cap. 542)

**3. Section 3 amended (Interpretation)**

Section 3(1), definition of *nomination list*, after “constituency”—

**Add**

“or the District Council (second) functional constituency”.

**4. Section 19 amended (Number of Members to be returned for geographical constituency)**

(1) Section 19(1)—

**Repeal**

“30”

**Substitute**

“35”.

(2) Section 19(2)—

**Repeal**

“4 nor greater than 8”

**Substitute**

“5 nor greater than 9”.

**5. Section 20 amended (Establishment of functional constituencies)**

(1) Section 20(1)—

**Repeal paragraph (zb)**

**Substitute**

“(zb) the District Council (first) functional constituency;

Part 2  
Clause 6

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(zc) the District Council (second) functional constituency.”.

(2) Section 20(2)—

**Repeal**

“20ZB”

**Substitute**

“20ZC”.

**6. Section 20E amended (Composition of the education functional constituency)**

Section 20E(aa)—

**Repeal subparagraphs (iv) and (v)**

**Substitute**

“(iv) School of Continuing and Professional Studies of The Chinese University of Hong Kong;

(v) HKIED School of Continuing and Professional Education Limited;”.

**7. Section 20V amended (Composition of the sports, performing arts, culture and publication functional constituency)**

Section 20V(1)(i)(i), English text—

**Repeal**

“HK, Kln & NT Motion Picture Industry Association Ltd.”

**Substitute**

“Hong Kong Motion Picture Industry Association Limited”.

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Clause 8

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**8. Section 20W amended (Composition of the import and export functional constituency)**

Section 20W(e)—

**Repeal subparagraph (viii).**

**9. Section 20Z amended (Composition of the information technology functional constituency)**

(1) Section 20Z(1)(ja)(i)—

**Repeal**

“Hong Kong & Mainland Software Industry Cooperation Association Limited”

**Substitute**

“Hong Kong Software Industry Association Limited”.

(2) Section 20Z(1)(ja)(ii)—

**Repeal**

“Information Systems Audit and Control Association (Hong Kong Chapter) Limited”

**Substitute**

“Information Systems Audit and Control Association China Hong Kong Chapter Limited”.

**10. Section 20ZB amended (Composition of the District Council functional constituency)**

(1) Section 20ZB, heading, after “**Council**”—

**Add**

“(first)”.

(2) Section 20ZB—

**Repeal**

“District Council functional constituency”

Part 2

Clause 11

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**Substitute**

“District Council (first) functional constituency”.

(3) Section 20ZB, after “(Cap. 547)”—

**Add**

“who are elected under Part V of that Ordinance”.

**11. Section 20ZC added**

After section 20ZB—

**Add**

**“20ZC. Composition of the District Council (second) functional constituency**

The District Council (second) functional constituency is composed of persons who are registered as electors for geographical constituencies but are not registered as electors for any of the functional constituencies specified in section 20(1)(a) to (zb).”.

**12. Section 21 amended (Number of Members to be returned for functional constituency)**

(1) Section 21(a)—

**Repeal**

“; and”

**Substitute**

“and the District Council (second) functional constituency; and”.

(2) Section 21(b)—

**Repeal the full stop**

**Substitute**

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Clause 13

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“; and”.

(3) After section 21(b)—

**Add**

“(c) 5 Members for the District Council (second) functional constituency.”.

**13. Section 25 amended (Who is eligible to be registered as an elector: functional constituencies)**

(1) Section 25(1)(a)(xxviii)—

**Repeal**

“District Council functional constituency, in section 20ZB; and”

**Substitute**

“District Council (first) functional constituency, in section 20ZB; or”.

(2) After section 25(1)(a)(xxviii)—

**Add**

“(xxix) for the District Council (second) functional constituency, in section 20ZC; and”.

(3) After section 25(2)—

**Add**

“(2A) Despite section 20ZC, a person who is registered in any functional constituency other than the District Council (second) functional constituency is, for the purpose of subsection (2), regarded as eligible to be registered in the District Council (second) functional constituency.”.

(4) Before section 25(3)(c)—

**Add**

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Clause 14

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“(ca) a person eligible to be registered as an elector for the District Council (first) functional constituency and who would, but for this paragraph, be eligible to be registered in another functional constituency of that person’s choice may be registered only for the District Council (first) functional constituency and not for that other functional constituency; and”.

(5) Section 25(3)(c), after “choice may”—

**Add**

“, subject to paragraph (ca),”.

(6) Section 25(3)(d)—

**Repeal**

“paragraph (c)”

**Substitute**

“paragraphs (ca) and (c)”.

**14. Section 31 amended (When person is disqualified from being registered as an elector)**

(1) Section 31(2)—

**Repeal**

“This section”

**Substitute**

“Subsection (1)”.

(2) After section 31(2)—

**Add**

“(3) A consular post to which any privilege and immunity are accorded pursuant to the Consular Relations Ordinance (Cap. 557) is disqualified from being registered as a corporate elector.

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Clause 15

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- (4) 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 disqualified from being registered as a corporate elector.”.

**15. Section 37 amended (Who is eligible to be nominated as a candidate)**

- (1) Section 37(2)(b)(ii), before “satisfies”—

**Add**

“in the case of a functional constituency other than the District Council (first) functional constituency and the District Council (second) functional constituency,”.

- (2) Section 37(2)(f)—

**Repeal the full stop**

**Substitute**

“; and”.

- (3) After section 37(2)(f)—

**Add**

“(g) in the case of the District Council (first) functional constituency and the District Council (second) functional constituency, is a member of any District Council established under the District Councils Ordinance (Cap. 547) who is elected under Part V of that Ordinance.”.

**16. Section 38 amended (Nomination lists for geographical constituencies)**

- (1) Section 38, heading, after “constituencies”—

**Add**

“and District Council (second) functional constituency”.

- (2) Section 38(2), before “is to be”—

**Add**

“or the District Council (second) functional constituency”.

- (3) Section 38(2)(a)—

**Repeal**

“geographical”.

- (4) Section 38(9), Chinese text, after “選區” (wherever appearing)—

**Add**

“或選舉界別”.

**17. Section 39 amended (When person is disqualified from being nominated as a candidate from being elected as a Member)**

Section 39(4), before “if,”—

**Add**

“(other than the District Council (first) functional constituency and the District Council (second) functional constituency)”.

**18. Section 40 amended (What requirements are to be complied with by persons nominated as candidates)**

Section 40(1)(b)(iii)(I), after “functional constituency”—

**Add**

“(other than the District Council (first) functional constituency and the District Council (second) functional constituency)”.

Part 2

Clause 19

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**19. Section 41 amended (Person not to be nominated for more than one constituency)**

After section 41(2)—

**Add**

“(3) The name of a person whose name is included in a nomination list for the District Council (second) functional constituency is not, at the same election, eligible to be included in another list of candidates nominated for the constituency.”.

**20. Section 42B amended (Death or disqualification of a validly nominated candidate for election for geographical constituency before date of election)**

(1) Section 42B, heading—

**Repeal**

“for election for geographical constituency”

**Substitute**

“for geographical constituency or District Council (second) functional constituency”.

(2) Section 42B(1), after “geographical constituency”—

**Add**

“or the District Council (second) functional constituency”.

(3) Section 42B(2)(b), Chinese text—

**Repeal**

“該選區”

**Substitute**

“有關選區或選舉界別”.

(4) Section 42B(4), after “geographical constituency”—

**Add**

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Clause 21

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“or the District Council (second) functional constituency”.

(5) Section 42B(5)(b), Chinese text—

**Repeal**

“該選區”

**Substitute**

“有關選區或選舉界別”.

**21. Section 42C amended (Death or disqualification of a validly nominated candidate for election for functional constituency before date of election)**

(1) Section 42C, heading—

**Repeal**

“for election for functional constituency”

**Substitute**

“for functional constituency (other than District Council (second) functional constituency)”.

(2) Section 42C, after “functional constituency”—

**Add**

“(other than the District Council (second) functional constituency)”.

**22. Section 43 amended (Candidates entitled to send letter to electors free of postage)**

(1) Section 43(1), after “constituency”—

**Add**

“or the District Council (second) functional constituency”.

(2) Section 43(2), after “constituency”—

**Add**

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Clause 23

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“(other than the District Council (second) functional constituency)”.

**23. Section 46A amended (Death or disqualification of a validly nominated candidate before declaration of election result)**

(1) Section 46A(4), before “to have failed,”—

**Add**

“or the District Council (second) functional constituency”.

(2) Section 46A(4), Chinese text, after “該選區” (wherever appearing)—

**Add**

“或選舉界別”.

**24. Section 48 amended (Who is entitled to vote at an election)**

After section 48(8)—

**Add**

“(9) Despite sections 32 and 33, only electors whose names are included in the final register of functional constituencies published for 2011 under section 32 are entitled to vote at a by-election held between the date of the publication and 31 May 2012 to return a Member for any functional constituency.”.

**25. Section 49 amended (System of voting and counting of votes: geographical constituencies)**

(1) Section 49, heading, after “constituencies”—

**Add**

“and District Council (second) functional constituency”.

(2) Section 49(1)—

**Repeal the definition of *specified number***

**Substitute**

“*specified number* (指明議席數目)—

- (a) in relation to a geographical constituency, means the number of Members to be returned for the constituency, as specified in an order made under section 19(2); and
- (b) in relation to the District Council (second) functional constituency, means 5;”.

(3) Section 49(2), after “geographical constituency”—

**Add**

“or the District Council (second) functional constituency”.

(4) Section 49(3), after “geographical constituency”—

**Add**

“or the District Council (second) functional constituency”.

(5) Section 49(4), after “geographical constituency” (wherever appearing)—

**Add**

“or the District Council (second) functional constituency”.

(6) Section 49(5)—

**Repeal**

“geographical”.

(7) Section 49(6), Chinese text—

**Repeal**

“有關的選區”

**Substitute**

“有關選區或選舉界別”.

(8) Section 49(7), Chinese text—

**Repeal**

“該地方選區”

**Substitute**

“該選區或選舉界別”.

- (9) Section 49(8)(c), Chinese text, after “有關選區”—

**Add**

“或選舉界別”.

- (10) Section 49(10), Chinese text, after “該選區”—

**Add**

“或選舉界別”.

- (11) Section 49(13), after “geographical constituency”—

**Add**

“or the District Council (second) functional constituency”.

- (12) Section 49(14), after “geographical constituency”—

**Add**

“or the District Council (second) functional constituency”.

- (13) Section 49(15), Chinese text—

**Repeal**

“該選區”

**Substitute**

“有關選區或選舉界別”.

- (14) Section 49(16), Chinese text—

**Repeal**

“由該選區”

**Substitute**

“由有關選區或選舉界別”.

## Part 2

Clause 26

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- (15) Section 49(16)(b), Chinese text, after “該選區” (wherever appearing)—

**Add**

“或選舉界別”.

**26. Section 60A amended (Interpretation: Part VIA)**

- (1) Section 60A(1), definition of *declared election expenses*, paragraph (a), after “constituency”—

**Add**

“or the District Council (second) functional constituency”.

- (2) Section 60A(1), definition of *declared election expenses*, paragraph (b), after “constituency”—

**Add**

“(other than the District Council (second) functional constituency)”.

- (3) Section 60A(4)(a)(i), after “geographical constituency”—

**Add**

“or the District Council (second) functional constituency”.

- (4) Section 60A(4)(a)(ii), after “geographical constituency”—

**Add**

“or the District Council (second) functional constituency”.

**27. Section 60B amended (Financial assistance payable to list of candidates and candidates for functional constituencies)**

- (1) Section 60B, heading—

**Repeal**

Part 2

Clause 28

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**“for functional constituencies”.**

(2) Section 60B(1)—

**Repeal**

“or an eligible candidate for a functional constituency”

**Substitute**

“or the District Council (second) functional constituency or an eligible candidate for a functional constituency (other than the District Council (second) functional constituency)”.

**28. Section 60C amended (Eligibility for financial assistance: list of candidates and candidates for functional constituencies)**

(1) Section 60C, heading—

**Repeal**

**“for functional constituencies”.**

(2) Section 60C(1), before “is eligible”—

**Add**

“or the District Council (second) functional constituency”.

(3) Section 60C(1)(b)(ii)—

**Repeal**

“geographical”.

(4) Section 60C(2), before “are eligible”—

**Add**

“(other than the District Council (second) functional constituency)”.

Part 2

Clause 29

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**29. Section 60D amended (Amount payable as financial assistance: list of candidates)**

(1) Section 60D(1), after “constituency”—

**Add**

“or the District Council (second) functional constituency”.

(2) Section 60D(2), after “geographical constituency”—

**Add**

“or the District Council (second) functional constituency”.

(3) Section 60D(2)(a), Chinese text—

**Repeal**

“該地方選區”

**Substitute**

“該選區或選舉界別”.

**30. Section 60E amended (Amount payable as financial assistance: candidates for functional constituencies)**

(1) Section 60E, heading, after “constituencies”—

**Add**

“other than District Council (second) functional constituency”.

(2) Section 60E(1), after “constituency”—

**Add**

“(other than the District Council (second) functional constituency)”.

(3) Section 60E(2), after “functional constituency”—

**Add**

“(other than the District Council (second) functional constituency)”.

Part 2

Clause 31

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**31. Section 60J amended (Financial assistance not to be paid until disposal of election petition)**

(1) Section 60J(2)—

**Repeal**

everything after “If” and before “until”

**Substitute**

“an election petition is lodged in relation to an election for a geographical constituency or the District Council (second) functional constituency, the Chief Electoral Officer must not make any payment of financial assistance in respect of any list of candidates for that constituency”.

(2) Section 60J(3)—

**Repeal**

everything after “If” and before “until”

**Substitute**

“an election petition is lodged in relation to an election for a functional constituency (other than the District Council (second) functional constituency), the Chief Electoral Officer must not make any payment of financial assistance to any candidate for that constituency”.

**32. Schedule 1 amended (Composition of the agriculture and fisheries functional constituency)**

(1) Schedule 1—

**Repeal item 26.**

(2) Schedule 1, item 80—

**Repeal**

“Hong Kong Organic Farming Association Limited”

**Substitute**

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Clause 33

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“Sustainable Ecological Ethical Development Foundation Limited”.

**33. Schedule 1A amended (Composition of the transport functional constituency)**

(1) Schedule 1A, English text, item 77—

**Repeal**

“Kowloon Motor Bus Company (1933) Ltd.”

**Substitute**

“The Kowloon Motor Bus Company (1933) Limited.”.

(2) Schedule 1A—

**Repeal item 113.**

(3) Schedule 1A, Chinese text, item 134—

**Repeal**

“新界港九合眾的士聯誼會有限公司”

**Substitute**

“新界四海合眾的士聯會有限公司”.

(4) Schedule 1A—

**Repeal item 145.**

**34. Schedule 1B amended (Composition of the sports, performing arts, culture and publication functional constituency)**

(1) Schedule 1B, Part 1, item 9, after “Association”—

**Add**

“Limited”.

(2) Schedule 1B, Part 1, item 12, after “Association”—

**Add**

“Limited”.

Part 2

Clause 35

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(3) Schedule 1B, English text, Part 3, item 59—

**Repeal**

“Swimming Teacher’s Association Hong Kong”

**Substitute**

“The Hong Kong Swimming Teachers’ Association Limited”.

**35. Schedule 1C amended (Composition of the wholesale and retail functional constituency)**

(1) Schedule 1C, item 6, after “Association”—

**Add**

“Limited”.

(2) Schedule 1C, item 25, after “Association”—

**Add**

“Limited”.

**36. Schedule 1D amended (Composition of the information technology functional constituency)**

(1) Schedule 1D, Part 2, item 1, column 2—

**Repeal**

“Hong Kong & Mainland Software Industry Cooperation Association Limited”

**Substitute**

“Hong Kong Software Industry Association Limited”.

(2) Schedule 1D, Part 2, item 2, column 2—

**Repeal**

“Information Systems Audit and Control Association (Hong Kong Chapter) Limited”

Part 2

Clause 37

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**Substitute**

“Information Systems Audit and Control Association  
China Hong Kong Chapter Limited”.

**37. Schedule 3 amended (Savings and transitional provisions)**

(1) Schedule 3, after section 5—

**Add****“6. Transitional provision for first register of electors for District Council (second) functional constituency**

(1) The Electoral Registration Officer may compile the first register of electors for the District Council (second) functional constituency by using the 2012 provisional register of electors for geographical constituencies as the basis and—

(a) deleting from it—

(i) the names of all persons who are registered in the 2012 provisional register of electors for any other functional constituency; and

(ii) the name of any person who elects under subsection (4) not to be registered as an elector for the District Council (second) functional constituency; and

(b) adding to it the name of any person who elects under subsection (6) to be registered as an elector for the District Council (second) functional constituency.

(2) The register compiled under subsection (1) is to be regarded for all purposes as a register compiled under the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541 sub. leg. B).

## Part 2

Clause 37

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- (3) The Electoral Registration Officer must inform, in a manner he or she thinks fit, any person who—
- (a) is registered in the 2012 provisional register of electors for geographical constituencies; and
  - (b) is not registered in the 2012 provisional register of electors for any functional constituency (other than the District Council (second) functional constituency),
- that the person will be registered as an elector for the District Council (second) functional constituency unless the person elects not to be so registered.
- (4) A person referred to in subsection (3) may, on being informed by the Electoral Registration Officer under that subsection, elect in the manner and before the date specified by the Electoral Registration Officer not to be registered as an elector for the District Council (second) functional constituency.
- (5) The Electoral Registration Officer must inform, in a manner he or she thinks fit, any natural person who is registered in the 2012 provisional register of electors for any functional constituency (*current constituency*) (other than the Heung Yee Kuk functional constituency, the agriculture and fisheries functional constituency, the insurance functional constituency, the transport functional constituency and the District Council (first) functional constituency) that the person—
- (a) will be registered as an elector for the District Council (second) functional constituency; and
  - (b) will cease to be registered as an elector for the current constituency,
- if the person so elects.

Part 2

Clause 38

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(6) A natural person referred to in subsection (5) may, on being informed by the Electoral Registration Officer under that subsection, elect in the manner and before the date specified by the Electoral Registration Officer to be registered as an elector for the District Council (second) functional constituency.”.

(2) At the end of Schedule 3—

**Add**

**“7. Transitional provision for electors for functional constituencies elected as District Council members**

Despite section 12 of the Schedule to the Chief Executive Election Ordinance (Cap. 569), if an elector for any functional constituency is elected, in or after the District Council ordinary election in 2011 but before the publication of the 2012 provisional register of electors for the District Council (first) functional constituency, as a member of any District Council under Part V of the District Councils Ordinance (Cap. 547), the name and relevant particulars of 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 District Council (first) functional constituency.”.

**38. Schedule 5 amended (Financial assistance: specified rate)**

Schedule 5—

**Repeal**

“\$11”

**Substitute**

“\$12”.

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### Part 3

## Amendments to Legislative Council (Subscribers and Election Deposit for Nomination) Regulation (Cap. 542 sub. leg. C)

**39. Section 1 amended (Interpretation)**

Section 1(1)—

**Repeal the definitions of *candidate* and *geographical constituency candidate*.**

**40. Section 2 amended (Amount of deposit)**

(1) Section 2(1)(a), English text—

**Repeal**

“geographical constituency candidates”

**Substitute**

“candidates for a geographical constituency”.

(2) After section 2(1)(a)—

**Add**

“(ba) on behalf of the nominees on a nomination list in respect of their nomination as candidates for the District Council (second) functional constituency in an election is \$25,000;”.

(3) Section 2(1)(b)—

**Repeal**

“nomination as a candidate in an election in respect of a functional constituency,”

**Substitute**

Part 3

Clause 41

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“or her nomination as a candidate for any other functional constituency in an election”.

**41. Section 3 amended (Return of deposit on invalid nomination etc.)**

(1) Section 3(1), English text, after “any geographical constituency”—

**Add**

“or the District Council (second) functional constituency”.

(2) Section 3(1)(a)—

**Repeal**

“as geographical constituency candidates”

**Substitute**

“as candidates”.

(3) Section 3(1)(a)(i), English text—

**Repeal**

“geographical”.

(4) Section 3(1)(a)(iii)—

**Repeal**

“geographical constituency”.

(5) Section 3(1)(b)—

**Repeal**

“geographical”.

(6) Section 3(2), after “any functional constituency”—

**Add**

“(other than the District Council (second) functional constituency)”.

Part 3

Clause 41

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(7) Section 3(3)(a), English text—

**Repeal**

“geographical constituency candidates or”.

(8) Section 3(3)(a), Chinese text—

**Repeal**

“地方選區” (wherever appearing)

**Substitute**

“選區或界別”.

(9) Section 3(3)(aa), Chinese text—

**Repeal**

“有關地方選區”

**Substitute**

“有關選區或界別”.

(10) Section 3(3)(aa)(i)—

**Repeal**

“the geographical constituency candidates”

**Substitute**

“the candidates”.

(11) Section 3(3)(aa)(i)—

**Repeal**

“that geographical”

**Substitute**

“that”.

(12) Section 3(3)(b)—

**Repeal**

Part 3

Clause 42

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“, or by or on behalf of each candidate for that functional constituency”

**Substitute**

“or the District Council (second) functional constituency, or by or on behalf of each candidate for that functional constituency (other than the District Council (second) functional constituency)”.

**42. Section 4 amended (Disposal of deposit after publication of election result or declaration of failure of election)**

(1) Section 4(1)(a), English text—

**Repeal**

“geographical constituency candidate”

**Substitute**

“candidate”.

(2) Section 4(1)(a), after “of a geographical constituency”—

**Add**

“or the District Council (second) functional constituency”.

(3) Section 4(1)(b), English text—

**Repeal**

“geographical constituency candidate”

**Substitute**

“candidate”.

(4) Section 4(1)(b), after “of a geographical constituency”—

Part 3  
Clause 42

---

**Add**

“or the District Council (second) functional constituency”.

- (5) Section 4(1)(c), after “geographical constituency”—

**Add**

“or the District Council (second) functional constituency”.

- (6) Section 4(1)—

**Repeal**

“that geographical constituency”

**Substitute**

“that constituency”.

- (7) Section 4(2)(a), after “constituency”—

**Add**

“(other than the District Council (second) functional constituency)”.

- (8) Section 4(2)(b), after “constituency”—

**Add**

“(other than the District Council (second) functional constituency)”.

- (9) Section 4(2)(c), after “constituency”—

**Add**

“(other than the District Council (second) functional constituency)”.

- (10) Section 4(3)(a), English text—

**Repeal**

“successful geographical constituency candidate”

**Substitute**

“successful candidate”.

Part 3

Clause 42

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- (11) Section 4(3)(a), after “a geographical constituency”—  
**Add**  
“or the District Council (second) functional constituency”.
- (12) Section 4(3)(a)—  
**Repeal**  
“that geographical constituency”  
**Substitute**  
“that constituency”.
- (13) Section 4(3)(b)(ii)—  
**Repeal**  
“other than a functional constituency referred to in subparagraph (i)”  
**Substitute**  
“(other than a functional constituency referred to in subparagraph (i) and the District Council (second) functional constituency)”.
- (14) Section 4(3), Chinese text—  
**Repeal**  
“或(c)”.
- (15) Section 4(4)(a), English text—  
**Repeal**  
“geographical constituency candidate or the candidate, as the case may be,”  
**Substitute**  
“candidate”.
- (16) Section 4(4)—  
**Repeal**

Part 3

Clause 43

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“, or by or on behalf of each candidate for that functional constituency”

**Substitute**

“or the District Council (second) functional constituency, or by or on behalf of each candidate for that functional constituency (other than the District Council (second) functional constituency)”.

(17) Section 4(6)—

**Repeal**

“geographical constituency candidate”

**Substitute**

“candidate”.

**43. Section 7 amended (Number and qualifications of subscribers to a nomination paper)**

(1) After section 7(1)—

**Add**

“(1A) As regards the District Council (second) functional constituency—

(a) the nomination paper of the nominees on a nomination list seeking nomination in respect of the constituency must be subscribed by not less than 15 other persons, each being an elector registered in respect of the District Council (first) functional constituency;

(b) a person must not, subject to subsections (3), (3A) and (3B), subscribe more than one nomination paper as regards a particular election;

## Part 3

Clause 43

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- (c) if a person subscribes more than one nomination paper in contravention of paragraph (b), his or her signature is, subject to subsections (3), (3A) and (3B), inoperative on any nomination paper other than the one first delivered.”.
- (2) Section 7(2), after “As regards any functional constituency”—
- Add**
- “(other than the District Council (second) functional constituency)”.
- (3) Section 7(2)(b)—
- Repeal**
- “subsection (3)”
- Substitute**
- “subsections (3), (3A) and (3B)”.
- (4) Section 7(3)(a), after “any geographical constituency”—
- Add**
- “or the District Council (second) functional constituency”.
- (5) Section 7(3)(a)(i), English text—
- Repeal**
- “geographical”.
- (6) Section 7(3)(b), after “any functional constituency”—
- Add**
- “(other than the District Council (second) functional constituency)”.
- (7) After section 7(3)—
- Add**
- “(3A) If—

Part 3

Clause 43

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(a) a person subscribes the nomination paper of any person seeking nomination in respect of the District Council (first) functional constituency; and

(b) the nomination paper is delivered,

the signature of the person is inoperative on the nomination paper of the nominees on any nomination list seeking nomination in respect of the District Council (second) functional constituency that has not been delivered.

(3B) If—

(a) a person subscribes the nomination paper of the nominees on any nomination list seeking nomination in respect of the District Council (second) functional constituency; and

(b) the nomination paper is delivered,

the signature of the person is inoperative on the nomination paper of any person seeking nomination in respect of the District Council (first) functional constituency that has not been delivered.”.

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Part 4

Clause 44

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## **Part 4**

### **Amendment to Legislative Council (Election Petition) Rules (Cap. 542 sub. leg. F)**

**44. Rule 12 amended (Lists of objections in recriminatory case)**

Rule 12(2)(a), after “constituency”—

**Add**

“(other than the District Council (second) functional constituency)”.

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Part 5  
Clause 45

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## **Part 5**

### **Amendments to Maximum Amount of Election Expenses (Legislative Council Election) Regulation (Cap. 554 sub. leg. D)**

**45. Section 3 amended (Maximum amount of election expenses for geographical constituency)**

Section 3—

**Repeal**

“an election”

**Substitute**

“a geographical constituency election”.

**46. Section 3A added**

After section 3—

**Add**

**“3A. Maximum amount of election expenses for District Council (second) functional constituency**

The maximum amount of election expenses that can be incurred at a District Council (second) functional constituency election by or on behalf of all the candidates on a list within the meaning of section 49 of the Legislative Council Ordinance (Cap. 542) is \$6,000,000.”.

**47. Section 4 amended (Maximum amount of election expenses for functional constituency)**

Section 4, heading, after “constituency”—

**Add**

Part 5

Clause 47

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**“other than District Council (second) functional constituency”.**

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Explanatory Memorandum  
Paragraph 1

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**Explanatory Memorandum**

The object of this Bill is to amend the Legislative Council Ordinance (Cap. 542), the subsidiary legislation made under it and the Maximum Amount of Election Expenses (Legislative Council Election) Regulation (Cap. 554 sub. leg. D) for the purposes set out in the long title.

**Part 1 of the Bill**

2. Clause 1 sets out the short title and provides for commencement.

**Part 2 of the Bill**

3. The number of seats of the Legislative Council is to be increased by 10 seats. Five of the new seats will be assigned to the existing geographical constituencies (clause 4). The remaining 5 seats come from a new District Council (second) functional constituency (clauses 11 and 12). The existing District Council functional constituency will be renamed as the District Council (first) functional constituency (clauses 5, 10 and 13).
4. Only elected District Council members are eligible to nominate, and be nominated as, candidates in the District Council (first) functional constituency and the District Council (second) functional constituency (clause 15). The method of election of the 5 members of the District Council (second) functional constituency is the same as that of the seats assigned to the geographical constituencies. Candidates are nominated by means of nomination lists. An elector can only cast a single vote. This system of voting is designed to achieve proportional representation (clauses 19 and 25). Consequentially, amendments are made—

Explanatory Memorandum

Paragraph 5

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- (a) to references to geographical constituencies to include the District Council (second) functional constituency as regards electoral procedure (clauses 3, 16, 20, 22, 23, 25, 26, 28, 29 and 31);
  - (b) to exclude the District Council (second) functional constituency from references to functional constituencies as regards electoral procedure (clauses 17, 18, 21, 22, 26, 27, 28, 30 and 31); and
  - (c) to rename the existing District Council functional constituency (clauses 5, 10 and 13).
- 5. Clause 14 introduces amendments to disqualify consular posts and certain international organizations which enjoy privileges and immunities in Hong Kong from being registered as corporate electors for functional constituencies.
- 6. Amendments are introduced to update the lists of persons of whom certain functional constituencies are composed (clauses 6, 7, 8, 9, 32, 33, 34, 35 and 36).
- 7. Clause 24 introduces an amendment to provide that only electors whose names are included in the final register of functional constituencies published for 2011 are entitled to vote at a by-election held between the date of the publication and 31 May 2012.
- 8. Clause 37(1) provides for the transitional arrangement for the compilation of the first register of electors for the District Council (second) functional constituency. Registered electors for geographical constituencies will be automatically registered as electors for the District Council (second) functional constituency. They can however elect not to be so registered. Registered electors for several other functional constituencies can elect to be registered instead as electors for the District Council (second) functional constituency. Clause 37(2) provides for the transitional arrangement for electors for existing functional constituencies who are elected as District Council members.

Explanatory Memorandum

Paragraph 9

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9. Clause 38 amends Schedule 5 to the Legislative Council Ordinance (Cap. 542) to increase the rate of financial assistance for candidates in a Legislative Council election from \$11 per vote to \$12 per vote.

**Part 3 of the Bill**

10. Clauses 39 to 42 introduce consequential amendments to the Legislative Council (Subscribers and Election Deposit for Nomination) Regulation (Cap. 542 sub. leg. C).
11. Candidates on a nomination list for the District Council (second) functional constituency must be nominated by not less than 15 elected District Council members. An elected District Council member can only nominate 1 nomination list and can only make nomination for either the District Council (first) functional constituency or the District Council (second) functional constituency (clause 43).

**Part 4 of the Bill**

12. Clause 44 introduces a consequential amendment to the Legislative Council (Election Petition) Rules (Cap. 542 sub. leg. F).

**Part 5 of the Bill**

13. The maximum amount of election expenses for Legislative Council election is prescribed in the Maximum Amount of Election Expenses (Legislative Council Election) Regulation (Cap. 554 sub. leg. D). The maximum amount of election expenses for the District Council (second) functional constituency is \$6 million (clause 46).
14. Clauses 45 and 47 introduce consequential amendments.