

LEGISLATIVE COUNCIL BRIEF

Chief Executive Election Ordinance
(Chapter 569)

Legislative Council Ordinance
(Chapter 542)

Chief Executive Election (Amendment) Bill 2010 and Legislative Council (Amendment) Bill 2010

INTRODUCTION

At the Executive Council meeting on 7 December 2010, the Council **ADVISED** and the Chief Executive **ORDERED** that the Chief Executive Election (Amendment) Bill 2010 and the Legislative Council (Amendment) Bill 2010, at Annexes A and B respectively, should be introduced into the Legislative Council (LegCo).

BACKGROUND AND JUSTIFICATIONS

2. In November 2009, the Government published the “Consultation Document on the Methods for Selecting the Chief Executive (CE) and for Forming the LegCo in 2012” setting out the directions which may be considered regarding the key elements of the two electoral methods for 2012, and launched a three-month public consultation. The consultation period ended on 19 February this year. On 14 April 2010, the “Package of Proposals for the Methods for Selecting the CE and for Forming the LegCo in 2012” was published.

3. On 21 June 2010, the Government announced the acceptance of the “one-person-two-votes” proposal for returning the five new functional constituency (FC) seats in 2012. At that time, we stated that once the motions were passed by the LegCo, we would pursue the following electoral arrangements through local legislation after the LegCo resumed business in autumn –

- (a) candidates for the five new FC seats would be nominated by elected District Council (DC) members. They would be elected by all registered voters who currently did not have a right to vote in FCs, on a one-person-one-vote basis;
- (b) candidates for the new DC FC must themselves be elected DC members; and
- (c) the original DC FC seat would be returned through election from among elected DC members.

4. On 24 and 25 June 2010, the LegCo passed by a two-thirds majority the motions put forth by the Government concerning the draft amendments to the method for the selection of the CE and the method for the formation of the LegCo in 2012. On 29 June 2010, the CE gave consent to the draft amendments. On 28 August 2010, the Standing Committee of the National People’s Congress (“NPCSC”) approved and recorded respectively the amendments to Annexes I and II of the Basic Law concerning the two electoral methods. The Government will implement the two electoral methods for 2012 by way of local legislation.

5. At the LegCo Panel on Constitutional Affairs on 30 October 2010, Members were consulted on the proposed arrangements regarding the two electoral methods vide LC Paper No. CB(2)150/10-11(01).

THE PROPOSAL

(A) Method for Selecting the CE

6. As regards the proposed electoral arrangements for the Election Committee (EC) subsector elections, we would like to highlight the key details in the following paragraphs.

Specific Allocation of the 1 200 Seats

7. The number of members of the EC will be increased from 800 to 1 200. In accordance with the principle of balanced participation, we have proposed that the number of members of the four sectors of the EC will be increased by the same proportion. For the first three sectors, the number of seats allocated to the existing 32 subsectors will be increased generally by proportion according to the existing distribution of seats. For the fourth sector, among the 100 new seats, 75 will be allocated to elected District Council (DC) members, 10 to LegCo Members, 10 to members of Chinese People's Political Consultative Conference (CPPCC) and 5 to Heung Yee Kuk (HYK). From February 2012 when the new term of EC commences, 10 "Special Member" seats will be created temporarily to make up the difference of 10 seats until the number of LegCo seats increases from 60 to 70 in October 2012. Four seats of "Special Member" will be allocated to members of the CPPCC, 2 to HYK, 2 to Hong Kong and Kowloon DCs and 2 to New Territories DCs.

8. The proposed specific allocation of the 1 200 seats among the various subsectors and sub-subsectors is at Annex C.

DCs Subsectors

9. The proposed key arrangements for the DCs subsectors are as follows –

(a) Allocation of seats between the DCs subsectors

We have proposed that the current arrangement should be adopted to group the 18 DCs into two subsectors, i.e. one for the

urban area and the other for the New Territories. As regards the allocation of the 117 seats between the two DCs subsectors, we propose that the number of seats allocated to each of the DCs subsectors should be proportional to the number of elected DC members in the DCs covered by the subsectors concerned. Accordingly, the number of seats allocated to the Hong Kong and Kowloon DCs subsector will be 57, and that for New Territories DCs subsector will be 60¹. The current voting system for the EC subsectors will be retained for the two DCs subsectors;

(b) Eligibility for voting, nomination and candidacy in the DCs subsector election

To increase the democratic elements of the EC subsector elections, we have proposed that only elected DC members could register as voters, nominate candidates and be nominated as candidates in the DCs subsectors. The next DC election will be held in November 2011. Our present plan is to conduct the EC subsector elections in December 2011. By the time the DCs subsector election is being conducted, there will be two groups of elected DC members, namely the elected DC members of the current term (i.e. 2008 – 2011) and the newly elected DC members whose term of office will commence on 1 January 2012. As the new term of EC will commence only in February 2012, it would be appropriate that only the newly elected DC members should be eligible for voting, nominating candidates and being nominated as candidates in the DCs subsector election. The elected DC members of the current term should not enjoy such rights;

¹ As stipulated in the DCs Ordinance (Amendment of Schedule 3 Order) 2010, the total number of elected seats for the fourth-term DC would be 412, comprising 200 seats for the nine DCs in Hong Kong and Kowloon and 212 seats for the nine DCs in the New Territories.

(c) **Right of elected DC members to stand for election in other subsectors**

Section 17 of the Schedule to the Chief Executive Election Ordinance (CEEEO) specifies that a person is eligible to be nominated as a candidate for a subsector if, among other things, the person either is both registered and eligible to be registered as a voter for that subsector; or satisfies the Returning Officer for the subsector that the person has a substantial connection with the subsector. In accordance with this provision, if an elected DC member is also eligible to be nominated as a candidate in subsectors other than the DCs subsectors, he or she can choose to stand for election in any one of these subsectors. The principle is that a person can only be nominated in one subsector for election. For example, if a solicitor is also an elected DC member, he or she can choose to stand for election in either the DCs subsectors or the Legal subsector. If such a solicitor has chosen to stand for election in the Legal subsector, he or she cannot run in the DCs subsectors;

(d) **Automatic registration of the elected DC members in 2011**

To avoid a narrow electorate base in the DCs subsectors, we have proposed that elected DC members may only be registered as voters in the DCs subsectors and not the other EC subsectors. As regards the registration process, since the next EC subsector elections would likely be held about one month after the next DC election, we propose that the newly elected DC members should be automatically registered in the DCs subsectors after the DC election in November 2011. Besides, to avoid any possible dual registration in the EC subsectors, we propose that if a newly elected DC member has already been registered as a voter in another subsector, his or her name would be removed from the Final Register of such subsector at the same time when the person concerned is automatically registered in the DCs subsectors. In case the person concerned ceases to serve as an elected DC member in future, he or she could apply to be

registered as voter once again in one of the non-DCs subsectors for which he or she is eligible;

(e) Election as DC members does not affect nomination and candidature made earlier

As the EC subsector elections would likely be held about one month after the DC election in 2011, there is a possibility that the nomination period for the non-DCs subsectors may take place before the automatic registration of the newly elected DC members as voters in the DCs subsectors and the removal of their names from the Final Registers of the non-DCs subsectors. Under such circumstances, it may give rise to the following scenarios:

- (i) Before being automatically registered as a voter in the DCs subsectors in 2011, a newly elected DC member, who is a voter registered in a non-DCs subsector, may have nominated another person as a candidate in a non-DCs subsector. After being elected as a DC member and being automatically registered in the DCs subsectors henceforth, he or she is no longer a voter in the original non-DCs subsector. To ensure fairness of treatment to the candidate being nominated, we propose that the validity of the nomination subscribed by such elected DC member in the non-DCs subsector will not be affected. In addition, according to the principle that every voter could not subscribe nomination for more than one subsector, we propose that such a newly elected DC member can no longer nominate candidates in the DCs subsectors; and
- (ii) Prior to the automatic registration of the newly elected DC members as voters in the DCs subsectors in 2011, some of these members may have chosen to stand for election in the non-DCs subsectors at which they are eligible to be nominated as candidates. In order not to disenfranchise their rights to stand for election in the non-DCs subsectors, we propose that the validity of their candidature in the

non-DCs subsectors will not be affected after they become elected DC members. Their right to be nominated as candidates in such non-DCs subsectors should comply with the criterion of “substantial connection” under section 17(1)(c) of the Schedule to the CEEO. Nevertheless, they will be disqualified from being nominated as candidates in the DCs subsectors in accordance with section 20 of the Schedule to the CEEO so that every person could only be nominated in one subsector for election. Once a person is nominated in one subsector, he or she cannot be nominated in another subsector.

Chinese Medicine Subsector

10. At present, members of ten specified bodies² who are Chinese medicine practitioners (CMPs) entitled to vote at the general meetings of the respective bodies are eligible for registration as voters in the Chinese Medicine subsector. The registration system for the CMPs under the Chinese Medicine Ordinance (Cap. 549) has been in place since 2000. There are currently about 6 000 Registered CMPs. We propose that Registered CMPs should be allowed to be eligible for registration as voters in the Chinese Medicine subsector. This arrangement is in line with other professional subsectors such as the Medical subsector in which statutory qualifications are adopted for delineating the electorate. To avoid disenfranchising eligible members of the ten specified bodies from registering as voters in the Chinese Medicine subsector, we propose that eligible members of the ten bodies will continue to be eligible for voting

² The ten specified bodies are –

- (a) The Hong Kong Association of Traditional Chinese Medicine Limited;
- (b) International General Chinese Herbalists and Medicine Professionals Association Limited;
- (c) Sin-Hua Herbalists' and Herb Dealers' Promotion Society Limited;
- (d) Society of Practitioners of Chinese Herbal Medicine Limited;
- (e) The Hong Kong T.C.M. Orthopaedic and Traumatic Association Limited;
- (f) The Hong Kong Federation of China of Traditional Chinese Medicine;
- (g) Hong Kong Acupuncturists Association;
- (h) Hong Kong Chinese Herbalists Association Limited;
- (i) Association of Hong Kong & Kowloon Practitioners of Chinese Medicine, Limited; and
- (j) Hong Kong Chinese Overseas Physician Association.

in this subsector. We expect that the proposed change will increase the number of eligible voters in the Chinese Medicine subsector from 5 900 at present to a maximum of 8 700.

(B) Method for Forming the LegCo

Geographical Constituencies (GCs)

11. We have set out the proposed arrangements regarding the electoral methods for the 2012 LegCo election vide the earlier LC Paper No. CB(2)150/10-11(01) including the number of LegCo Members to be returned by GCs and FCs to be increased to 35 respectively and the number of GCs to be retained at five. We propose that the number of seats for each of the five GCs is to be a number not less than 5 nor greater than 9.

12. According to the population projections prepared by the Ad-hoc Subgroup under the Working Group on Population Distribution Projections chaired by the Planning Department, the current population projections for the territory in 2012 will be 7.2 million, of which 3.74 million (52%) are in the New Territories and 3.46 million (48%) in the urban area (Hong Kong Island and Kowloon) (details at Annex D). With a total of 35 seats for the GCs, the population quota for each GC seat will be 206 000. Recommendations on allocating the 35 seats to five GCs will be made by the Electoral Affairs Commission in accordance with relevant legislation and up-to-date population projections available around the first quarter of 2011.

13. According to the population projections, the population of New Territories West will reach 2 million in 2012. Hence, consideration could have been given to allocating 10 seats to New Territories West. However, such an allocation would only require candidates to obtain 10% of the valid votes cast to win a seat. Furthermore, according to past experience with the proportional representation list-voting system, the last seat may be won by a candidate, who has obtained 5% (or even less than 5%) of the valid votes cast for the constituency. Allowing a candidate who has obtained 5% or less than 5% of the valid votes to win a seat is unprecedented and is not considered as an appropriate design for

the election arrangement in Hong Kong. Under section 60C of the Legislative Council Ordinance (LCO), a candidate or a list of candidates who has obtained less than 5% of valid votes cast for the constituency will not be entitled to have the financial assistance and under section 4(3) of the LegCo (Subscribers and Election Deposit for Nomination) Regulation (Cap. 542C), a candidate or a list of candidates who has obtained less than 3% of valid votes will have the election deposit forfeited. Accordingly, we propose that the ceiling for the number of seats to be allocated to a GC should be set at nine instead of ten.

New District Council Functional Constituencies (New DC FC)³

14. In respect of the new DC FC, we have proposed that the 5 new DC FC seats will be returned from the whole Hong Kong Special Administrative Region as a single constituency in accordance with the proportional representation list system. Candidates must be nominated by no less than 15 elected DC members. We have also proposed that candidates will be elected by all registered GC electors other than those entitled and opted to vote in the other FCs. The qualifications to be registered as an elector in this FC are as follows –

- (i) for persons registered in any FCs (other than the HYK, agriculture and fisheries, insurance, transport and the existing DC FC), they will be allowed to choose whether they would like to register in the new DC FC or remain in their respective FCs. In early 2012, the Registration and Electoral Office (REO) will send letters to these persons informing them that they may switch to the new DC FC by submitting written application by a specified date; and
- (ii) for persons eligible for registration under the new DC FC who are not registered in the 28 existing FCs (i.e. around 3.2 million registered GC electors), they will be automatically registered under the new DC FC as a transitional arrangement in 2012. REO will send letters to inform them of the automatic registration arrangement. Unless they indicate to REO their

³ Under the LegCo (Amendment) Bill 2010, the existing DC FC will be renamed as the DC (first) FC. The new DC FC will be named as the DC (second) FC.

objection to such registration, they will be so registered in the new DC FC.

15. Under our proposal, only elected DC members are eligible to be nominated as candidates at an election for the new DC FC. Section 37 of the LCO stipulates that a person is eligible to be nominated as a candidate for a FC if, among other things, the person either is both registered and eligible to be registered as an elector for that constituency; or satisfies the Returning Officer for the constituency that the person has a substantial connection with the FC. In accordance with this provision, if an elected DC member is also eligible to be nominated as a candidate in FCs other than the existing DC FC and the new DC FC, he or she can choose to stand for election in the existing DC FC, new DC FC or another FC at which he or she is eligible to be nominated as a candidate. The principle is that a person can only be nominated in only one FC for election.

16. In respect of the election expenses limit for the new DC FC, we propose that the maximum amount that can be incurred at an election by all the candidates on a list in respect of the new DC FC will be \$6 million. The amount payable as financial assistance in respect of a list of candidates/candidates standing for the 2012 LegCo election is the lower of either the amount obtained by multiplying the total number of valid votes cast for the list of candidates/candidates by \$12 or 50% of the declared election expenses of the list of candidates/candidates.

Electorate of Traditional FCs

17. As set out in LC Paper No. CB(2)150/10-11(01), the 5 new DC FC seats to be returned by approximately 3.2 million registered electors (i.e. those who currently do not have the right to vote in other FCs) on a one-person-one-vote basis will substantially enhance the democratic elements of the 2012 LegCo election. For the traditional FCs, our general policy position is that there should be no substantial changes to these FCs (except those changes in respect of the existing DC FC as set out in paragraph 33 of the LC Paper No. CB(2)150/10-11(01)). However, as a regular exercise before each LegCo election, we will

review whether there is a need to propose technical adjustments to the electorate of the traditional FCs to reflect their latest developments.

18. We propose to update the names of certain bodies which are registered, or are eligible to be registered as electors and certain members of the bodies which are registered, or are eligible to be registered as electors. The updating is technical but is required because these bodies are not operating under their old names. The updating does not change the composition of the electorate of the FCs concerned. A list setting out the update which has been identified so far is at Annex E.

19. In the current updating exercise, we will also delete those organizations that have ceased operation. The list of the deletion which has been identified so far is at Annex F.

20. The technical adjustments for LegCo FCs as mentioned in paragraphs 17 to 19 will also be applicable to those EC subsectors with the same name as the corresponding FCs.

Overseas Government Bodies in FCs

21. There have been concerns that overseas organizations should not be eligible as electors of FCs. We propose to add a new provision under section 31 of the LCO to the effect that the consular posts set out in the Consular Relations Ordinance (Cap. 557) and the international organizations set out in the International Organizations (Privileges and Immunities) Ordinance (Cap. 558) and the International Organizations and Diplomatic Privileges Ordinance (Cap. 190) will no longer be eligible to be registered as a corporate elector.

THE BILLS

Chief Executive Election (Amendment) Bill 2010

22. The Bill seeks to amend the CEEO to implement the reform proposals endorsed by the NPCSC on 28 August 2010 and, where necessary, makes consequential amendments to the CEEO. The main provisions of the Bill are explained below –

- (a) Clause 1 provides that except clauses related to the DCs subsectors and their elections as well as the increase of LegCo seats from 60 to 70, the Chief Executive Election (Amendment) Ordinance 2010 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 holding of the elections to elect members of the EC in December 2011. Those clauses related to the DCs subsectors and elections will come into operation on 25 September 2011. The clause regarding the increase in the LegCo seats will come into operation on the commencement of the term of office of the fifth term of LegCo. The rest of the Ordinance will come into operation on 1 February 2012;
- (b) Clause 3 implements the proposal that candidates for the office of CE shall be nominated jointly by not less not 150 members of the EC;
- (c) Clause 4 provides the definition of elected DC members as we have proposed that only elected DC members for the new term of DCs starting from 1 January 2012 are eligible for registration as voters in the DCs subsectors;
- (d) Clause 5 implements the proposal that the EC will be composed of 1 200 members and the number of members for each of the four sectors of the EC will be increased to 300. The number of seats allocated to the existing 32 subsectors in the first three sectors will be increased generally by proportion according to the existing distribution of seats. In addition, clause 5(42) provides the revised eligibility criteria in the Chinese Medicine subsector mentioned in paragraph 10 above. Moreover, two constituents of the Higher Education subsector have changed their names. Clause 5(43) reflects the changes;
- (e) Clause 6 introduces the arrangements for the special membership mentioned in paragraph 7. After the successful candidates of the CPPCC, HYK, Hong Kong and Kowloon DCs and New Territories DCs subsectors are returned, the “Special

Member” seats will be taken up by those remaining candidates who obtain the greatest number of votes in the respective subsectors. The term of office of the “Special Members” will expire upon the commencement of the term of office of the fifth term of LegCo in 2012;

- (f) Clause 7 provides that elected DC members may only be registered as voters in the relevant DCs subsectors but not other subsectors;
- (g) Clause 8 empowers the Electoral Registration Officer (ERO) to amend the Final Registers of voters and to arrange for automatic registration of the newly elected DC members after the DC election in November 2011;
- (h) Clause 9 specifies that only elected DC members may be nominated as candidates in the DCs subsector election. Other persons will be disqualified from being nominated as candidates in the DCs subsectors;
- (i) Clause 10 provides that election as DC members does not affect nomination made earlier in the non-DCs subsectors as mentioned in paragraph 9(e). In addition, this clause ensures that a newly elected DC member may only be nominated in one subsector for election;
- (j) Clause 11 specifies the arrangement for ERO to compile and publish interim register of members of the EC if the elections for different subsectors are held on different days;
- (k) Clause 12 repeals a historical subsection regarding the period for receiving the notice of claim or objection as regards an entry or registration in a subsector register from 2002 to 2003;
- (l) Clause 13 provides that only the first nomination paper which has been delivered by a voter of the subsector is operative. This is to ensure that each voter may make nomination in one subsector only; and

- (m) Clause 14 provides that the number of seats to be allocated to each of the six designated bodies of the Religious subsector will be increased to ten.

Legislative Council (Amendment) Bill 2010

23. The Bill seeks to amend the LCO to implement the proposals endorsed by the NPCSC on 28 August 2010, update the names of certain bodies and delete bodies which are inoperative in FCs, increase the financial assistance to candidates in the LegCo election and prescribe the maximum amount of election expenses for the new DC FC. The main provisions of the Bill are explained below –

- (a) Clause 1 provides that the LegCo (Amendment) Ordinance 2010 comes into operation on the day on which the Ordinance is published in the Gazette for the purpose only of enabling arrangements to be made for the holding of the LegCo general election in 2012 and for the holding of the elections of members of the EC under the CEEO in 2011. In so far as the Ordinance has not come into operation under the above purpose, it will come into operation on 1 October 2012.
- (b) Clause 4 implements the proposal that 35 members are to be returned for the five GCs and that the number of members to be returned for each GC is to be a number not less than 5 nor greater than 9;
- (c) Clauses 6, 7, 8, 9, 32, 33, 34, 35 and 36 update the names of certain bodies and delete the bodies which are inoperative in certain FCs;
- (d) Clause 10 amends the electorate of the existing DC FC (which is named as the DC (first) FC) to provide that the FC is composed of elected DC members. Appointed and ex-officio DC members are not eligible as electors under the FC;

- (e) Clauses 11 and 12 provide for the electorate of the new DC FC (which is named as the DC (second) FC) which includes persons who are registered as electors for GCs but are not registered as electors for any other FCs; and specify the number of the new DC FC members as 5;
- (f) Clause 13(3) provides that a person who is registered in any FC (except for the HYK, agriculture and fisheries, insurance and transport FCs) may choose to register in the DC (second) FC instead.
- (g) Clause 13(4) provides that a person eligible to be registered as an elector for the DC (first) FC and another FC may be registered only for the DC (first) FC and not for that other FC;
- (h) Clause 14 provides that consular posts (including those headed by career consular officers and honorary consular officers) specified in the Consular Relations Ordinance (Cap. 557) and the international organizations under the International Organizations (Privileges and Immunities) Ordinance (Cap. 558) and the International Organizations and Diplomatic Privileges Ordinance (Cap. 190) will no longer be eligible to be registered as a corporate elector;
- (i) Clause 15 provides for the revised criterion for nomination as a candidate of the DC (first) FC and the criterion for nomination as a candidate of the DC (second) FC, i.e. only elected DC members are eligible for nomination as a candidate;
- (j) Clauses 19 and 25 provide for the arrangement to elect the DC (second) FC members in accordance with the list system of the proportional representation;
- (k) Clause 37 provides for the transitional voter registration arrangement for the DC (second) FC under which the first register of electors for the DC (second) FC is compiled by using the 2012 provisional register of electors for GCs as the basis and deleting from it the names of all persons who are registered

in the 2012 provisional register of electors for any other FCs and the name of any person who elects not to be registered in the DC (second) FC. The name of any registered FC elector who elects to be registered in the DC (second) FC will be added to the first register for the DC (second) FC. REO will inform the relevant electors of the automatic voter registration arrangement and the choice that they could exercise;

- (l) Clause 38 provides that the rate of financial assistance to eligible candidates of LegCo election will be increased from \$11 to \$12;
- (m) Clauses 40 and 42 specify that the election deposit for the DC (second) FC is \$25,000, which is the same as that for other FCs. The forfeiture arrangement of the election deposit for the DC (second) FC follows that for the GCs;
- (n) Clause 43 specifies that the nomination paper of the nominees on a nomination list seeking nomination in respect of the DC (second) FC must be subscribed by not less than 15 other persons, each being an elector registered in respect of the DC (first) FC. An eligible person may only subscribe a candidate in the DC (first) FC or a list of candidates in the DC (second) FC; and
- (o) Clause 46 provides that the maximum amount of election expenses that can be incurred at a DC (second) FC election by or on behalf of all the candidates on a list is \$6 million.

LEGISLATIVE TIMETABLE

24. The legislative timetable is as follows –

Publication in the Gazette	10 December 2010
First reading and commencement of Second Reading debate	15 December 2010

Resumption of Second Reading To be notified
debate, Committee Stage and Third
Reading

IMPLICATIONS OF THE PROPOSAL

25. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The Bills do not affect the binding effect of the CEEO and LCO. There are no productivity, environmental, economic or sustainability implications.

26. Arising from the proposal to increase the number of LegCo Members from 60 to 70 in 2012, the Government has to allocate \$26.59 million per annum to pay for the remuneration, medical allowance and operating expenses reimbursement for the additional ten Members starting from the fifth term LegCo, save for any annual price adjustments to be made. An additional \$8.86 million will also be required for other expenses (including setting up allowance, information technology and communication equipment allowance, winding up allowance and end of service gratuity) for the additional ten Members for each term⁴. The proposed expansion of the EC from 800 to 1200 members, the increase in the number of LegCo Members and the creation of the new DC FC will also have implications for the expenses for the conduct of the 2011 EC subsector election, the 2012 CE election and the 2012 LegCo election. Additional provisions will be required for the REO in the areas including recruitment of electoral staff, financial assistance for candidates, free mailing service for candidates and printing of election-related documents. Additional provisions will be sought to meet the expenditure in accordance with the established funding mechanism. While REO sees a need for engaging some non-civil service staff for the preparation and conduct of the three elections, it would endeavour to cope with the additional workload within its existing civil service establishment as far as possible.

⁴ These figures are subject to a review to be conducted in 2011 by an Independent Commission appointed by the CE.

PUBLIC CONSULTATION

27. The LegCo Panel on Constitutional Affairs was consulted on the proposal on 30 October 2010.

PUBLICITY

28. A press release will be issued today and a spokesperson will be made available to answer media and public enquiries.

ENQUIRY

29. Enquiries in relation to the CE Election (Amendment) Bill 2010 and the LegCo (Amendment) Bill 2010 should be directed to Mr Freely Cheng, Principal Assistant Secretary for Constitutional and Mainland Affairs at 2810 2852, and Ms Anne Teng, Principal Assistant Secretary for Constitutional and Mainland Affairs at 2810 2908 respectively.

Constitutional and Mainland Affairs Bureau
8 December 2010

Chief Executive Election (Amendment) Bill 2010**Contents**

Clause	Page
Part 1	
Preliminary	
1. Short title and commencement	1
2. Enactments amended	2
Part 2	
Amendments to Chief Executive Election Ordinance (Cap. 569)	
3. Section 16 amended (Manner of nomination)	3
4. Schedule, section 1 amended (Interpretation)	3
5. Schedule, section 2 amended (How Election Committee is to be constituted)	3
6. Schedule, section 2A added	12
7. Schedule, section 12 amended (Who is eligible to be registered as a voter)	17
8. Schedule, section 14 amended (Electoral Registration Officer to compile and publish a register of voters)	19
9. Schedule, section 18A amended (When a person is disqualified from being a candidate for 4 subsectors in the Fourth Sector)	21

Clause	Page
10. Schedule, sections 18B and 18C added	22
11. Schedule, section 40 amended (Electoral Registration Officer to compile and publish interim register and final register)	24
Part 3	
Amendments to Election Committee (Registration) (Voters for Subsectors) (Members of Election Committee) (Appeals) Regulation (Cap. 569 sub. leg. B)	
12. Section 3 amended (Fixing of hearing and notifying appellant thereof)	25
Part 4	
Amendment to Election Committee (Subscribers and Election Deposit for Nomination) Regulation (Cap. 569 sub. leg. C)	
13. Section 8 amended (Number and qualifications of subscribers to nomination paper)	26
Part 5	
Amendments to Distribution of Number of Members Among Designated Bodies (Election Committee) Order 2001 (Cap. 569 sub. leg. D)	
14. Schedule amended (Distribution of number of members among designated bodies)	27

A BILL

To

Amend the Chief Executive Election Ordinance and subsidiary legislation made under it to increase the total number of members of the Election Committee to 1 200 by increasing the number of members returned from each existing subsector or sub-subsector except the National People's Congress subsector and make certain other changes to the method for the selection of the Chief Executive by the Election Committee; to change the names of 2 constituents of the higher education subsector; to make transitional provision for the filling of 10 vacancies in the Election Committee; 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 Chief Executive Election (Amendment) Ordinance 2010.
- (2) This Ordinance (except sections 4, 5(35), (38) and (40), 7, 8, 9 and 10)—
 - (a) 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 the holding of the elections under Part 4 of the Schedule to the Chief Executive Election Ordinance (Cap. 569) to elect members of the Election Committee in 2011 other than members

assigned to the Hong Kong and Kowloon District Councils subsector and the New Territories District Councils subsector; and

- (b) in so far as it has not come into operation under paragraph (a), comes into operation on 1 February 2012.
- (3) Sections 4, 5(38) and (40), 7, 8, 9 and 10 come into operation on 25 September 2011.
- (4) Section 5(35) comes into operation on the commencement of the term of office of the fifth term of the Legislative Council in 2012.

2. Enactments amended

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

Part 2**Amendments to Chief Executive Election Ordinance
(Cap. 569)****3. Section 16 amended (Manner of nomination)**

Section 16(2)(a)—

Repeal

“100 members”

Substitute

“150 members”.

4. Schedule, section 1 amended (Interpretation)

The Schedule, before section 1(5)(a)—

Add

“(aa) *elected member* (民選議員) means a person who is elected to be an elected member under Part V of the District Councils Ordinance (Cap. 547);”.

5. Schedule, section 2 amended (How Election Committee is to be constituted)

(1) The Schedule, section 2(1)—

Repeal

“800 members”

Substitute

“1 200 members”.

(2) The Schedule, section 2(3)—

Repeal

“200 members”

Substitute

“300 members”.

(3) The Schedule, section 2, Table 1, item 1, column 3—

Repeal

“11”

Substitute

“17”.

(4) The Schedule, section 2, Table 1, item 2, column 3—

Repeal

“12”

Substitute

“18”.

(5) The Schedule, section 2, Table 1, item 3, column 3—

Repeal

“12”

Substitute

“18”.

(6) The Schedule, section 2, Table 1, item 4, column 3—

Repeal

“11”

Substitute

“16”.

(7) The Schedule, section 2, Table 1, item 5, column 3—

Repeal

“12”

Substitute

“18”.

- (8) The Schedule, section 2, Table 1, item 6, column 3—
Repeal
 “12”
Substitute
 “18”.
- (9) The Schedule, section 2, Table 1, item 7, column 3—
Repeal
 “11”
Substitute
 “16”.
- (10) The Schedule, section 2, Table 1, item 8, column 3—
Repeal
 “11”
Substitute
 “17”.
- (11) The Schedule, section 2, Table 1, item 9, column 3—
Repeal
 “12”
Substitute
 “18”.
- (12) The Schedule, section 2, Table 1, item 10, column 3—
Repeal
 “12”
Substitute
 “18”.
- (13) The Schedule, section 2, Table 1, item 11, column 3—
Repeal

- “12”
Substitute
 “18”.
- (14) The Schedule, section 2, Table 1, item 12, column 3—
Repeal
 “12”
Substitute
 “18”.
- (15) The Schedule, section 2, Table 1, item 13, column 3—
Repeal
 “12”
Substitute
 “18”.
- (16) The Schedule, section 2, Table 1, item 14, column 3—
Repeal
 “12”
Substitute
 “18”.
- (17) The Schedule, section 2, Table 1, item 15, column 3—
Repeal
 “12”
Substitute
 “18”.
- (18) The Schedule, section 2, Table 1, item 16, column 3—
Repeal
 “12”
Substitute

- “18”.
- (19) The Schedule, section 2, Table 1, item 17, column 3—
Repeal
“12”
Substitute
“18”.
- (20) The Schedule, section 2, Table 2, item 1, column 3—
Repeal
“20”
Substitute
“30”.
- (21) The Schedule, section 2, Table 2, item 2, column 3—
Repeal
“20”
Substitute
“30”.
- (22) The Schedule, section 2, Table 2, item 3, column 3—
Repeal
“20”
Substitute
“30”.
- (23) The Schedule, section 2, Table 2, item 4, column 3—
Repeal
“20”
Substitute
“30”.
- (24) The Schedule, section 2, Table 2, item 5, column 3—

- Repeal**
“20”
Substitute
“30”.
- (25) The Schedule, section 2, Table 2, item 6, column 3—
Repeal
“20”
Substitute
“30”.
- (26) The Schedule, section 2, Table 2, item 7, column 3—
Repeal
“20”
Substitute
“30”.
- (27) The Schedule, section 2, Table 2, item 8, column 3—
Repeal
“20”
Substitute
“30”.
- (28) The Schedule, section 2, Table 2, item 9, column 3—
Repeal
“20”
Substitute
“30”.
- (29) The Schedule, section 2, Table 2, item 10, column 3—
Repeal
“20”

Substitute

“30”.

- (30) The Schedule, section 2, Table 3, item 1, column 3—

Repeal

“40”

Substitute

“60”.

- (31) The Schedule, section 2, Table 3, item 2, column 3—

Repeal

“40”

Substitute

“60”.

- (32) The Schedule, section 2, Table 3, item 3, column 3—

Repeal

“40”

Substitute

“60”.

- (33) The Schedule, section 2, Table 3, item 4, column 3—

Repeal

“40”

Substitute

“60”.

- (34) The Schedule, section 2, Table 3, item 5, column 3—

Repeal

“40”

Substitute

“60”.

- (35) The Schedule, section 2, Table 4, item 2, column 4—

Repeal

“60”

Substitute

“70”.

- (36) The Schedule, section 2, Table 4, item 3, column 4—

Repeal

“41”

Substitute

“51”.

- (37) The Schedule, section 2, Table 4, item 4, column 4—

Repeal

“21”

Substitute

“26”.

- (38) The Schedule, section 2, Table 4, item 5, column 3—

Repeal

“Members”

Substitute

“Elected members”.

- (39) The Schedule, section 2, Table 4, item 5, column 4—

Repeal

“21”

Substitute

“57”.

- (40) The Schedule, section 2, Table 4, item 6, column 3—

Repeal

“Members”

Substitute

“Elected members”.

- (41) The Schedule, section 2, Table 4, item 6, column 4—

Repeal

“21”

Substitute

“60”.

- (42) The Schedule, section 2, Table 5, item 4—

Repeal everything in column 3

Substitute

“(1) Members of—

- (a) The Hong Kong Association of Traditional Chinese Medicine Limited;
- (b) International General Chinese Herbalists and Medicine Professionals Association Limited;
- (c) Sin-Hua Herbalists’ and Herb Dealers’ Promotion Society Limited;
- (d) Society of Practitioners of Chinese Herbal Medicine Limited;
- (e) The Hong Kong T.C.M. Orthopaedic and Traumatic Association Limited;
- (f) The Hong Kong Federation of China of Traditional Chinese Medicine;
- (g) Hong Kong Acupuncturists Association;
- (h) Hong Kong Chinese Herbalists Association Limited;
- (i) Association of Hong Kong & Kowloon Practitioners of Chinese Medicine, Limited;

- (j) Hong Kong Chinese Overseas Physician Association,

who are Chinese medicine practitioners entitled to vote at the general meetings of the respective bodies.

- (2) Registered Chinese medicine practitioners registered under the Chinese Medicine Ordinance (Cap. 549).”.

- (43) The Schedule, section 2, Table 5, item 5, column 3, paragraph (1)—

Repeal subparagraphs (i) and (j)

Substitute

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

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

6. Schedule, section 2A added

The Schedule, after section 2—

Add

“2A. Special membership arrangement for 2012

- (1) Despite section 2, this section has effect.
- (2) In the subsector ordinary election to elect the members of the Election Committee assigned to the Chinese People’s Political Consultative Conference subsector for the term of office of the Election Committee commencing on 1 February 2012—
 - (a) if the number of validly nominated candidates exceeds 51 but does not exceed 55, subsection (8) applies to all those candidates who are not returned at the election because—
 - (i) they do not obtain as many votes as the elected candidates; or

- (ii) lots are drawn under section 29(6) and the lot does not fall on them;
- (b) if the number of validly nominated candidates exceeds 55, subsection (8) applies, subject to subsection (6), to the 4 candidates who—
 - (i) are not returned at the election because of the reasons specified in paragraph (a)(i) or (ii); and
 - (ii) obtain the greatest number of votes among the candidates who are not so returned.
- (3) In the subsector ordinary election to elect the members of the Election Committee assigned to the Heung Yee Kuk subsector for the term of office of the Election Committee commencing on 1 February 2012—
 - (a) if the number of validly nominated candidates exceeds 26 but does not exceed 28, subsection (8) applies to all those candidates who are not returned at the election because—
 - (i) they do not obtain as many votes as the elected candidates; or
 - (ii) lots are drawn under section 29(6) and the lot does not fall on them;
 - (b) if the number of validly nominated candidates exceeds 28, subsection (8) applies, subject to subsection (6), to the 2 candidates who—
 - (i) are not returned at the election because of the reasons specified in paragraph (a)(i) or (ii); and
 - (ii) obtain the greatest number of votes among the candidates who are not so returned.
- (4) In the subsector ordinary election to elect the members of the Election Committee assigned to the Hong Kong and Kowloon District Councils subsector for the term of

- office of the Election Committee commencing on 1 February 2012—
 - (a) if the number of validly nominated candidates exceeds 57 but does not exceed 59, subsection (8) applies to all those candidates who are not returned at the election because—
 - (i) they do not obtain as many votes as the elected candidates; or
 - (ii) lots are drawn under section 29(6) and the lot does not fall on them;
 - (b) if the number of validly nominated candidates exceeds 59, subsection (8) applies, subject to subsection (6), to the 2 candidates who—
 - (i) are not returned at the election because of the reasons specified in paragraph (a)(i) or (ii); and
 - (ii) obtain the greatest number of votes among the candidates who are not so returned.
- (5) In the subsector ordinary election to elect the members of the Election Committee assigned to the New Territories District Councils subsector for the term of office of the Election Committee commencing on 1 February 2012—
 - (a) if the number of validly nominated candidates exceeds 60 but does not exceed 62, subsection (8) applies to all those candidates who are not returned at the election because—
 - (i) they do not obtain as many votes as the elected candidates; or
 - (ii) lots are drawn under section 29(6) and the lot does not fall on them;

- (b) if the number of validly nominated candidates exceeds 62, subsection (8) applies, subject to subsection (6), to the 2 candidates who—
 - (i) are not returned at the election because of the reasons specified in paragraph (a)(i) or (ii); and
 - (ii) obtain the greatest number of votes among the candidates who are not so returned.
- (6) If due to equality of votes it is impracticable to determine under subsection (2)(b)(ii), (3)(b)(ii), (4)(b)(ii) or (5)(b)(ii) any one or more candidates to whom subsection (8) applies, the Returning Officer must determine the result by drawing lots and subsection (8) applies to the candidate on whom the lot falls.
- (7) Subsection (8) does not apply unless at the time of the subsector ordinary election the Legislative Council Ordinance (Cap. 542) provides that the fifth term of the Legislative Council constituted in 2012 is to have 70 members, whether or not the provision has come into operation.
- (8) During the period in which this subsection applies to a person, the person is for all purposes a member of the Election Committee.
- (9) If subsection (8) applies to a person—
 - (a) the person is deemed, for the purposes of sections 35 and 39, to be duly elected as a member of the Election Committee at a subsector election; and
 - (b) the application of subsection (8) to the person is deemed, for the purposes of section 39, to be the result of a subsector election.
- (10) To avoid doubt, a person to whom subsection (8) applies is regarded as an unsuccessful candidate for the purposes of section 5 of the Election Committee (Subscribers and

- Election Deposit for Nomination) Regulation (Cap. 569 sub. leg. C).
- (11) Subsection (8) ceases to apply to a person on the date on which the term of office of the fifth term of the Legislative Council commences under the Legislative Council Ordinance (Cap. 542) in 2012.
- (12) Despite subsection (17), on subsection (8) ceasing to apply to a person under subsection (11), the Electoral Registration Officer must—
 - (a) strike out the name and other relevant particulars of the person from the final register of members of the Election Committee that is in effect under section 43 on the date referred to in subsection (11); and
 - (b) publish in accordance with the EAC Regulations a notice that the name and particulars have been so removed.
- (13) During the period in which subsection (8) applies to any persons under subsection (2), item 3 of Table 4 in section 2 has effect as if the number “51” in column 4 is substituted by the number “55”.
- (14) During the period in which subsection (8) applies to any persons under subsection (3), item 4 of Table 4 in section 2 has effect as if the number “26” in column 4 is substituted by the number “28”.
- (15) During the period in which subsection (8) applies to any persons under subsection (4), item 5 of Table 4 in section 2 has effect as if the number “57” in column 4 is substituted by the number “59”.
- (16) During the period in which subsection (8) applies to any persons under subsection (5), item 6 of Table 4 in section 2 has effect as if the number “60” in column 4 is substituted by the number “62”.

- (17) This section expires on the date referred to in subsection (11).
- (18) Despite subsection (17), if—
- (a) an appeal is lodged under section 39 to question the deemed election of a person under subsection (9); and
 - (b) when this section expires under subsection (17), the appeal is pending,
- subsection (9) continues to have effect until the withdrawal or final disposal of the appeal as if it had not expired.”.

7. **Schedule, section 12 amended (Who is eligible to be registered as a voter)**

- (1) The Schedule, section 12(8)—

Repeal

“has made an application to be registered for the District Council”

Substitute

“is eligible to be registered as an elector for the District Council (first)”.

- (2) The Schedule, section 12(9)—

Repeal

“has made an application to be registered for the District Council”

Substitute

“is eligible to be registered as an elector for the District Council (first)”.

- (3) The Schedule, section 12(11)—

Repeal paragraphs (a), (b), (c), (d), (e) and (f)

Substitute

- “(a) a person who is eligible to be registered as a voter for the Hong Kong and Kowloon District Councils subsector may be registered only as a voter for that subsector;
- (b) a person who is eligible to be registered as a voter for the New Territories District Councils subsector may be registered only as a voter for that subsector;
- (c) a person who—
- (i) is eligible to be registered as a voter for the Hong Kong and Kowloon District Councils subsector or the New Territories District Councils subsector; and
 - (ii) would, but for this paragraph, be eligible to be registered as a voter for any subsector other than the 2 subsectors referred to in subparagraph (i),
- may be registered only as a voter for the Hong Kong and Kowloon District Councils subsector or the New Territories District Councils subsector, as the case may be;
- (d) a person who ceases to be eligible to be registered as a voter for the Hong Kong and Kowloon District Councils subsector or the New Territories District Councils subsector may, subject to subsections (10)(a) and (12), apply to be registered as a voter for any other subsector for which the person is eligible to be registered as a voter;
- (e) a person who—
- (i) is a person described opposite to the Hong Kong and Kowloon District Councils subsector in column 3 of Table 4 in section 2; and
 - (ii) is eligible to be registered as an elector for the District Council (first) functional constituency,
- cannot, subject to paragraph (g), be registered only as an elector for the District Council (first) functional

constituency and not as a voter for the Hong Kong and Kowloon District Councils subsector;

(f) a person who—

(i) is a person described opposite to the New Territories District Councils subsector in column 3 of Table 4 in section 2; and

(ii) is eligible to be registered as an elector for the District Council (first) functional constituency,

cannot, subject to paragraph (h), be registered only as an elector for the District Council (first) functional constituency and not as a voter for the New Territories District Councils subsector;

(g) a person who is registered or applies to be registered as a voter for the Hong Kong and Kowloon District Councils subsector cannot be registered only as a voter for that subsector and not as an elector for the District Council (first) functional constituency; and

(h) a person who is registered or applies to be registered as a voter for the New Territories District Councils subsector cannot be registered only as a voter for that subsector and not as an elector for the District Council (first) functional constituency.”.

(4) The Schedule, section 12(12), before “may”—

Add

“(other than the Hong Kong and Kowloon District Councils subsector and the New Territories District Councils subsector)”.

8. Schedule, section 14 amended (Electoral Registration Officer to compile and publish a register of voters)

The Schedule, after section 14(1A)—

Add

“(1B) Despite subsections (1) and (1A), as soon as practicable after the District Council ordinary election in 2011, the Electoral Registration Officer must, in accordance with the EAC Regulations—

(a) compile the subsector final register for the Hong Kong and Kowloon District Councils subsector by—

(i) striking out the names and other relevant particulars of all voters from the existing subsector final register; and

(ii) registering in the subsector final register all persons who are elected as members of a District Council specified in item 1, 2, 3, 4, 5, 6, 7, 8 or 9 of Schedule 2 to the District Councils Ordinance (Cap. 547) under Part V of that Ordinance as voters of the subsector;

(b) compile the subsector final register for the New Territories District Councils subsector by—

(i) striking out the names and other relevant particulars of all voters in the existing subsector final register; and

(ii) registering in the subsector final register all persons who are elected as members of a District Council specified in item 10, 11, 12, 13, 14, 15, 16, 17 or 18 of Schedule 2 to the District Councils Ordinance (Cap. 547) under Part V of that Ordinance as voters of the subsector;

(c) if the persons referred to in paragraphs (a)(ii) and (b)(ii) are registered as voters in any subsector other than the Hong Kong and Kowloon District Councils subsector and the New Territories District Councils subsector, strike out their names and other relevant particulars from the subsector final register

for that subsector to the effect that they are no longer registered as voters for that subsector.

- (1C) The Electoral Registration Officer must, as soon as practicable after complying with subsection (1B), publish in accordance with the EAC Regulations the subsector final register in which there is any addition or removal of names and other relevant particulars of voters.”.

9. Schedule, section 18A amended (When a person is disqualified from being a candidate for 4 subsectors in the Fourth Sector)

- (1) The Schedule, section 18A(4)—

Repeal

everything after “if”

Substitute

“the person is not elected as a member of a District Council specified in item 1, 2, 3, 4, 5, 6, 7, 8 or 9 of Schedule 2 to the District Councils Ordinance (Cap. 547) under Part V of that Ordinance in the District Council ordinary election held immediately before the relevant subsector election or in any District Council by-election for that District Council after the ordinary election.”.

- (2) The Schedule, section 18A(5)—

Repeal

everything after “if”

Substitute

“the person is not elected as a member of a District Council specified in item 10, 11, 12, 13, 14, 15, 16, 17 or 18 of Schedule 2 to the District Councils Ordinance (Cap. 547) under Part V of that Ordinance in the District Council ordinary election held immediately before the relevant subsector election or in any District Council by-election for that District Council after the ordinary election.”.

10. Schedule, sections 18B and 18C added

The Schedule, after section 18A—

Add

“18B. Election as District Council member does not affect nomination made earlier

- (1) This subsection applies to a case in which—

- (a) a person who is registered as a voter for any subsector other than the Hong Kong and Kowloon District Councils subsector and the New Territories District Councils subsector has subscribed the nomination paper of a candidate for that subsector in a subsector election; and
- (b) after the subscription of the nomination paper but before the subsector election the person is elected as a member of a District Council under Part V of the District Councils Ordinance (Cap. 547).

- (2) In a case to which subsection (1) applies—

- (a) the validity of the subscription of the nomination paper is not affected by the person’s election; and
- (b) the person is disqualified—
- (i) if the election is a subsector ordinary election, from subscribing the nomination paper of any candidate for the Hong Kong and Kowloon District Councils subsector or the New Territories District Councils subsector in that election; or
- (ii) if the election is a subsector by-election, from subscribing the nomination paper of any candidate for the Hong Kong and Kowloon District Councils subsector or the New Territories District Councils subsector in any by-election for any subsector held during the

- term of the District Council for which the person is elected,
unless the candidate nominated by the person meets any description in subsection (3).
- (3) The descriptions are—
- (a) the candidate withdraws candidature under section 21;
 - (b) the Returning Officer decides under section 22(1) or 23(4) that the candidate is not validly nominated;
 - (c) the Returning Officer has given a notice of death in respect of the candidate under section 23(1).

18C. Candidate for other subsectors cannot stand for District Councils subsector election even though elected as District Council member

- (1) This subsection applies to a case in which—
- (a) a person who is registered as a voter for any subsector other than the Hong Kong and Kowloon District Councils subsector and the New Territories District Councils subsector is nominated as a candidate for that subsector in a subsector election; and
 - (b) after the nomination but before the subsector election the person is elected as a member of a District Council under Part V of the District Councils Ordinance (Cap. 547).
- (2) In a case to which subsection (1) applies—
- (a) the validity of the nomination of the person for the subsector is not affected by the person's election; and
 - (b) the person is, whether or not returned at the election, disqualified—

- (i) if the election is a subsector ordinary election, from being nominated as a candidate for the election in the Hong Kong and Kowloon District Councils subsector or the New Territories District Councils subsector; or
- (ii) if the election is a subsector by-election, from being nominated as a candidate for the Hong Kong and Kowloon District Councils subsector by-election or the New Territories District Councils subsector by-election held during the term of the District Council for which the person is elected.”.

11. Schedule, section 40 amended (Electoral Registration Officer to compile and publish interim register and final register)

The Schedule, section 40(1)—

Repeal

everything after “EAC”

Substitute

“Regulations—

- (a) if the polling for the subsector ordinary elections for all subsectors is held on the same day, an interim register of members of the Election Committee within 7 days after the results of the elections are published under section 35; or
- (b) if the polling for the subsector ordinary elections for different subsectors is held on different days, the relevant parts of an interim register of members of the Election Committee within 7 days after the results of the relevant elections are published under section 35.”.

Part 3**Amendments to Election Committee (Registration)
(Voters for Subsectors) (Members of Election
Committee) (Appeals) Regulation (Cap. 569 sub. leg. B)**

12. Section 3 amended (Fixing of hearing and notifying appellant thereof)
- (1) Section 3(4)—
Repeal paragraph (a).
 - (2) Section 3(4)—
Repeal
“(a),”.
-

Part 4**Amendment to Election Committee (Subscribers and
Election Deposit for Nomination) Regulation (Cap. 569
sub. leg. C)**

13. Section 8 amended (Number and qualifications of subscribers to nomination paper)
- After section 8(4)—
- Add**
- “(5) If—
- (a) a voter has subscribed to the nomination paper nominating any candidate for a subsector at a subsector election; and
 - (b) the nomination paper has been delivered to the Returning Officer,
- the signature of the voter on the nomination paper of any candidate for another subsector at a subsector election that has not been so delivered is inoperative if the 2 elections are to be held on the same day or if the nomination periods for the 2 elections coincide or partly coincide.”.
-

Part 5**Amendments to Distribution of Number of Members
Among Designated Bodies (Election Committee) Order
2001 (Cap. 569 sub. leg. D)****14. Schedule amended (Distribution of number of members among
designated bodies)**

- (1) The Schedule, item 1, column 3—

Repeal

“7”

Substitute

“10”.

- (2) The Schedule, item 2, column 3—

Repeal

“6”

Substitute

“10”.

- (3) The Schedule, item 3, column 3—

Repeal

“7”

Substitute

“10”.

- (4) The Schedule, item 4, column 3—

Repeal

“6”

Substitute

“10”.

- (5) The Schedule, item 5, column 3—

Repeal

“7”

Substitute

“10”.

- (6) The Schedule, item 6, column 3—

Repeal

“7”

Substitute

“10”.

Explanatory Memorandum

The object of this Bill is to amend the Chief Executive Election Ordinance (Cap. 569) and subsidiary legislation made under it 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 members of the Election Committee is to be increased from 800 to 1 200 (clause 5(1)). A candidate for a Chief Executive election has to be nominated by 150 members of the Election Committee (clause 3).
4. The number of members of the Election Committee returned from all 4 sectors and all subsectors (except the National People's Congress subsector) is to be increased (clause 5).
5. Only elected District Council members will be eligible for registration as voters for the Hong Kong and Kowloon District Councils subsector and the New Territories District Councils subsector (clause 5(38) and (40)).
6. Registered Chinese medicine practitioners registered under the Chinese Medicine Ordinance (Cap. 549) will be eligible for registration as voters for the Chinese medicine subsector (clause 5(42)).
7. Two constituents of the higher education subsector have changed their names. Clause 5(43) reflects the changes.
8. Members of the Legislative Council are ex-officio members of the Election Committee. There is a legislative proposal to increase the number of members of the Legislative Council from 60 to 70 with effect from the date on which the term of office of the fifth term of the Legislative Council commences in 2012. If the proposal is

endorsed by the Legislative Council, transitional arrangements are to be made for the filling of 10 vacancies in the Election Committee during the period between the subsector ordinary election to elect the members of the Election Committee in 2011 and the commencement of the term of office of the fifth term of the Legislative Council in 2012. Clause 6 adds a new section 2A to the Schedule to the Chief Executive Election Ordinance (Cap. 569) to make transitional arrangement for that purpose. Ten persons from the Chinese People's Political Consultative Conference subsector, the Heung Yee Kuk subsector, the Hong Kong and Kowloon District Councils subsector and the New Territories District Councils subsector will take up the 10 seats during the relevant period.

9. Clauses 7, 8, 9 and 11 introduce technical amendments concerning registration of voters for subsectors and compilation of registers of voters.
10. Clause 10 adds new provisions to—
 - (a) make provision for a situation in which a person who makes a nomination in a subsector election is subsequently elected as a District Council member; and
 - (b) provide that a person who is nominated as a candidate for any subsector other than the Hong Kong and Kowloon District Councils subsector and the New Territories District Councils subsector cannot be nominated as a candidate for those 2 subsectors even though he or she is elected as a District Council member.

Parts 3 and 4 of the Bill

11. Clauses 12 and 13 make incidental amendments to 2 pieces of subsidiary legislation made under the Chief Executive Election Ordinance (Cap. 569).

Part 5 of the Bill

12. Clause 14 introduces amendments to increase the seats of the 6 religious bodies in the Election Committee.

Legislative Council (Amendment) Bill 2010**Contents**

Clause	Page
Part 1	
Preliminary	
1. Short title and commencement	2
2. Enactments amended	2
Part 2	
Amendments to Legislative Council Ordinance (Cap. 542)	
3. Section 3 amended (Interpretation)	3
4. Section 19 amended (Number of Members to be returned for geographical constituency)	3
5. Section 20 amended (Establishment of functional constituencies)	3
6. Section 20E amended (Composition of the education functional constituency)	4
7. Section 20V amended (Composition of the sports, performing arts, culture and publication functional constituency)	4
8. Section 20W amended (Composition of the import and export functional constituency)	4
9. Section 20Z amended (Composition of the information	

Clause	Page
technology functional constituency)	5
10. Section 20ZB amended (Composition of the District Council functional constituency)	5
11. Section 20ZC added	6
20ZC. Composition of the District Council (second) functional constituency	6
12. Section 21 amended (Number of Members to be returned for functional constituency)	6
13. Section 25 amended (Who is eligible to be registered as an elector: functional constituencies)	6
14. Section 31 amended (When person is disqualified from being registered as an elector)	8
15. Section 37 amended (Who is eligible to be nominated as a candidate)	8
16. Section 38 amended (Nomination lists for geographical constituencies)	9
17. Section 39 amended (When person is disqualified from being nominated as a candidate from being elected as a Member)	10
18. Section 40 amended (What requirements are to be complied with by persons nominated as candidates)	10
19. Section 41 amended (Person not to be nominated for more than one constituency)	10

Clause	Page
20. Section 42B amended (Death or disqualification of a validly nominated candidate for election for geographical constituency before date of election)	10
21. Section 42C amended (Death or disqualification of a validly nominated candidate for election for functional constituency before date of election).....	11
22. Section 43 amended (Candidates entitled to send letter to electors free of postage)	12
23. Section 46A amended (Death or disqualification of a validly nominated candidate before declaration of election result)	12
24. Section 48 amended (Who is entitled to vote at an election)	12
25. Section 49 amended (System of voting and counting of votes: geographical constituencies).....	13
26. Section 60A amended (Interpretation: Part VIA).....	15
27. Section 60B amended (Financial assistance payable to list of candidates and candidates for functional constituencies)	16
28. Section 60C amended (Eligibility for financial assistance: list of candidates and candidates for functional constituencies).....	16
29. Section 60D amended (Amount payable as financial assistance: list of candidates).....	17
30. Section 60E amended (Amount payable as financial assistance: candidates for functional constituencies).....	17
31. Section 60J amended (Financial assistance not to be paid	

Clause	Page
until disposal of election petition	18
32. Schedule 1 amended (Composition of the agriculture and fisheries functional constituency).....	18
33. Schedule 1A amended (Composition of the transport functional constituency).....	19
34. Schedule 1B amended (Composition of the sports, performing arts, culture and publication functional constituency).....	19
35. Schedule 1C amended (Composition of the wholesale and retail functional constituency)	20
36. Schedule 1D amended (Composition of the information technology functional constituency)	20
37. Schedule 3 amended (Savings and transitional provisions).....	21
38. Schedule 5 amended (Financial assistance: specified rate)	23

Part 3

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

39. Section 1 amended (Interpretation)	24
40. Section 2 amended (Amount of deposit).....	24
41. Section 3 amended (Return of deposit on invalid nomination etc.).....	25
42. Section 4 amended (Disposal of deposit after publication of	

Clause	Page
election result or declaration of failure of election)	27
43. Section 7 amended (Number and qualifications of subscribers to a nomination paper).....	29
Part 4	
Amendment to Legislative Council (Election Petition) Rules (Cap. 542 sub. leg. F)	
44. Rule 12 amended (Lists of objections in recriminatory case)	32
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)	33
46. Section 3A added.....	33
3A. Maximum amount of election expenses for District Council (second) functional constituency	33
47. Section 4 amended (Maximum amount of election expenses for functional constituency).....	33

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 election 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.

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;

(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, KIn & NT Motion Picture Industry Association Ltd.”

Substitute

“Hong Kong Motion Picture Industry Association Limited”.

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”

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;”.

(2) Section 21(b)—

Repeal the full stop**Substitute**

“; 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

“(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;”.

(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.

(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)”.

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

“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

“(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

“該選區”

Substitute

“有關選區或選舉界別”.

- (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**“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)”.****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 the 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)”.**

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

“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誼會有限公司”.

(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”.

(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, second column—

Repeal

“Hong Kong & Mainland Software Industry Cooperation Association Limited”

Substitute

“Hong Kong Software Industry Association Limited”.

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

Repeal

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

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 the 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).

- (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.
- (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 electors for 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”.

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

“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)”.

(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

“, 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”—

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”.

- (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

“, 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;
- (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—

- (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.”.

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)”.
-

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

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

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—
 - (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 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 transitional arrangements for electors for existing functional constituencies who are elected as District Council members.
- 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.

Annex C

The proposed specific allocation of the 1 200 seats among the various Election Committee (“EC”) subsectors and sub-subsectors

Item	Subsector	Current number of members	Proposed number for the 2012 EC
<i>FIRST SECTOR</i>			
1	Catering	11	17
2	Commercial (first)	12	18
3	Commercial (second)	12	18
4	Employers' Federation of Hong Kong	11	16
5	Finance	12	18
6	Financial services	12	18
7	Hong Kong Chinese Enterprises Association	11	16
8	Hotel	11	17
9	Import and export	12	18
10	Industrial (first)	12	18
11	Industrial (second)	12	18
12	Insurance	12	18
13	Real estate and construction	12	18
14	Textiles and garment	12	18
15	Tourism	12	18
16	Transport	12	18
17	Wholesale and retail	12	18
Subtotal :		200	300

Item	Subsector	Current number of members	Proposed number for the 2012 EC
<i>SECOND SECTOR</i>			
1	Accountancy	20	30
2	Architectural, surveying and planning	20	30
3	Chinese medicine	20	30
4	Education	20	30
5	Engineering	20	30
6	Health services	20	30
7	Higher education	20	30
8	Information technology	20	30
9	Legal	20	30
10	Medical	20	30
Subtotal :		200	300

Item	Subsector	Current number of members	Proposed number for the 2012 EC
<i>THIRD SECTOR</i>			
1	Agriculture and fisheries	40	60
2	Labour	40	60
3	Religious	40	60
	- <i>Catholic Diocese of HK</i>	7	10
	- <i>Chinese Muslim Cultural and Fraternal Association</i>	6	10
	- <i>HK Christian Council</i>	7	10
	- <i>The HK Taoist Association</i>	6	10
	- <i>The Confucian Academy</i>	7	10
	- <i>The HK Buddhist Association</i>	7	10
4	Social welfare	40	60
5	Sports, performing arts, culture and publication	40	60
	- <i>Sports</i>	10	15
	- <i>Performing arts</i>	10	15
	- <i>Culture</i>	10	15
	- <i>Publication</i>	10	15
Subtotal :		200	300

Item	Subsector	Current Number of members	Proposed number for 2012 EC	
			<i>February to September 2012</i>	<i>Starting from October 2012</i>
<i>FOURTH SECTOR</i>				
1	National People’s Congress	36	36	36
2	Legislative Council	60	60	70
3	Chinese People's Political Consultative Conference	41	55	51
4	Heung Yee Kuk	21	28	26
5	Hong Kong and Kowloon District Councils	21	59	57
6	New Territories District Councils	21	62	60
Subtotal :		200	300	
	Total :	800	1 200	

Annex D

Population projections for mid-2012

Geographical Constituency (GC)	Component District	Projected population as at 30 June 2012
HONG KONG AND KOWLOON	Central & Western	275 100
	Wan Chai	168 200
	Eastern	598 200
	Southern	281 700
	Wong Tai Sin	422 000
	Kwun Tong	627 700
	Yau Tsim Mong	326 800
	Sham Shui Po	385 800
	Kowloon City	379 700
	<i>Sub-total :</i>	<i>3 465 200</i>
NEW TERRITORIES	North	316 600
	Tai Po	294 700
	Sha Tin	645 500
	Sai Kung	451 200
	Kwai Tsing	501 000
	Tsuen Wan	295 600
	Tuen Mun	500 800
	Yuen Long	580 800
	Islands	160 200
	<i>Sub-total :</i>	<i>3 746 400</i>
	TOTAL :	7 211 600

Note : The above projections are 2008-based projections. The Planning Department will publicise a set of 2009-based projections later this month. The Ad-hoc Subgroup under the Working Group on Population Distribution Projections chaired by the Planning Department will prepare the updated population projections for mid-2012 around first quarter 2011 which will be used as the basis for demarcation of geographical constituencies.

Annex E

**The proposed change of name of organisations under the
Legislative Council (Amendment) Bill 2010**

Reference in Legislative Council Ordinance	Name in Legislative Council Ordinance	Proposed Name
<u>Education FC</u>		
Section 20E(aa)(iv)	School of Continuing Studies of The Chinese University of Hong Kong 香港中文大學校外進修學院	School of Continuing and Professional Studies of The Chinese University of Hong Kong 香港中文大學專業進修學院
Section 20E (aa)(v)	Division of Continuing Professional Education of the Hong Kong Institute of Education 香港教育學院的持續專業教育學部	HKIED School of Continuing and Professional Education Limited 香港教育學院持續專業教育學院有 限公司
<u>Sports, Performing Arts, Culture and Publication FC</u>		
Section 20V(1)(i)(i)	HK, Kln & NT Motion Picture Industry Association Ltd. 香港影業協會有限公司	Hong Kong Motion Picture Industry Association Limited (amendments are applicable to the English name only) 香港影業協會有限公司
Item 9 of Part 1 of Schedule 1B	North District Sports Association 北區體育會	North District Sports Association Limited 北區體育會有限公司
Item 12 of Part 1 of Schedule 1B	Sham Shui Po Sports Association 深水埗體育會	Sham Shui Po Sports Association Limited 深水埗體育會有限公司
Item 59 of Part 3 of Schedule 1B	Swimming Teacher's Association Hong Kong 香港游泳教師總會	The Hong Kong Swimming Teachers' Association Limited 香港游泳教師總會有限公司

Reference in Legislative Council Ordinance	Name in Legislative Council Ordinance	Proposed Name
<u>Wholesale and Retail FC</u>		
Item 6 of Schedule 1C	Chinese Paper Merchants Association 中華紙業商會	Chinese Paper Merchants Association Limited 中華紙業商會有限公司
Item 25 of Schedule 1C	The Hong Kong & Kowloon Provisions, Wine & Spirit Dealers' Association 港九罐頭洋酒伙食行商會	The Hong Kong & Kowloon Provisions, Wine & Spirit Dealers' Association Limited 港九罐頭洋酒伙食行商會有限公司
<u>Information Technology FC</u>		
Section 20Z(1)(ja)(i)	Hong Kong & Mainland Software Industry Cooperation Association Limited 香港軟件行業內地合作協會有限公司	Hong Kong Software Industry Association Limited 香港軟件行業協會有限公司
Section 20Z(1)(ja)(ii)	Information Systems Audit and Control Association (Hong Kong Chapter) Limited 國際資訊系統審計協會（香港分會）有限公司	Information Systems Audit and Control Association China Hong Kong Chapter Limited 國際信息系統審計協會（中國香港分會）有限公司
<u>Agriculture and Fisheries FC</u>		
Item 80 of Schedule 1	Hong Kong Organic Farming Association Limited 香港有機農業協會有限公司	Sustainable Ecological Ethical Development Foundation Limited 香港有機生活發展基金有限公司
<u>Transport FC</u>		
Item 77 of Schedule 1A	Kowloon Motor Bus Company (1933) Ltd. 九龍巴士（一九三三）有限公司	The Kowloon Motor Bus Company (1933) Limited (amendments are applicable to the English name only) 九龍巴士（一九三三）有限公司
Item 134 of Schedule 1A	Tang's Taxi Companies Association Ltd 新界港九合眾的士聯誼會有限公司	Tang's Taxi Companies Association Ltd 新界四海合眾的士聯會有限公司 (amendments are applicable to the Chinese name only)

**The proposed deletion of organisations under the
Legislative Council (Amendment) Bill 2010**

Reference in Legislative Council Ordinance	Name
<u>Import and Export FC</u>	
Section 20W (e)(viii)	Hong Kong Maize and Feed Importers Association Ltd. 香港粟米飼料進口商會有限公司
<u>Agriculture and Fisheries FC</u>	
Item 26 of Schedule 1	Hong Kong New Territories Boat People Association 香港新界水上居民聯合會
<u>Transport FC</u>	
Item 145 of Schedule 1A	United Association of Public Lightbus Hong Kong 香港公共小型巴士同業聯會
Item 113 of Schedule 1A	Pioneer Concrete Owners Drivers Association 派安混凝土車主聯會