

**Legislative Council Panel on Constitutional Affairs**

**Legislative Programme of the HKSAR Government and  
the Political Appointment System**

**Purpose**

This paper provides information on the legislative programme of the HKSAR Government and the Political Appointment System for Members' reference.

**The Executive-led System under the Basic Law and the Legislative Programme**

2. According to the design of the Basic Law, the political structure implemented in the HKSAR is basically an executive-led system headed by the Chief Executive ( "CE" ). The Basic Law clearly stipulates the respective powers and responsibilities of the executive authorities and the legislature. Under the Basic Law, the executive authorities and the legislature should both complement, and keep checks and balances on, each other's functions<sup>1</sup>. Any bills and budgets must be put forth by the Government and approved by the Legislative Council ( "LegCo" ). Article 64 of the Basic Law provides that the HKSAR Government must abide by the law and be accountable to the LegCo: it shall implement laws passed by the LegCo and already in force; it shall present regular policy addresses to the LegCo; it shall answer questions raised by LegCo Members; and it shall obtain approval from the LegCo for taxation and public expenditure.

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<sup>1</sup> In submitting the Basic Law (Draft) and related documents at the Third Session of the Seventh National People's Congress on 28 March 1990, Mr JI Pengfei, Chairman of the Drafting Committee for the Basic Law of the HKSAR, made an explanation on the political structure of the HKSAR. On the relationship between the executive authorities and the legislature, he mentioned that "[t]he executive authorities and the legislature should regulate each other as well as coordinate their activities. To maintain Hong Kong's stability and administrative efficiency, the CE must have real power which, at the same time, should be subject to some restrictions." The provisions in the Basic Law on political structure realize the relationship between the executive authorities and the legislature that they should regulate each other as well as coordinate their activities.

3. In formulating and implementing policies, the executive authorities should take full account of public opinions to ensure that the policies are reasonable and consistent with policy objectives. On this basis, the executive authorities have placed importance on the LegCo as an important channel for reflecting opinion of the community, and have been complementing the work of the legislature.

4. To enhance communication with the LegCo and facilitate Members in forward planning, the HKSAR Government writes to the House Committee at the beginning of each legislative session to inform the LegCo of the bills which the Administration intends to introduce into the LegCo during that session. In line with established practice, the HKSAR Government will also provide an updated legislative programme to the House Committee in the middle of a legislative session, with a view to reflecting the Administration's latest legislative proposals.

5. In fact, before introducing the bills, the Government has to carry out various preparatory work, including consultation with stakeholders and relevant LegCo panels. For more complicated or controversial bills, more time for discussion is needed to forge consensus before concrete details of the bills can be finalized. Hence, the bills to be introduced by the HKSAR Government and the timing of their submissions are subject to adjustment in the light of the progress of the consultation and the drafting process, as well as the actual situation. Policy bureaux concerned will work hard on the bills proposed for introduction during the legislative session with a view to submitting them to the LegCo as soon as possible.

6. Since the establishment of the HKSAR, over 90% of the bills submitted by the Administration in each of the respective LegCo terms (i.e. 1998-2000, 2000-2004 and 2004-2008) were passed by the LegCo within that term. Please refer to the [Annex](#) for details. As for the remaining bills, most of them were re-submitted by the Administration and passed by the LegCo in the following LegCo term. The rest were either withdrawn by the Administration<sup>2</sup> or lapsed<sup>3</sup>. In the last LegCo term (i.e. 2004-2008), all bills submitted by the Government were passed by the LegCo within its term. This marks the productive co-operation between the executive authorities and the legislature.

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<sup>2</sup> Including the National Security (Legislative Provisions) Bill and the Boundary Facilities Improvement Tax Bill.

<sup>3</sup> Including the Foreshore, Sea-bed and Roads (Amendment) Bill 2003.

7. Taking constitutional development as an example, the motions put forth by the HKSAR Government in 2005 concerning the amendments to the methods for selecting the CE in 2007 and for forming the LegCo in 2008 did not receive two-thirds majority support of all LegCo Members. Notwithstanding this, the HKSAR Government continued to make effort in rolling forward Hong Kong's constitutional development and substantial progress has been made. Apart from succeeding in securing the timetable in December 2007 for the implementation of universal suffrage for the CE in 2017 and for the LegCo in 2020, we also managed to secure the passage of the motions put forth by the HKSAR Government concerning the amendments to the electoral methods for the CE and the LegCo in 2012 by a two-thirds majority of all LegCo Members in June last year. Subsequently, the draft amendments concerning the two electoral methods were given consent by the CE and approved and recorded by the Standing Committee of the National People's Congress. The "one-person-two-votes" proposal can be implemented henceforth. This will roll forward Hong Kong's constitutional development in moving towards universal suffrage.

8. In order to implement the relevant electoral arrangements, we introduced into the LegCo the CE Election (Amendment) Bill and the LegCo (Amendment) Bill in December last year. We hope that the Bills can be passed by the LegCo as soon as possible to provide sufficient time for preparing the EC subsector elections to be held in the fourth quarter and the arrangement for the subsequent elections.

9. On the whole, as a responsible Government, in dealing with different policy issues, we will take full account of the views of the LegCo, and the relevant stakeholders and the community, and adopt appropriate measures (including enacting laws or adopting administrative measures) in the light of the changing environment and the actual situation, with a view to achieving the relevant policy objectives. During the remainder of the current-term LegCo, various policy bureaux will continue to proactively complement the scrutiny of legislation by the LegCo, in order to secure the passage of the bills introduced to the LegCo as soon as possible.

### **Political Appointment System**

10. The HKSAR Government considers it not sustainable for an open and accountable government to rely solely on politically appointed Principal Officials to handle all political work. In this regard, in July 2006, the HKSAR Government issued a consultation document to canvass views from the community on how best to further develop the Political Appointment

System. The Government proposed in the consultation document to create two additional layers of political appointment positions, namely Deputy Directors of Bureau (i.e. Under Secretaries) and Assistants to Directors of Bureau. The consultation period ended in November that year.

11. After the public consultation, the Government issued the “Report on Further Development of the Political Appointment System” in October 2007, setting out the way forward on the creation of two additional layers of politically appointed officials, namely Under Secretaries and Political Assistants. In December that year, the Finance Committee of the LegCo approved the creation of 24 additional politically appointed positions comprising 11 Under Secretary positions and 13 Political Assistant positions. The first batch of Under Secretaries and Political Assistants assumed office from August 2008 onwards.

#### *The duties of Under Secretaries and Political Assistants*

12. Since assuming office, the Under Secretaries have attended many LegCo panel and committee meetings, and assisted in explaining government policies and seeking LegCo Members' support for government proposals. They have also attended many other meetings and functions, including District Council meetings, public forums, seminars and consultation sessions, so as to strengthen communication between the Government and different sectors of the community. The Under Secretaries have also deputised for the Bureau Secretaries, as Acting Secretaries, when the latter are on duty visits or on leave.

13. On the other hand, Political Assistants are primarily responsible for providing political analyses and advice to the Directors of Bureau and Under Secretaries and assisting them in conducting lobbying work. They liaise with the media and assist in explaining government policies and positions.

#### *Mid-term review of remuneration for Under Secretaries and Political Assistants*

14. The HKSAR Government completed the mid-term review of the remuneration for Under Secretaries and Political Assistants in August last year. Having considered the appraisal and review reports, the Appointment Committee considered that the performance of individual Under Secretaries and Political Assistants generally met the requirements, and on that basis decided that their remuneration should remain unchanged.

15. The creation of the Under Secretary and Political Assistant positions is a new challenge for both the HKSAR Government and the appointees. We need time to consolidate experience. Since the creation of these positions, the Government's work in explaining policies to the LegCo and the District Councils has been enhanced. We now have in place proper acting arrangements when the Bureau Secretaries are away on duty visits or on leave. The Principal Officials concerned now enjoy better support in discharging their duties.

16. Politically appointed officials will build on their previous work and endeavour to feel the pulse of the community, to liaise actively with different political parties of the LegCo, to reach out proactively to different sectors of the community and to explain government policies to the media and stakeholders. This will enable the HKSAR Government to implement "One Country, Two Systems" in accordance with the Basic Law and Hong Kong law, take forward public policies and facilitate the further development of Hong Kong effectively.

Constitutional and Mainland Affairs Bureau  
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**Statistics on Government Bills  
(1998-2010)**

	<b>1st LegCo term (1998-2000)</b>	<b>2<sup>nd</sup> LegCo term (2000-2004)</b>	<b>3<sup>rd</sup> LegCo term (2004-2008)</b>	<b>4<sup>th</sup> LegCo term (2008-2012) <i>[position of the 2008-09 and the 2009-10 sessions only]</i></b>
<b>1. The total number of bills submitted by the Government in that term</b>	<b>171</b>	<b>135</b>	<b>91</b>	<b>47***</b>
<b>2. The total number of bills passed by the LegCo in that term</b>	<b>157</b>	<b>125*</b>	<b>91**</b>	<b>34***</b>

\* Including 12 bills which lapsed at the end of the 1<sup>st</sup> LegCo term. The relevant bills were re-submitted by the HKSAR Government and passed by the LegCo in its 2<sup>nd</sup> term.

\*\*Including 6 bills which lapsed at the end of the 2<sup>nd</sup> LegCo term. The relevant bills were re-submitted by the HKSAR Government and passed by the LegCo in its 3<sup>rd</sup> term.

\*\*\* As of July 2010, 34 bills have been passed by the LegCo and 13 bills are still under scrutiny.