

**Legislative Council
Panel on Constitutional Affairs**

**Legislative amendments regarding
the 2016 Legislative Council election**

Purpose

This paper seeks Members' views on the necessary legislative amendments for the 2016 Legislative Council ("LegCo") election.

Background

2. From 4 December 2013 to 3 May 2014, the Government conducted the Public Consultation on the Methods for Selecting the Chief Executive in 2017 and for Forming the LegCo in 2016 ("Public Consultation"). Among the views received, there are more views which consider that efforts should be focused on the proper handling of universal suffrage for the Chief Executive election in 2017; there could be no change to the method for forming the LegCo in 2016; and after the implementation of universal suffrage for the Chief Executive election in 2017, the community may focus on discussing how to attain the ultimate aim of electing all Members of the LegCo by universal suffrage as stipulated in Article 68 of the Basic Law.

3. On 31 August 2014, the Standing Committee of the National People's Congress adopted the Decision of the Standing Committee of the National People's Congress on Issues Relating to the Selection of the Chief Executive of the Hong Kong Special Administrative Region by Universal Suffrage and on the Method for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2016 ("the Decision"). According to the Decision, the existing formation method for the LegCo as prescribed in Annex II to the Basic Law will not be amended; and the formation method of the fifth term LegCo will continue to apply to the sixth term LegCo in 2016. In other words, the sixth term LegCo in 2016 should continue to consist of 70 members: 35 to be returned by functional constituencies ("FCs") and 35 by geographical constituencies ("GCs").

Technical amendments for FCs

Updating the electorate

4. In keeping with the established practice, and in consultation with relevant bureaux/departments, we have reviewed the delineation of the

electorate of all the FCs under the Legislative Council Ordinance (Cap. 542) (“LCO”). On the basis of the review, we propose to make necessary technical amendments as set out at **Annex**, whilst maintaining the existing delineation of the FCs concerned intact. The proposed amendments can be classified into the following categories –

- (a) to update the names of the corporates¹ which have had their names changed since the last updating exercise²;
- (b) to remove corporates which have ceased operation since the last updating exercise;
- (c) to improve the formulation of the definition of some electors; and
- (d) to add new electors to update the prevailing situation of the FCs concerned.

5. We also propose that corresponding amendments should be made to the Schedule to the Chief Executive Election Ordinance (Cap. 569) to reflect the corresponding changes to the electorate of the relevant Election Committee subsectors.

Other technical amendments (relating to counting procedures and a translation error)

6. In the light of the experience gained from previous elections, we propose to take the opportunity to make other technical amendments in the following respects –

- (a) counting procedures for the District Council (second) FC election: the provision detailing the counting steps at the central counting station under the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D) currently requires counting the number of District Council (second) FC ballot papers from each polling station and verification of the ballot paper account to take place before counting of votes. To remove possible procedural ambiguities and better align with the policy objectives to

¹ “Corporates” in this paper refer to (a) “umbrella organisations”, i.e., bodies for which their members (which may be natural persons or corporates) are electors; and/or (b) “listed bodies”, i.e., corporates which are electors.

² The last updating exercise was done in 2012 before the 2012 LegCo election.

speed up the counting process and to protect secrecy of votes, we propose making amendments to make clear that –

- (i) verification of the ballot paper account of a polling station (other than a small polling station (“SPS”)³ or a dedicated polling station (“DPS”)⁴) will be done after the counting of votes; and
- (ii) for an SPS or a DPS, the number of ballot papers will be counted first and verified with the ballot paper account of that station before the ballot papers are mixed with the ballot papers from a polling station which is not an SPS or a DPS (i.e. a bigger polling station) before counting of the votes for those ballot papers. After completion of counting of votes from these polling stations, verification of the ballot paper account of that bigger polling station will be done.

The proposed procedures are similar to those in respect of main counting stations in a GC election, which have been implemented with LegCo’s passage of the Electoral Legislation (Miscellaneous Amendments) Ordinance 2014 in July 2014; and

- (b) to rectify a translation error in section 74AA of Cap. 541D where “main counting stations” should be rendered as “大點票站” instead of “點票站”.

Geographical Constituencies

7. Under the LCO, there are to be five GCs for the purpose of returning Members at LegCo GC elections. The division of the whole territory into five GCs has been in place since the establishment of the HKSAR. Regarding the number of Members to be returned for each GC, the LCO currently provides that it should be a number not less than five or greater than nine. Furthermore, in accordance with the Electoral Affairs Commission Ordinance (Cap. 541), the Electoral Affairs Commission makes recommendations on the delineation of GCs, after taking into account the population of the GCs, thereby having a bearing on the exact number of Members to be returned for each GC.

³ A small polling station is a polling station at which less than 500 electors are allocated to vote in a LegCo election.

⁴ A dedicated polling station is a polling station which is set up to cater for casting of votes by electors imprisoned, remanded or detained by law enforcement agencies.

8. There has not been much public interest or discussion to change the number of GCs during the Public Consultation. For the limited discussions on the subject, there were arguments both for and against maintaining the number of GCs at five. Those in support argue that this will obviate the need for electors to adapt to new arrangements. Those who propose a change take the view that the population covered by individual GCs may be too large, making it difficult for candidates to reach out or serve their constituency during and after election. As the existing arrangement of having five GCs has been well accepted by the community, we propose to maintain the number of GCs at five.

9. For the number of Members to be returned for each GC, by way of background, over the years, the upper and lower limits on the number of Members to be returned for each GC were adjusted only when there was an increase in the total number of Members returned by GCs⁵. For the 2016 LegCo election, as the total number of Members to be returned by GCs remain at 35 and we do not propose any change to the number of GCs, we propose that the existing upper and lower limits on the number of Members to be returned for each GC (i.e. five to nine) as laid down in the LCO should remain unchanged.

Views sought

10. Members are invited to express views on the proposed necessary legislative amendments for the 2016 LegCo election as mentioned above. The Government will consider Members' views and introduce an amendment Bill into the LegCo in Q2 of 2015.

Constitutional and Mainland Affairs Bureau March 2015

⁵ The number of Members to be returned for each GC was increased from “three to five” to “four to six”, “four to eight”, and “five to nine” respectively when the number of Members to be returned by GCs was increased from 20 in the 1998 LegCo election to 24, 30 and 35 respectively in the 2000, 2004 and 2012 LegCo elections.

Proposed Amendments on Updating the Electorate of the Functional Constituencies (“FCs”)

I. Proposed update of names of corporates

Reference in Legislative Council Ordinance	Name in Legislative Council Ordinance	Proposed Name
<u>Information Technology FC</u>		
Section 20Z(1)(k)(ii)	<ul style="list-style-type: none">Hong Kong Internet Service Providers Association 香港互聯網供應商協會	<ul style="list-style-type: none">Hong Kong Internet Service Providers Association <u>Limited</u> 香港互聯網供應商協會<u>有限公司</u>
Section 20Z(1)(la)	<ul style="list-style-type: none">Hong Kong Information Technology Joint Council Limited 香港資訊科技聯會	<ul style="list-style-type: none">Hong Kong Information Technology Joint Council Limited 香港資訊科技聯會<u>有限公司</u> (amendments are applicable to the Chinese name only)

Reference in Legislative Council Ordinance	Name in Legislative Council Ordinance	Proposed Name
<u>Transport FC</u>		
Item 4 of Schedule 1A	<ul style="list-style-type: none"> Articulated & Commercial Vehicle's Instructors Union 貨櫃車及商用汽車教授從業員協會 	<ul style="list-style-type: none"> Hong Kong Driver's Training Association 香港駕駛教師從業員協會
Item 50 of Schedule 1A	<ul style="list-style-type: none"> Hong Kong Kowloon Taxi & Lorry Owners Association Ltd 香港九龍的士貨車商會有限公司 	<ul style="list-style-type: none"> Hong Kong Taxi Owners' Association Limited 香港的士商會有限公司
Item 74 of Schedule 1A	<ul style="list-style-type: none"> The Institute of Seatransport 海運學會 	<ul style="list-style-type: none"> Institute of Seatransport (amendments are applicable to the English name only) 海運學會
Item 164 of Schedule 1A	<ul style="list-style-type: none"> New World First Ferry Services (Macau) Limited 新世界第一渡輪服務(澳門)有限公司 	<ul style="list-style-type: none"> Shun Tak - China Travel Macau Ferries Limited 信德中旅澳門輪船有限公司
Item 169 of Schedule 1A	<ul style="list-style-type: none"> Container Truck Drivers Union 貨櫃車司機工會 	<ul style="list-style-type: none"> Logistics Industry & Container Truck Drivers Union 物流及貨櫃車司機工會

Reference in Legislative Council Ordinance	Name in Legislative Council Ordinance	Proposed Name
<u>Sports, Performing Arts, Culture and Publication FC</u>		
Item 2, Part 2 of Schedule 1B	<ul style="list-style-type: none"> Eastern District Arts Council 東區文藝協進會 	<ul style="list-style-type: none"> Eastern District Arts Council <u>Limited</u> 東區文藝協進會有限公司
<u>Wholesale and Retail FC</u>		
Item 42 of Schedule 1C	<ul style="list-style-type: none"> The Hong Kong Food Council Limited 香港食品委員會有限公司 	<ul style="list-style-type: none"> The Hong Kong Food Council Limited 香港食品業總會有限公司 (amendments are applicable to the Chinese name only)

II. Proposed deletion of corporates which have ceased operation

Reference in Legislative Council Ordinance	Name
<u>Textiles and Garment FC</u>	
Section 20X(b)(xi)	<ul style="list-style-type: none"> The Hongkong Wool and Synthetic Spinners Association Limited 香港毛紡化纖同業公會有限公司
<u>Information Technology FC</u>	
Section 20Z(1)(j)	<ul style="list-style-type: none"> The Hong Kong Telemedicine Association 香港遠程醫學協會
<u>Transport FC</u>	
Item 9 of Schedule 1A	<ul style="list-style-type: none"> China Tollways Ltd 中國道路管理有限公司
Item 39 of Schedule 1A	<ul style="list-style-type: none"> Hong Kong and Kowloon Taxi Companies Association Limited 港九的士總商會有限公司
Item 69 of Schedule 1A	<ul style="list-style-type: none"> Hong Kong Tunnels and Highways Management Company Limited 香港隧道及高速公路管理有限公司

Reference in Legislative Council Ordinance	Name
Item 89 of Schedule 1A	<ul style="list-style-type: none"> <li data-bbox="584 284 1697 387">Lung Cheung Public Light Bus Welfare Advancement Association Ltd 龍翔公共小型巴士福利事務促進會有限公司
Item 148 of Schedule 1A	<ul style="list-style-type: none"> <li data-bbox="584 451 1503 555">Urban Taxi Drivers Association Joint Committee Co. Ltd 市區的士司機聯委會有限公司
<u>Wholesale and Retail FC</u>	
Item 50 of Schedule 1C	<ul style="list-style-type: none"> <li data-bbox="584 707 1413 810">Hong Kong Live Pig Trade Merchants' Association 香港生豬行商會
Item 68 of Schedule 1C	<ul style="list-style-type: none"> <li data-bbox="584 874 1368 978">Hong Kong Video Industry Association Limited 香港錄影業協會有限公司
<u>Catering FC</u>	
Item 3 of Schedule 1E	<ul style="list-style-type: none"> <li data-bbox="584 1129 1451 1233">Federation of Hong Kong Restaurant Owners Limited 香港飲食業東主協會有限公司

Reference in Legislative Council Ordinance	Name
<u>Sports, Performing Arts, Culture and Publication FC</u>	
Section 20V(1)(g)(ii)	<ul style="list-style-type: none"> <li data-bbox="584 376 2067 639"> <p>The Anglo-Chinese Textbook Publishers Organisation Limited 中英文教出版事業協會有限公司</p> <p>(The Organisation informed the Government that it ceased operation and its publication matters were taken over by a newly set up association, namely the Hong Kong Association of Professional Education Publishing Limited. Please refer to Part IV of this annex for details.)</p>
Section 20V(1)(g)(iii)	<ul style="list-style-type: none"> <li data-bbox="584 692 2067 957"> <p>The Hong Kong Educational Publishers Association Limited 香港教育出版商會有限公司</p> <p>(The Association informed the Government that it ceased operation and its publication matters were taken over by a newly set up association, namely the Hong Kong Association of Professional Education Publishing Limited. Please refer to Part IV of this annex for details.)</p>

III. Proposed improvements to the formulation of the definition of electors

Reference in Legislative Council Ordinance	Proposed improvements to the formulation of the definition of electors
<u>Education FC</u>	
Section 20E(aa)	<ul style="list-style-type: none"> • At present, full-time academic staff engaged in teaching or research and administrative staff of equivalent rank in the institutions listed in section 20E(a) of the Legislative Council Ordinance (“LCO”) (Cap. 542) are eligible to be registered as electors in the Education FC. These bodies include the institutions of higher education funded through the University Grants Committee, the Open University of Hong Kong, the Hong Kong Academy for Performing Arts, approved post secondary colleges registered under the Post Secondary Colleges Ordinance (Cap. 320) and technical colleges established under the Vocational Training Council Ordinance (Cap. 1130). • Moreover, full-time academic staff engaged in teaching or research and administrative staff of equivalent rank in eight continuing education institutes listed in section 20E(aa) of the LCO¹ are eligible to be registered as electors in the Education FC. • In recent years, individual institutions have set up continuing education institutes or community colleges to provide post-secondary education. The full-time academic staff engaged in teaching or research and administrative staff of equivalent rank in these continuing education institutes or community colleges should, for the purpose of voter registration, be regarded as the staff of the respective institutions, and are eligible for registration as electors in the Education FC (and voters in the Higher Education Subsector). This policy intention was clarified through a press release issued by

¹ School of Continuing and Professional Education of the City University of Hong Kong, School of Continuing Education of the Hong Kong Baptist University, Lingnan Institute of Further Education of the Lingnan University, School of Continuing and Professional Studies of The Chinese University of Hong Kong, HKIEd School of Continuing and Professional Education Limited, School of Professional Education and Executive Development of The Hong Kong Polytechnic University, HKUST College of Lifelong Learning Limited, and HKU School of Professional and Continuing Education.

Reference in Legislative Council Ordinance	Proposed improvements to the formulation of the definition of electors
	<p>the Government on 12 July 2011.</p> <ul style="list-style-type: none"> We will take the opportunity to make this intention clear in the definition of electors in the LCO i.e., full-time academic staff engaged in teaching or research and administrative staff of equivalent rank in the continuing education institutes or community colleges offering post-secondary education with qualifications which are entered in the Qualifications Register under the Accreditation of Academic and Vocational Qualifications Ordinance (Cap. 592) set up by institutions of higher education funded through the University Grants Committee; the Hong Kong Academy for Performing Arts; and the Open University of Hong Kong, are eligible for registration as electors in the Education FC. <p>[<u>Note</u>: Corresponding amendments are also proposed to be made to the Schedule to the Chief Executive Election Ordinance (Cap. 569) to reflect the corresponding changes to the electorate of the Election Committee Higher Education subsector.]</p>

IV. Proposed addition

Reference in Legislative Council Ordinance	Proposed addition	Remarks
<u>Education FC</u>		
Section 20E(b)	<ul style="list-style-type: none"> Members of Board of Governors of six approved post secondary colleges registered under the Post Secondary Colleges Ordinance (Cap. 320) (i.e. the Chu Hai College of Higher Education, the Centennial College, the Tung Wah College, the Hang Seng Management College, the Hong Kong Nang Yan College of Higher Education, and the HKCT Institute of Higher Education). <p>[<u>Note</u>: Corresponding amendments are also proposed to be made to the Schedule to the Chief Executive Election Ordinance (Cap. 569) to reflect the corresponding changes to the electorate of the Election Committee Higher Education subsector.]</p>	<p>At present, members of the Board of Governors of only two approved post secondary colleges registered under the Post Secondary Colleges Ordinance (Cap. 320) (i.e. the Hong Kong Shue Yan University; and the Caritas Institute of Higher Education) are eligible for registration as electors. Hence, we propose including members of Board of Governors of the remaining six approved post secondary colleges which indicated their intention for inclusion in the Education FC.</p>

Reference in Legislative Council Ordinance	Proposed addition	Remarks
<u>Information Technology FC</u>		
Section 20Z(1)	<ul style="list-style-type: none"> Fellows and full members of the Information Security and Forensics Society (資訊保安及法證公會) entitled to vote at general meetings of the Society. 	<p>The Information Security and Forensics Society, a local information technology (“IT”) professional association registered under the Societies Ordinance (Cap. 151) in 2000, has been active in supporting the development of the information and communications technology sector and is a key organisation contributing to the development of IT forensics expertise in Hong Kong. Fellow and Full members of the society are fully-fledged IT professionals with both paper and practical qualifications.</p>
<u>Sports, Performing Arts, Culture and Publication FC</u>		
Section 20V(1)(g)	<ul style="list-style-type: none"> Members of the Hong Kong Association of Professional Education Publishing Limited (香港教育出版專業協會) entitled to vote at its general meetings. 	<p>The Hong Kong Association of Professional Education Publishing Limited was set up to replace two existing umbrella organisations in the Sports, Performing Arts, Culture and Publication FC (i.e., the Anglo-Chinese Textbook Publishers Organisation Limited and the Hong Kong Educational Publishers Association Limited). The voting members of the Hong Kong Association of Professional Education Publishing Limited are largely the same as those of the Anglo-Chinese Textbook Publishers Organisation Limited and the Hong Kong Educational Publishers Association Limited. Please refer to Part II of this annex for details.</p>

Reference in Legislative Council Ordinance	Proposed addition	Remarks
Part 3 of Schedule 1B	<ul style="list-style-type: none"> The Federation of Motion Film Producers of Hong Kong Limited 香港電影製片家協會有限公司 	The Federation of Motion Film Producers of Hong Kong Limited was established in the 1950s. Its main function is to represent Hong Kong at the Asia Pacific Film Festival and to nominate a Hong Kong film to participate in the Oscar Film Awards under the Best Foreign Film category.
<u>Transport FC</u>		
Schedule 1A	<ul style="list-style-type: none"> TIML MOM Limited 交通基建管理合約有限公司 	During the last review exercise, Transport Infrastructure Management Ltd was operating the Tsing Ma Control Area, while Serco Group (HK) Limited was operating both the Aberdeen Tunnel and Cross-harbour Tunnel. Both companies are electors of Transport FC. At present, TMIL MOM Limited has taken over the management of the Tsing Ma Control Area, and Transport Infrastructure Management Ltd has taken over the management of the Aberdeen Tunnel; while Serco Group (HK) Limited is still operating the Cross-harbour Tunnel. Hence, TMIL MOM Limited should be added to the list of electors.

Reference in Legislative Council Ordinance	Proposed addition	Remarks
Schedule 1A	<ul style="list-style-type: none"> <li data-bbox="405 368 898 475">Hong Kong Taxi Association 香港計程車會 	<p data-bbox="1106 368 2060 619">The Hong Kong Taxi Association, registered under the Societies Ordinance (Cap. 151) in 2003, is an active member of Transport Department's Urban Taxi Conference. The Association also participates in other advisory bodies relating to taxi operation, such as the Quality Taxi Services Steering Committee.</p>