

Legislative Council Panel on Constitutional Affairs

**Legislative amendments regarding
the 2020 Legislative Council General Election**

PURPOSE

This paper seeks Members' views on the necessary legislative amendments for the 2020 Legislative Council ("LegCo") General Election.

BACKGROUND

2. The 2020 LegCo General Election will be held in the third quarter of next year. To update the relevant electoral legislation and implement various proposals to improve the electoral arrangements, we have prepared the proposed legislative amendments regarding the 2020 LegCo General Election. The relevant proposed legislative amendments are set out in the ensuing paragraphs.

TECHNICAL AMENDMENTS

Technical amendments for functional constituencies ("FCs")

3. The electorate of the FCs in the LegCo is provided for under the Legislative Council Ordinance (Cap. 542) ("LCO"). Following the established practice, before each LegCo general election, we would conduct a review on the delineation of the electorate of the FCs in consultation with relevant bureaux/departments. The review was conducted on the basis of the existing electorate and all relevant requests received from individual bodies/persons since the last review in 2015.

4. We have completed the review and **propose** to make a series of technical amendments as set out at **Annex A**, whilst maintaining the original delineation of the FCs. The proposed technical amendments can be classified into the following categories –

- (a) to update the names of corporates specified under relevant sections of the existing legislation that have had their names changed since the last updating exercise;

- (b) to remove corporates which have ceased operation since the last updating exercise; and
- (c) to add new electors in the light of the prevailing situation of the FCs concerned.

5. We also **propose** that consequential 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 subsector (“ECSS”).

Other technical amendments for improving various electoral arrangements

6. In the light of the experience gained from last election cycle, we **propose** to make a series of other technical amendments to improve electoral arrangements in the following aspects –

- (a) *Allowing candidate lists for a Geographical Constituency (“GC”) or the District Council (second) FC (“DC(second)FC”) of the LegCo general election or by-election to submit the nomination form in a way authorised by the Chief Electoral Officer (“CEO”)*

7. In accordance with the existing electoral legislation for Chief Executive (“CE”), ECSS, DC and Rural Representatives (“RR”) elections¹, a candidate is allowed to submit the nomination form to the Returning Officer (“RO”) in person or in any other manner authorised by CEO (for ECSS and DC elections), or the RO (for CE and RR elections). However, in LegCo elections, such arrangement is only applicable to candidates of the traditional FCs under section 11(14) of the Electoral Affairs Commission (Electoral Procedure) (LegCo) Regulation (Cap. 541D), but not to candidate lists of GCs or the DC(second)FC. Given that it is not uncommon for a candidate list to consist of only one candidate in a GC or the DC(second)FC, the existing arrangement would be inconvenient to candidates who are unable to submit nomination forms in person for any justifiable reasons during the nomination period (e.g., hospitalisation or out of town, etc.). In this connection, we **propose** to align the arrangements of submission of nomination form for candidates in candidate lists of GCs or the DC(second)FC with that for candidates in

¹ Section 12(13) of Electoral Affairs Commission (Electoral Procedure)(District Councils) Regulation (Cap. 541F), section 8(13) of Electoral Affairs Commission (Electoral Procedure)(Election Committee) Regulation (Cap. 541I), section 4(1)(e)(ii) of Electoral Procedure (Chief Executive Election) Regulation (Cap. 541J) and section 7(1)(f)(i) of Electoral Procedure (Rural Representative Election) Regulation (Cap. 541L).

the traditional FCs, as well as other public elections, such that candidates will be allowed to submit their nomination forms in a way authorised by the CEO in the future.

(b) Refining the requirement on thickness and size of each letter that may be sent free of postage by candidates

8. At present, a letter that may be sent free of postage by a candidate/list of candidates in CE, ECSS, LegCo and DC elections must not exceed 50 grams in weight and must not be larger than 175 mm x 245 mm and not smaller than 90 mm x 140 mm in size. Since 1 January 2016, the Hongkong Post (“HKPost”) has introduced changes to its postage structure with reference to the Universal Postal Union Letter Post Manual, such that only letters not exceeding 165 mm x 245 mm in size and 5 mm in thickness (new requirement) would be treated as “small letters” and subject to the lower postage fee. In this connection, we **propose** to follow HKPost’s new requirement and establish an objective yardstick on the size of postage-free letters in the future elections. Under the proposed arrangement, the requirement on size of postage-free letters will be aligned with the size limit of “small letters” according to HKPost’s definition.

(c) Revising certain arrangements in the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) (“ECICO”)

9. To prepare for the next election cycle, we have reviewed certain arrangements in the ECICO and **propose** to introduce the following amendments –

- (a) Section 37A of the ECICO provides for a simplified relief mechanism, i.e., de minimis arrangement, for handling election returns with minor errors or omissions of aggregate value within the limit prescribed for the election concerned as set out in the Schedule to ECICO. The limits prescribed for different elections have not been revised since the de minimis arrangement was introduced in 2011 despite increases in the election expense limits. We **propose** to raise the limits for different elections as set out in the Schedule to the ECICO so as to facilitate candidates to rectify the minor errors or omissions in their election returns under the de minimis arrangement. The relevant changes are set out at **Annex B**.
- (b) Section 37(2)(b) of the ECICO specifies that candidates must ensure that their election returns are accompanied by an

invoice and a receipt giving particulars of the expenditure in the case of each election expenses of \$100 or more. The threshold of \$100 for the submission of invoices and receipts has not been amended since the enactment of the ECICO in 2000 despite inflation and increases in the maximum amount of election expenses. We **propose** to revise the threshold for submission of invoices and receipts from \$100 to \$500 for all public elections. This would help alleviate the workload of candidates throughout the election and when preparing their election returns.

- (c) Under section 37(1A) and (1B) of the ECICO, the deadline for submitting election return for the CE election is 30 days after the result of the election is published in the Gazette. On the other hand, the deadline for submitting election return for the LegCo election is 60 days after the results of the election is published in the Gazette and an auditor report for the election return is required if the candidate wants to make a claim under the financial assistance scheme. Since CE elections involve a considerable amount of election expenses, we recognise that candidates would need more time to properly prepare and verify their election returns. We therefore **propose** to extend the deadline for submitting election return for the CE election from 30 days to 60 days, in line with that for the LegCo election.

ADVICE SOUGHT

10. Members are invited to express views on the proposed necessary legislative amendments for the 2020 LegCo General Election as mentioned above. The Government will consider Members' views and introduce the required legislative amendments into the LegCo within this year.

Constitutional and Mainland Affairs Bureau
January 2019

Proposed Technical Amendments in relation to the Delineation of the Electorate of the Functional Constituencies (“FC”) under the Legislative Council Ordinance (Cap. 542) (“LCO”)

I. Proposed update of names

| Reference in LCO | Name in LCO | Proposed Name |
|--|---|--|
| <u>Agriculture and Fisheries FC</u> | | |
| Item 55 of Schedule 1 | <ul style="list-style-type: none"> The Shau Kei Wan Deep Sea Capture Fishermen’s Credit Co-operative Society, Unlimited 筲箕灣深海捕撈漁民信用無限責任合作社 | <ul style="list-style-type: none"> The Shau Kei Wan Deep Sea Capture Fishermen’s Credit Co-operative Society, Unlimited 筲箕灣深海捕撈漁民信用無限責任合作社 (No change) |
| Item 57 of Schedule 1 | <ul style="list-style-type: none"> The Shau Kei Wan Pair Trawler Fishermen’s Credit Co-operative Society, Unlimited 筲箕灣雙拖漁民信用無限責任合作社 | <ul style="list-style-type: none"> The Shau Kei Wan Pair Trawler Fishermen’s Credit Co-operative Society, Unlimited 筲箕灣雙拖漁民信用無限責任合作社 (No change) |
| <u>Transport FC</u> | | |
| Item 22 of Schedule 1A | <ul style="list-style-type: none"> Far East Hydrofoil Co. Ltd. 遠東水翼船有限公司 | <ul style="list-style-type: none"> Far East Hydrofoil Co. Ltd. (No change) 遠東水翼船務有限公司 |

| Reference in LCO | Name in LCO | Proposed Name |
|---|--|--|
| <u>Education FC</u> | | |
| Section 20E(b)(xvii) | <ul style="list-style-type: none"> Board of Governors of the Hang Seng Management College 恒生管理學院校董會成員 | <ul style="list-style-type: none"> Board of Governors of the The Hang Seng Management College University of Hong Kong 香港恒生管理學院大學校董會成員 |
| <u>Sports, Performing Arts, Culture and Publication FC</u> | | |
| Item 14 of Part 1 of Schedule 1B | <ul style="list-style-type: none"> Tai Po Sports Association Ltd 大埔體育會有限公司 | <ul style="list-style-type: none"> Tai Po Taipo Sports Association Ltd Limited 大埔體育會有限公司 (No change) |
| Item 35 of Part 3 of Schedule 1B | <ul style="list-style-type: none"> Hong Kong Philharmonic Orchestra 香港管弦樂團 | <ul style="list-style-type: none"> The Hong Kong Philharmonic Society Limited Orchestra 香港管弦樂團協會有限公司 |
| Item 40 of Part 3 of Schedule 1B | <ul style="list-style-type: none"> Hong Kong Sports Association of the Deaf 香港聾人體育總會 | <ul style="list-style-type: none"> Hong Kong Sports Association of the Deaf Company Limited 香港聾人體育總會有限公司 |
| Item 43 of Part 3 of Schedule 1B | <ul style="list-style-type: none"> Hong Kong Tai Chi Association 香港太極總會 | <ul style="list-style-type: none"> The Hong Kong Tai Chi Association 香港太極總會 (No change) |

| Reference in LCO | Name in LCO | Proposed Name |
|---|--|---|
| <u>Textiles and Garment FC</u> | | |
| Section 20X(b)(vii) | <ul style="list-style-type: none"> Hong Kong Knitwear Exporters & Manufacturers Association Ltd 香港毛織出口廠商會有限公司 | <ul style="list-style-type: none"> Hongkong Hong—Kong Knitwear Exporters & Manufacturers Association Ltd Limited 香港毛織出口廠商會有限公司 (No change) |
| <u>Wholesale and Retail FC</u> | | |
| Item 33 of Schedule 1C | <ul style="list-style-type: none"> Hong Kong & Kowloon Vermicelli & Noodle Manufacturing Industry Merchants' General Association 港九粉麵製造業總商會 | <ul style="list-style-type: none"> Hong Kong & Kowloon Vermicelli & Noodle Manufacturing Industry Merchants' General Association Limited 港九粉麵製造業總商會 有限公司 |
| Item 42 of Schedule 1C | <ul style="list-style-type: none"> The Hong Kong Food Council Limited 香港食品業總會有限公司 | <ul style="list-style-type: none"> The Hong Kong Food Council Limited (No change) 香港食品業總會委員會有限公司 |
| <u>Information Technology FC</u> | | |
| Section 20Z(1)(k)(vi) | <ul style="list-style-type: none"> The Society of Hong Kong External Telecommunications Services Providers Limited 香港對外通訊服務聯會有限公司 | <ul style="list-style-type: none"> The Society of Hong Kong External Telecommunications Services-based Operators Providers-Limited 香港對外通訊服務 營辦商 聯會有限公司 |

| Reference in LCO | Name in LCO | Proposed Name |
|---------------------------|--|--|
| <u>Catering FC</u> | | |
| Item 1 of Schedule 1E | <ul style="list-style-type: none"> <li data-bbox="398 343 1178 502">The Association for the Hong Kong Catering Services Management Limited 香港餐務管理協會有限公司 | <ul style="list-style-type: none"> <li data-bbox="1209 343 2085 502">The Association for the Hong Kong Catering Services Management Limited 香港餐務管理協會有限公司 (No change) |

II. Proposed deletion

| Reference in LCO | Name |
|--|---|
| <u>Agriculture and Fisheries FC</u> | |
| Item 66 of Schedule 1 | <ul style="list-style-type: none">The Tsing Lung Tau Hand Liner Fishermen's Credit Co-operative Society, Unlimited 青龍頭手釣漁民信用無限責任合作社 |
| <u>Transport FC</u> | |
| Item 52 of Schedule 1A | <ul style="list-style-type: none">Hong Kong Marine Contractors Association 香港船舶保養工程商會 |
| Item 64 of Schedule 1A | <ul style="list-style-type: none">Hong Kong Society of Articulated Vehicle Driving Instructors Ltd 香港貨櫃車教師公會有限公司 |
| Item 121 of Schedule 1A | <ul style="list-style-type: none">Quadripartite Taxi Service Association Ltd 四海的士車主司機聯會有限公司 |
| Item 142 of Schedule 1A | <ul style="list-style-type: none">Tsuen Wan PLB Commercial Association Ltd 荃灣公共小型巴士商會有限公司 |

| Reference in LCO | Name |
|---|--|
| <u>Import and Export FC</u> | |
| Section 20W(e)(vi) | <ul style="list-style-type: none"> ● Hong Kong Fresh Fruits Importers Association Ltd 香港鮮果進口聯會有限公司 |
| <u>Textiles and Garment FC</u> | |
| Section 20X(b)(iv) | <ul style="list-style-type: none"> ● The Hong Kong Cotton Made-up Goods Manufacturers Association, Limited 香港棉織製成品廠商會有限公司 |
| <u>Wholesale and Retail FC</u> | |
| Item 65 of Schedule 1C | <ul style="list-style-type: none"> ● Hong Kong Silk Piece-Goods Merchants' Association 香港綢緞行商會 |
| Item 66 of Schedule 1C | <ul style="list-style-type: none"> ● Hong Kong Stamp and Coin Dealers Association 香港郵票錢幣商會 |
| <u>Information Technology FC</u> | |
| Section 20Z(1)(l)(i) | <ul style="list-style-type: none"> ● Bodies that are holders of Fixed Telecommunications Network Services Licences 固定電訊網絡服務牌照持有人的團體 |

III. Proposed addition

| Reference in LCO | Proposed addition/refinement | Remarks |
|--|--|---|
| <u>Agriculture and Fisheries FC</u> | | |
| Item 84 of Schedule 1 | Hong Kong New Territories Local Farmers Association 香港新界本地農協會 | The association has been registered under the Societies Ordinance (Cap 151) since 2011. The association represents the interests of local farmers and its objectives include promoting the development of agriculture and organic farming in Hong Kong. The association is not represented in another FC. |
| <u>Transport FC</u> | | |
| Item 229 of Schedule 1A | Chung Shing Taxi Limited 忠誠車行有限公司 | Chung Shing Taxi Limited is an active member of the Transport Department (“TD”)’s Urban Taxi Trade Conference. The body also participates in the advisory body relating to taxi operation, i.e., Committee on Taxi Service Quality. |
| Item 230 of Schedule 1A | Hong Kong Air Cargo Carrier Limited 香港貨運航空有限公司 | Hong Kong Air Cargo Carrier Limited, incorporated in 2007, is one of the home carriers currently operating in Hong Kong. |
| Item 231 of Schedule 1A | Hong Kong Dumper Truck Drivers Association 香港泥頭車司機協會 | The association is an affiliated member of the Hong Kong Confederation of Trade Unions, and is an active member of TD’s Goods Vehicle Drivers Association Conference. It represents the interests of dumper truck drivers and offers views to TD on various traffic and transport issues. |

| Reference in LCO | Proposed addition/refinement | Remarks |
|----------------------------|--|--|
| Item 232 of Schedule 1A | Shun Fung Motors Investment Management Company Limited 順豐車行投資管理有限公司 | Established in 2002, Shun Fung Motors Investment Management Company Limited is an active member of TD's Urban Taxi Trade Conference. |
| Item 233 of Schedule 1A | Taxi Drivers and Operators Association 的士司機從業員總會 | The Taxi Drivers and Operators Association, registered under the Societies Ordinance in 2008, is an active member of TD's Urban Taxi Trade Conference. The association also participates in the advisory body relating to taxi operation, i.e., Committee on Taxi Service Quality. |
| <u>Education FC</u> | | |
| Section 20E(b)(xxi) | Members of Board of Governors of Yew Chung College of Early Childhood Education 耀中幼教學院校董會成員 <i>[Note: Consequential 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.]</i> | At present, members of the Board of Governors of approved post secondary colleges registered under the Post Secondary Colleges Ordinance (Cap. 320) are eligible for registration as electors. Given that Yew Chung College of Early Childhood Education has been an approved post secondary college registered under the Post Secondary Colleges Ordinance since 28 June 2018, and the College has indicated its intention for inclusion in the Education FC, we propose to include Members of Board of Governors of the College in the Education FC. |

| Reference in LCO | Proposed addition/refinement | Remarks |
|---|--|--|
| <u>Information Technology FC</u> | | |
| Section 20Z(1)(l)(ii) | <p>“Services-based Operator Licence (Class 3 Service)” to be revised as “Services-based Operator Licences”</p> <p>服務營辦商牌照 (第三類服務) to be revised as 服務營辦商牌照</p> | <p>Currently, holders of a Services-Based Operator (“SBO”) Licence (Class 3) are included in section 20Z(1)(l)(ii) of the LCO while holders of a SBO Licence (“Class 1”, “Class 2”, and “Other than Class 1, 2 or 3”) are excluded therein. The Commerce and Economic Development Bureau is of the view that all holders of a SBO Licence are authorised to provide public telecommunications service(s) under their respective licences and should be entitled to the same treatment under section 20Z(1)(l)(ii) of the LCO.</p> <p>As at 30 November 2018, of the 521 SBO licensees in Hong Kong, only three were not authorised to provide Class 3 service.</p> |
| Section 20Z(1)(l)(viii) | <p>Wireless Internet of Things Licence</p> <p>無線物聯網牌照</p> | <p>The Wireless Internet of Things (“WIoT”) Licence was newly created by the Communications Authority (“CA”) on 1 December 2017. The Office of the Communications Authority considers that holders of WIoT Licence are similar to holders of all those other licences issued by the CA and presently listed in section 20Z(1)(l) of LCO which provide telecommunications services to general public in Hong Kong and their business operations are related to the IT/telecommunications sector. In addition, the licensing criteria and procedures for vetting of applications for the WIoT Licence are also similar to those of other telecommunications licences presently listed in section 20Z(1)(l).</p> <p>As at 30 November 2018, CA has granted three WIoT licences.</p> |

Annex B

**Existing and proposed limits prescribed for rectifying minor errors
or omissions in election returns under Section 37A of the
Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554)**

| Election | Existing Limit | Proposed Limit |
|---|-----------------------|-----------------------|
| Chief Executive Elections | \$5,000 | \$50,000 |
| Legislative Council Elections | | |
| (a) District Council (second) functional constituency | (a) \$5,000 | (a) \$50,000 |
| (b) Any geographical constituency | (b) \$3,000 | (b) \$30,000 |
| (c) Any functional constituency other than (a) | (c) \$500 | (c) \$5,000 |
| Election Committee Subsector Elections | \$500 | \$5,000 |
| District Council Elections | \$500 | \$3,000 |
| Heung Yee Kuk Elections | \$200 | \$600 |
| Rural Committee Elections | \$200 | \$600 |
| Rural Representative Elections | \$200 | \$600 |