

**Bills Committee on  
Improving Electoral System (Consolidated Amendments) Bill 2021**

**Government's Proposed Committee Stage Amendments**

**Purpose**

Further to the paper issued by the Administration on 29 April 2021, this paper sets out the Government's further proposed Committee Stage Amendments ("CSAs") to the Improving Electoral System (Consolidated Amendments) Bill 2021 (the marked-up against the existing legislation is at Annex A).

**CSAs**

**(A) Reporting the appointment of the Candidate Eligibility Review Committee ("CERC") to the Central People's Government for the record**

2. During the meetings of the Bills Committee, we mentioned that after appointment of the chairperson and members of the CERC has been made by the Chief Executive ("CE"), the Special Administrative Region Government will make a report to the Central People's Government for the record. In view of the constitutional status of the CERC and its important function in the candidate eligibility review mechanism, we **propose** to amend section 9A of the Chief Executive Election Ordinance (Cap. 569) ("CEEO") to clearly set out the requirement in the local legislation that the Special Administrative Region Government must report the composition of the CERC to the Central People's Government for the record.

**(B) Specifying that no legal proceedings may be instituted in respect of certain decisions made by the CERC**

3. According to the amended Annex I and Annex II to the Basic Law, no legal proceedings may be instituted in respect of a decision made by the CERC on the eligibility of a candidate for membership of the Election Committee ("EC"), a candidate for the office of the CE and a candidate for membership of the Legislative Council ("LegCo") pursuant to the opinion of the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region. As we are suggesting to establish the

CERC under the CEEO, we **propose** to introduce a new section 9B in the CEEO to specify that “According to Annex I to the Basic Law, no legal proceedings may be instituted in respect of a decision made by the CERC on the eligibility of a candidate for membership of the EC or a candidate for the office of the CE pursuant to the opinion of the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region.” Besides, we **propose** to add a new section 3B in the Legislative Council Ordinance (Cap. 542) (“LCO”) to spell out that “According to Annex II to the Basic Law, no legal proceedings may be instituted in respect of a decision made by the CERC on the eligibility of a candidate for membership of the LegCo pursuant to the opinion of the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region.”

**(C) Revising the requirements to terminate election proceedings for geographical constituencies (“GCs”) and functional constituencies (“FCs”)**

4. The Bills Committee expressed concerns over the proposal to amend section 42C of the LCO, particularly the implications of this provision to other candidates in GC and FC elections. Having regard to Members’ concerns, we proposed in the paper issued earlier to revise the relevant provisions to provide that in case of death or disqualification of a validly nominated candidate in a GC and FC after the close of nominations but before the date of the election, the relevant election proceedings will not be terminated, in line with the arrangements for the EC constituency (“ECC”).

5. We notice that in addition to the aforesaid provision, the amended section 46A(1) and (2) of the LCO also provide that if, on the date of an election but before the close of polling for the election, a validly nominated candidate in a GC, FC or the ECC has died or is disqualified from being elected, the election proceedings of the constituency concerned must be terminated. Considering that this provision is directly related to the concerns expressed by Members over section 42C of LCO, we **propose** to lift the requirement under section 46A(1) and (2) of the LCO, and specify that in case of death or disqualification of a validly nominated candidate on the date of an election but before the close of polling for the election, the relevant election proceedings will not be terminated. In light of this, we also **propose** to make corresponding amendments to other electoral legislation in order to implement the arrangement.

## **Advice Sought**

6. Members' views are sought on the proposed draft CSAs.

**Constitutional and Mainland Affairs Bureau**  
**May 2021**