

**立法會**  
***Legislative Council***

LC Paper No. CB(4)1008/20-21

Ref. : CB4/BC/5/20

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

**PURPOSE**

This paper reports on the deliberations of the Bills Committee on Improving Electoral System (Consolidated Amendments) Bill 2021 ("the Bills Committee") and the Subcommittee on Decision of the National People's Congress on Improving the Electoral System of the Hong Kong Special Administrative Region ("the Subcommittee").<sup>1</sup>

**BACKGROUND**

2. On 11 March 2021, the National People's Congress ("NPC") made the Decision on Improving the Electoral System of the Hong Kong Special Administrative Region ("the Decision") at **Appendix I**, and authorized the Standing Committee of NPC ("NPCSC") to amend Annex I to the Basic Law on Method for the Selection of the Chief Executive ("CE") of the Hong Kong Special Administrative Region ("HKSAR") and Annex II to the Basic Law on Method for the Formation of the Legislative Council ("LegCo") of HKSAR and its Voting Procedures. According to Article 7 of the Decision, the HKSAR Government must, according to the Decision and the amended Annexes I and II to the Basic Law, amend the relevant local legislation and organize and regulate the relevant electoral activities in accordance with law.

---

<sup>1</sup> Pursuant to the decision of the House Committee ("HC") on 19 March 2021, a subcommittee was formed under HC to deliberate the main content of the Decision passed by the National People's Congress as well as the two amended Annexes to the Basic Law. HC further agreed that upon the Government's introduction of the relevant bill into the Legislative Council, the subcommittee would immediately be transformed into a bills committee to scrutinize the bill. For further details of HC's decision, please refer to paragraphs 6 to 8 of this report.

3. On 30 March 2021, NPCSC passed the amended Annex I to the Basic Law on Method for the Selection of CE of HKSAR and Annex II to the Basic Law on Method for the Formation of LegCo of HKSAR and its Voting Procedures. The amended Annex I and Annex II to the Basic Law are at **Appendices II** and **III** respectively. CE indicated on the same day that the target of the HKSAR Government was to introduce the bill on amendments to relevant local electoral legislation into LegCo in mid-April 2021 and to arrange for the conduct of three public elections in the next 12 months.<sup>2</sup>

### **THE IMPROVING ELECTORAL SYSTEM (CONSOLIDATED AMENDMENTS) BILL 2021 ("THE BILL")**

4. The Bill was published in the Gazette on 13 April 2021 and introduced into LegCo on 14 April 2021. According to the LegCo Brief (File Ref. CMAB C1/30/5/5) issued by the Constitutional and Mainland Affairs Bureau ("CMAB") on 13 April 2021, apart from amending the relevant local legislation and organizing and regulating the relevant electoral activities according to the Decision and the amended Annexes I and II to the Basic Law, the Government also considers it necessary to amend the relevant electoral legislation to implement a host of measures to enhance the electoral arrangements in the light of the recommendations made by the Electoral Affairs Commission ("EAC") in its report on the discontinued 2020 LegCo General Election ("LCGE") submitted to CE on 9 October 2020.

---

<sup>2</sup> According to a booklet published by the HKSAR Government on 30 March 2021, the timetable for improving the electoral system is as follows –

2021

Mid-April:	Introduction of the Bill on amendments to relevant local electoral legislation into LegCo
End May:	Resumption of second reading debate on the Bill in LegCo
June:	Special voter registration arrangement upon passage of the Bill by LegCo
July:	Publication of the Election Committee Subsector final register ("FR") of voters
September:	<b>Election Committee Subsector Ordinary Elections</b>
October:	Publication of the FR of electors for the LegCo Election
December:	<b>Seventh Term LegCo Election</b>

2022

March:	<b>Sixth Term CE Election</b>
--------	-------------------------------

5. The Bill mainly comprises the following areas of proposed amendments:

- (a) amending the election date for the 2021 LCGE stipulated in the Emergency (Date of General Election) (Seventh Term of the Legislative Council) Regulation (Cap. 241L);
- (b) reconstituting the Election Committee ("EC"), and introducing oath-taking requirement and related matters;
- (c) providing for the method for selecting CE and related matters;
- (d) updating the composition and formation of LegCo;
- (e) revising the arrangements of voter registration ("VR");
- (f) updating the eligibility of becoming candidates in CE elections, EC Subsector ("ECSS") elections, and LegCo elections;
- (g) setting the election expenses limits ("EELs") for geographical constituencies ("GCs"), functional constituencies ("FCs"), and the EC constituency ("ECC") starting from the 2021 LCGE;
- (h) providing for the electoral arrangements for the LegCo ECC;
- (i) making consequential amendments to the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) and its subsidiary legislation in light of the matters in (b) and (d) above;
- (j) introducing a new offence under Cap. 554 to prohibit any person from inciting another person not to vote, or to cast a blank or invalid vote by way of public activity during an election period, and providing that any person who wilfully obstructs or prevents another person from voting at an election commits a corrupt conduct;
- (k) implementing electronic poll register ("EPR") in public elections;

- (l) enhancing the inspection and compilation of the registers of electors;
- (m) empowering the Presiding Officers ("PROs") to set up a special queue for electors in need in public elections;
- (n) empowering the Chief Electoral Officer ("CEO") to require schools and non-government organizations ("NGOs") receiving grants from the Government to make available their premises for use as polling station(s) and/or counting station(s) in public elections; and
- (o) lifting the requirement of withholding financial assistance ("FA") payable until disposal of election petitions ("EPs") arising from LegCo and District Council ("DC") elections.

#### **THE BILLS COMMITTEE ON IMPROVING ELECTORAL SYSTEM (CONSOLIDATED AMENDMENTS) BILL 2021**

6. In view of the extremely tight schedule to complete the local legislative exercise and conduct the three public elections in the next 12 months, the House Committee ("HC") agreed at its meeting on 19 March 2021 to accept the Government's proposal for LegCo to form a subcommittee under HC to first deliberate the main content of the Decision passed by NPC as well as the amended Annexes I and II to the Basic Law. HC agreed that upon the Government's introduction of the Bill into LegCo, the subcommittee would immediately be transformed into a bills committee to scrutinize the Bill. HC considered that the aforesaid arrangement would facilitate the scrutiny work to be undertaken by the bills committee if discussion on the Decision as well as the amended Annexes I and II to the Basic Law could be commenced by the subcommittee as early as possible. HC further agreed that members of the subcommittee would automatically become members of the bills committee to facilitate the continuity of work, and that the Chairman and Deputy Chairman of the Subcommittee would also be the Chairman and Deputy Chairman of the Bills Committee.

7. The Subcommittee consists of 14 members. Hon Martin LIAO and Hon CHEUNG Kwok-kwan were elected as Chairman and Deputy Chairman of the Subcommittee respectively. The membership list of the Subcommittee is at **Appendix IV**. The Subcommittee has held five meetings (two hours each) with the Administration.



8. Upon introduction of the Bill into LegCo on 14 April 2021, the Subcommittee was transformed into the Bills Committee pursuant to the aforesaid decision of HC. The membership list of the Bills Committee, which is the same as that of the Subcommittee, is at **Appendix V**. Counting from its first meeting on 17 April 2021, the Bills Committee has held a total of 12 meetings, or 37 hours of discussion, to discuss the Bill with the Administration.

## **DELIBERATIONS OF THE BILLS COMMITTEE AND SUBCOMMITTEE**

### **Amending the election date for the 2021 Legislative Council General Election stipulated in the Emergency (Date of General Election) (Seventh Term of the Legislative Council) Regulation (Cap. 241L)**

9. The Administration has explained that the amended Annex II to the Basic Law has revised the method for the formation of LegCo and its voting procedures. Among others, the LegCo composition would include 40 Members from ECC to be returned by EC members. Considering that the LegCo ECC would be returned by the EC formed in accordance with the amended Annex I to the Basic Law, and that the nominations of all candidates in LegCo elections would have to be subscribed by two to four members from each sector of EC, there is a need for the 2021 ECSS Ordinary Elections ("ECSSOE") to be held prior to LCGE. As such, the Administration recommends that ECSSOE be held on 19 September 2021, whilst the general election for the seventh term of LegCo be held on 19 December 2021, which would be after the formation of EC. The Administration therefore recommends amending the date of the 2021 LCGE set out in Cap. 241L from 5 September 2021 to 19 December 2021.

10. As the 2021 LCGE is proposed to be held on 19 December 2021, members have raised concerns that should the seventh term of LegCo begin on 1 January 2022, it would leave only nine working days for elected Members to prepare for the new LegCo term. The Administration has explained that the timeframe for enacting the legislative amendments to implement the amended Annexes I and II to the Basic Law in the local legislation, and then holding the 2021 ECSSOE, is very tight, and 19 December 2021 is the earliest possible date for holding the 2021 LCGE after taking into account various practical considerations. For

subsequent terms of LegCo, the Administration will consider holding the corresponding LCGEs on a date further ahead of the start date of the LegCo term.

11. Noting that the seventh term of LegCo would start in January 2022, members have enquired about the commencement dates of subsequent LegCo terms, as well as the arrangements of LegCo business for the remainder of the current LegCo term.

12. The Administration has advised that in accordance with Article 69 of the Basic Law, the term of office of LegCo shall be four years. With the postponement of the 2021 LCGE to December 2021, the term of office of the seventh term of LegCo will last for four years from the date of its commencement (to be specified by CE-in-Council<sup>3</sup>) in accordance with Article 69 of the Basic Law, and the commencement dates of subsequent LegCo terms would be moved to January accordingly. Meanwhile, pursuant to the decision of NPCSC in August 2020, the sixth term LegCo is to continue to discharge duties for not less than one year until the seventh term of office of the LegCo begins. As such, the arrangement of LegCo business for the remainder of the current term will be considered and determined by LegCo.

13. Members have expressed concerns about the specification of the date of the 2021 LCGE by way of amendments to Cap. 241L, and has called on the Administration to consider resorting to the existing mechanism under the Legislative Council Ordinance (Cap. 542) to specify the date of the 2021 LCGE.

14. The Administration has explained that as the current date of the 2021 LCGE has been prescribed by Cap. 241L, the Administration has to amend Cap. 241L to revise the date of the 2021 LCGE accordingly. The Administration has advised that this will be a one-off arrangement and election dates of subsequent LCGEs would be set normally pursuant to Cap. 542.

---

<sup>3</sup> In accordance with section 4 of Cap. 542, each term of office of the LegCo is to begin on a date to be specified by CE-in-Council. CE-in-Council must give notice of that date in the Gazette.

## **Reconstituting the Election Committee, introducing oath-taking requirement and related matters**

### Size and composition of the Election Committee

15. According to the Decision, EC should be broadly representative, suited to HKSAR's actual situation, and representative of the overall interests of society. It would be composed of 1 500 members from the following five sectors:

<b>Sectors</b>	<b>Seats</b>
First Sector: Industrial, commercial and financial sectors	300
Second Sector: The professions	300
Third Sector: Grassroots, labour, religious and other sectors	300
Fourth Sector: Members of LegCo, representatives of district organizations and other organizations	300
Fifth Sector: HKSAR deputies to NPC, HKSAR members of the National Committee of the Chinese People's Political Consultative Conference ("CPPCC"), and representatives of Hong Kong members of relevant national organizations	300

16. The five sectors would be composed of 40 subsectors and the detailed distribution of seats is at Annex B to the LegCo Brief.

### Constitution of the Election Committee

17. EC members would be returned by the following three methods:

- (a) ex-officio members;
- (b) nominated by the designated bodies of the subsectors; and
- (c) elected by eligible voters in the subsectors.

#### *Ex-officio members*

18. There would be ex-officio members in the following subsectors:

- (a) Engineering (15 seats);
- (b) Architectural, Surveying, Planning and Landscape ("ASPL") (15 seats);

- (c) Legal (6 seats);
- (d) Education (16 seats);
- (e) Medical and Health Services (15 seats);
- (f) Social Welfare (15 seats);
- (g) Members of LegCo (90 seats); and
- (h) HKSAR Deputies to NPC and HKSAR Members of the National Committee of CPPCC ("NPC and CPPCC") (190 seats).

Generally speaking, the holders of the specified offices in each subsector could be registered as the ex-officio members of the corresponding subsector. Please refer to Annex C to the LegCo Brief for details.

*EC members to be returned by nomination*

19. Certain members would be returned by nomination in the following subsectors:

- (a) Technology and Innovation (15 seats);
- (b) Accountancy (15 seats);
- (c) Legal (9 seats);
- (d) Sports, Performing Arts, Culture and Publication ("SPCP") (15 seats);
- (e) Chinese Medicine (15 seats);
- (f) Religious (60 seats); and
- (g) Representatives of Associations of Hong Kong Residents in the Mainland (27 seats).

Please refer to Annex D to the LegCo Brief for the number of members to be returned by nomination and the relevant designated bodies for each subsector.

*EC members to be returned by election*

20. The specified entities eligible to be registered as voters for each subsector are at Annex E to the LegCo Brief. Except for certain subsectors which would have individual voters<sup>4</sup>, all ECSS seats would be elected by corporate voters. Unless specified in the electoral law, an association or enterprise may become a corporate voter for a subsector only if it has been operating for not less than three years after acquiring the relevant eligibilities for that subsector.<sup>5</sup>

Concerns about the reconstitution of the Election Committee

21. Members in general have expressed concerns about the criteria for selecting the corporate voters in various subsectors and have enquired whether it is still possible for the Administration to amend the lists of specified entities for different ECSSs. Hon MA Fung-kwok has expressed concerns that the number of seats for the SPCP Subsector as well as the Social Welfare Subsector would both be reduced from 60 to 30 seats. He considers that the Administration should explain the above substantial changes to the subsectors concerned. In particular, he has expressed grave concerns about the changes to the SPCP Subsector. He has pointed out that 15 members of the SPCP Subsector would be nominated by three eligible bodies none of which belongs to the performing arts industry. Thus, the performing arts industry may end up with no representatives. He has also pointed out that not only would the electorate size of the subsector be reduced substantially from some 4 000 voters to about 280 voters, some well-established and renowned

---

<sup>4</sup> Four ECSSs would comprise individual voters:

- (i) Heung Yee Kuk Subsector in the Fourth Sector;
- (ii) Representatives of Members of Area Committees, District Fight Crime Committees, and District Fire Safety Committees of Hong Kong Island and Kowloon Subsector in the Fourth Sector;
- (iii) Representatives of Members of Area Committees, District Fight Crime Committees, and District Fire Safety Committees of the New Territories Subsector in the Fourth Sector; and
- (iv) Representatives of Hong Kong Members of Relevant National Organizations Subsector in the Fifth Sector.

<sup>5</sup> According to the LegCo Brief, the three-year operation requirement would apply to both applications for new registration and existing ECSS voters and FC electors already registered in the 2020 FR (if such bodies still meet the revised registration eligibilities). For the 2021 VR cycle, in general, the three-year operation requirement would be counted from the three years before the special VR deadline in 2021 (i.e. 5 July 2021).

organizations of the subsector concerned, such as the Performing Industry Association, the Hong Kong Printers Association, the Hong Kong Institute for the Promotion of Chinese Culture and various district sports associations, have also been excluded. He considers that the exclusion of these important bodies from the relevant list of specified entities would undermine the representativeness of the SPCP Subsector. He has also queried the rationale for the adoption of mixed election for the 15 elected seats in the subsector.

22. Noting that the specified entities of the Associations of Chinese Fellow Townsmen Subsector would include 24 bodies specified for the subsector as well as the associations of Chinese fellow townsmen that are recognized by those bodies and at county level or above, Hon Wilson OR has expressed concerns about how the associations of Chinese fellow townsmen that are below county level would be represented in the reconstituted EC and why the Federation of Hong Kong Chiu Chow Community Organizations is not amongst the specified bodies. He has pointed out that there are 1.3 million Chiu Chow Citizens in Hong Kong, which is not a small number. Hon Mrs Regina IP considers that the registration eligibility of many ECSSs would be tightened, and that the number of voters much reduced. She notes that many senior industry members, such as in the tourism industry, would be excluded from the electorate.

23. The Administration has advised that corporate voters for ECSSs are selected based on three criteria, namely (a) the representativeness, (b) whether it has substantial connection with the subsector, and (c) its adherence to the principle of "patriots administering Hong Kong". In line with the established practice, the advice of the relevant bureaux and departments has also been sought in considering whether individual bodies fulfill such criteria. The Administration has acknowledged that the proposed composition of EC has undergone a major overhaul, where various new ECSSs would be added, and some other subsectors would have their seats reduced or merged. Also, the electorate of ECSSs would generally no longer contain individual voters. The Administration has explained that the goal of the reconstitution is to ensure political participation in a balanced and orderly manner and to achieve broader representation in line with Hong Kong's actual circumstances for the overall benefits of Hong Kong. While it is understood that the proposed new composition and electorate base of some ECSSs/FCs may not satisfy all members and relevant stakeholders, the Administration appeals for members' understanding that improvements to the electoral system are for guaranteeing the sound and sustained implementation of the

"One Country, Two Systems" principle and enhancing the governance capability of HKSAR, so as to safeguard the long-term prosperity and stability of Hong Kong. In response to Hon MA Fung-kwok's enquiry, the Administration has supplemented that SPCP has been the only subsector with sub-subsectors before the reconstitution of EC while mixed election has been adopted for all other ECSSs. The reconstitution seeks to align the arrangement across ECSSs.

24. Ir Dr Hon LO Wai-kwok has requested the Administration to clarify whether or not the subsidiaries of specified entities would be eligible to register as voters. Citing the example of the Hong Kong Institution of Engineers ("HKIEs"), he has enquired whether its divisions would also be eligible to vote. The Administration has advised that, unless expressly provided in the law, a subsidiary of a specified entity would not be entitled to vote. In the example cited by Ir Dr LO, the Administration has pointed out that the law has only specified HKIEs to be a specified entity for the Engineering Subsector, and hence, its divisions would not be entitled to vote.

25. Dr Hon CHENG Chung-tai has queried why the Area Committees, District Fight Crime Committees, and District Fire Safety Committees, which are also "district organizations which are not organs of political power" established under Article 97 of the Basic Law, should be represented in EC if the Hong Kong and Kowloon DC Subsector (57 seats) and the New Territories DC Subsector (60 seats) would be abolished.

26. The Administration has explained that DCs are not the only district organizations. As DCs have become politicized and have not been performing their functions to advise the Government on district-related matters properly in recent years, there is a need to replace them with other district organizations in EC such that views and opinions formed at the district level can be properly reflected. Echoing the Administration's view, some members have urged the Administration to review the composition and functions of DCs.

27. While welcoming the introduction of the proposed new Small and Medium Enterprises ("SMEs") Subsector, Dr Hon Priscilla LEUNG has requested the Administration to consider that the estate agents, beauty and hairdressing, security, cleaning, and property management sectors, as well as ethnic minorities and overseas returnees in Hong Kong also be represented in EC.

28. The Administration has advised that the introduction of the proposed new SMEs Subsector, which would cover almost half of private sector employees in Hong Kong, would also contribute to making the reconstituted EC broadly representative, suited to Hong Kong's actual situation and representative of the overall interests of society.

29. After review, the Administration has decided that, in order to reflect more accurately the policy intent and the actual situation of the relevant sectors, amendments will be proposed in relation to the eligibility requirements for voters of the Accountancy Subsector and the Hotel Subsector:

- (a) Accountancy Subsector: in the Bill, Public Interest Entity ("PIE") auditors registered under the Financial Reporting Council Ordinance (Cap. 588) would become eligible voters of the subsector regardless of whether they have undertaken PIE engagement in the three years before the registration. To reduce the risk of vote-rigging (say, by only registering but not having in practice undertaken any PIE engagement) and to more accurately reflect the policy intent, the Administration proposes to add section 12(19B) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) to provide that the relevant registered PIE auditor is eligible to be registered as a voter only if it has undertaken or carried out PIE engagement in the three years immediately before making the application for registration; and
- (b) Hotel Subsector: in the Bill, under the proposed amended section 39H of the Schedule to Cap. 569, the eligibility requirements of eligible voters for the Hotel Subsector would include being a licence holder as defined by section 2(1) of the Hotel and Guesthouse Accommodation Ordinance (Cap. 349) and a corporate member which is entitled to vote at general meetings of the Federation of Hong Kong Hotel Owners Limited ("the Federation"). The Federation reflected that the proposed provisions may not suit the actual situation of the industry and could render its members ineligible to be registered as voters due to technical reasons. Considering the constitution of the Federation which has already stipulated that only the owner of a hotel that is in operation may become a member of the Federation and enjoys the voting right at the general meetings, the



Administration proposes to delete the proposed licensing requirement from the Bill. The constitution could provide the restriction and certainty that the relevant member would have a substantial connection with the subsector. The Administration also proposes to make the same amendment to section 200 of Cap. 542 which provides for the composition of the Tourism FC<sup>6</sup>.

#### Issues relating to ex-officio members

30. Members note that under the reconstitution of EC, all NPC deputies and CPPCC members are ex-officio members of EC. However, under the proposed new section 5I(2) of the Schedule to Cap. 569, if an NPC deputy or CPPCC member is also a LegCo Member, he/she would have to register as an ex-officio member of the LegCo Members Subsector. Some members have expressed concern as to whether the NPC deputy or CPPCC member would lose his/her ex-officio seat in EC, if he/she does not seek re-election or fails to be re-elected in the 2021 LCGE in December 2021 and by then the total of 190 seats assigned to the NPC and CPPCC Subsector would have all been filled, with the result that the person concerned would end up with no seats in EC as he may register neither in the LegCo Members Subsector nor in the NPC and CPPCC Subsector. They have enquired whether the Administration would consider allowing the person concerned to choose which of the two subsectors to register in, instead of binding him/her to register in the LegCo Members Subsector as an ex-officio member from the outset.

31. The Administration has advised that if an NPC deputy or CPPCC member is also a holder of a specified office in another subsector ("specified subsector") (i.e. ECSSs that are not the NPC and CPPCC Subsector), he/she may only register as an ex-officio member of that specified subsector. The Administration has further explained that the current number of NPC deputies and CPPCC members is around 230 while the number of seats of the NPC and CPPCC Subsector (as provided in Annex I to the Basic Law) would be fixed at 190. It is therefore inevitable that some of the NPC deputies or CPPCC members would have to register in other ECSSs.

---

<sup>6</sup> According to estimated figures provided by the Administration, the number of eligible electors for the Tourism FC is around 300 and the actual number of electors is to be confirmed.

32. The Administration has further advised that if the total number of NPC deputies and CPPCC members who are eligible to be registered as ex-officio members after deducting the number of members registered in specified subsectors exceeds the total number of 190 seats assigned to the NPC and CPPCC Subsector, then those NPC deputies and CPPCC members might choose to register as ex-officio members in other subsectors with which they have substantial connection. If there are NPC deputies or CPPCC members who choose to register in other subsectors as described above, then the number of ex-officio seats of that subsector would increase and the number of elected seats of that subsector would decrease correspondingly. Moreover, after the NPC deputies and CPPCC members are registered as the EC members of the relevant subsectors, the number of ex-officio EC members, and EC members to be returned by nomination or election for each subsector should remain unchanged during that term of EC. The Administration has pointed out that the abovementioned arrangement reflects the principle and intent of the relevant requirements enshrined in the amended Annex I to the Basic Law. All registrations of NPC deputies or CPPCC members must be submitted by the Friends of Hong Kong Association Limited.

33. In response to members' enquiries, the Administration has explained that generally speaking, the holders of the specified offices (i.e. specified persons) in each of the ECSSs may register as ex-officio members of that subsector. However, if the specified person is holding more than one specified office, except for certain ECSSs, the specified person may designate another person who is holding an office in a relevant body to be registered as an ex-officio member of that subsector.

34. The Administration has further advised that according to existing provisions under the Schedule to Cap. 569, an ex-officio EC member would be deemed to have resigned from EC if he/she no longer holds the office relating to the ex-officio seat. On the other hand, if an EC member ceases to have a substantial connection with the ECSS in which he/she is returned, he/she would be disqualified from voting, although his/her name would remain on the register of the subsector until the next publication of EC registers.

35. Members have enquired what would happen if the specified person eligible to be registered as an ex-officio member is a Principal Official ("PO"), such as the Chairman of the Lantau Development Advisory Committee, which is a specified office under the ASPL Subsector. The Administration has advised that if the specified person is a PO, directorate officer, administrative officer, information officer, police

officer or any other civil servant who is holding a specified office in his or her official capacity, the specified person is ineligible to be registered as an ex-officio member. In general, the specified person of a relevant body would have to designate another person who is holding an office in that relevant body to be registered as the ex-officio member of the subsector concerned. Although not specified in the law, the initial thinking is that PO would, as a good practice, designate another person in consultation with the relevant body as far as practicable.

#### Oath-taking requirements and related issues

36. The Administration has advised that the Bill would introduce the oath-taking requirement for EC members to uphold the Basic Law and bear allegiance to HKSAR. When the ex-officio members submit the registration forms, or the nominees (for ECSSs returning EC members by nomination) / candidates (for ECSSs returning members by election) submit nomination forms, they should include a declaration to the effect that the person will uphold the Basic Law and pledge allegiance to HKSAR for the relevant forms to be considered valid. After their names (whether by way of registration, nomination or election) are registered on the interim register, they would also need to sign a written oath on upholding the Basic Law and bearing allegiance to HKSAR. Any person who does not make the oath in accordance with the requirement would not be included on the EC final register ("FR").

37. Members have enquired how to determine whether an EC member has breached the oath taken under the law. The Administration has advised that in line with the proposals in the Public Offices (Candidacy and Taking Up Offices) (Miscellaneous Amendments) Bill 2021 which seeks to implement the Interpretation of Article 104 of the Basic Law by NPCSC, the Bill proposes that the Secretary for Justice ("SJ") may bring proceedings anytime against an EC member on the grounds of breach of oath, or failure to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to HKSAR. Once SJ has commenced the relevant legal proceedings on the grounds of breach of oath or failure to fulfil the relevant legal requirements and conditions, the functions of the EC member would be immediately suspended. The EC member's name should not be added to the EC FR or should be removed from the EC register until the decision of the Court of First Instance ("CFI") becomes final. The member concerned is, however, entitled to apply to CFI to lift such suspension.

38. Members have also raised concerns as to whether any ruling by CFI that an EC member has breached an oath after he/she has taken up the office would affect the nomination or vote cast earlier. The Administration has advised that according to sections 16(5)(e) and (f) and 26(1)(e) and (f) of Cap. 569 as amended, if a person is in breach of an oath, or fails (or is declared or decided in accordance with any law to have failed) to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to HKSAR, the person would be disqualified from making a nomination or voting respectively at the relevant election. According to the proposed new sections 16(5A) and 26(2) of Cap. 569, if SJ brings proceedings under the proposed new section 43A of the Schedule to Cap. 569, and the person's functions as an EC member are suspended under the proposed section 43A(2) of the Schedule to Cap. 569, the person would be disqualified from making a nomination or voting at the relevant election.

39. According to the existing section 16(6) of Cap. 569, any nomination made by an EC member before his/her disqualification should not be affected by such subsequent disqualification. Nevertheless, section 16(6) of Cap. 569 would not apply in the following circumstances: if after the making of a nomination by the EC member, the court declares or decides, pursuant to the legal proceedings brought under section 43A of the Schedule to Cap. 569, that the member has breached an oath or failed to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to HKSAR before the nomination is made, then the nomination should be regarded as a nomination made after the person has been disqualified from making a nomination in the relevant election.

40. The Administration has further advised that if any candidate (or any person whose nomination is determined to be invalid) considers that the nomination made or vote cast by the EC member before his/her disqualification would constitute material irregularity in that election, the relevant person may lodge an election petition. This arrangement is the same as that for general electors or voters who have made a nomination or cast a vote after being disqualified from doing so to ensure fairness of the elections.

41. In addition, if an EC member has been disqualified pursuant to the proposed section 43A of the Schedule to Cap. 569 but continues to act as an EC member, the court may grant an injunction restraining the defendant from so acting and order the defendant to pay to the Government such sum as the court thinks appropriate, not exceeding

\$5,000 for each occasion on which the person so acted while disqualified. This arrangement is consistent with the existing arrangement for the disqualification of LegCo Members as provided in section 73 of Cap. 542.

42. The Administration has advised that under clause 431 of the Bill, a leap-frog appeal mechanism for proceedings brought under the proposed section 43A of the Schedule to Cap. 569 is also proposed. A party who is not satisfied with a decision made by CFI may lodge an appeal to the Court of Final Appeal ("CFA") direct (instead of lodging an intermediate appeal to the Court of Appeal of the High Court), subject to leave being granted by the Appeal Committee of CFA. The period within which an application for leave to appeal to CFA must be lodged would be within 14 working days after the day on which the relevant CFI judgment is handed down. Such arrangement would facilitate speedy resolution of proceedings brought by SJ on the grounds of suspected breach of oath of a member or failure to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to HKSAR, thereby ensuring the legal proceedings could be finally resolved as soon as possible.

#### Corruption prevention for Election Committee members

43. Members have enquired about the corruption prevention regime for EC members. The Administration has advised that by virtue of section 10 of the Schedule to Cap. 569, Cap. 554 currently applies and would continue to apply to the selection and nomination of EC members at an ECSS election, including restrictions and disclosure requirements on election expenses set out in Cap. 554.

44. In light of a number of new ECSSs proposed to be added to the reconstituted EC, at members' request, the Administration has undertaken to step up educational and publicity efforts, in collaboration with the Independent Commission Against Corruption, to promote awareness of the electoral laws and the anti-corruption regulatory regime amongst the electorates of the newly created ECSSs.

#### System of convenors for the Election Committee

45. The Administration has advised that under the system of convenors for EC, a member of EC who is a state leader will become the Chief Convenor. The Chief Convenor may appoint several convenors in each sector. The Chief Convenor is responsible for convening EC meetings

when necessary to handle relevant matters. Members have sought details of the new system, including how and under what circumstances the new system may be activated, and when the convenors will be designated.

46. The Administration has explained that the new system of convenors for EC would be activated only under exceptional circumstances upon seeking advice from the Central Authorities as necessary to handle matters relevant to elections. The operation of the new system, which would be triggered administratively, would not be covered in the proposed amendments to the local electoral legislation in this Bill.

#### Term of office of the Election Committee

47. Members note that according to the proposed amended section 9 of Cap. 569, while the term of office of EC constituted on 22 October 2021 would end on 21 October 2026, the next EC would be constituted on 1 February in the year in which the term of office of CE is to expire (i.e. 2027). Members have expressed concerns that there would be a "vacuum period" between 22 October 2026 and 31 January 2027, which would be problematic as LegCo might have by-elections during that period without EC to perform the requisite statutory functions, namely, to nominate and elect LegCo Members.

48. The Administration has advised that the HKSAR Government has received clear instructions from the Central Authorities that the legislative amendments to be enacted by this Bill should only specify the date of the next EC. As to the future arrangements for EC, it is understood that the Central Authorities would be making another decision in due course.

49. Members have suggested whether section 9(2) of Cap. 569 should be repealed to allow flexibility for handling the term of office of the next EC. After consideration, the Administration does not recommend making the amendment as it is content that the long-standing arrangement of constituting EC on 1 February should be kept to provide greater certainty about the constitution date of EC, which would facilitate the early preparation of all relevant parties for the CE Election.

50. Considering that the new functions of EC are, among others, to nominate and elect LegCo Members, and that ECSSOE and LCGE may be held in different years, some members have suggested that an ECSS by-election should be arranged before an LCGE. With reference to the

existing Cap. 569, which stipulates that an ECSS by-election should be arranged before a CE by-election to fill the vacancies in EC, the Administration proposes to amend section 4 of the Schedule to Cap. 569 to specify that if the date on which the current term of office of LegCo is to end is more than 12 months from the constitution date of EC or the date of holding the ECSS by-election, then an ECSS by-election should be held before the LCGE.

### **Providing for the method for selecting the Chief Executive and related matters**

51. Members note that a CE candidate would have to be nominated by not less than 188 EC members with at least 15 members from each of the five sectors. Each EC member may only nominate one candidate. CE would be elected by secret ballot on a one-person-one-vote basis. A candidate would have to obtain over 750 votes in the poll to be elected and the CE-elect would be appointed by the Central People's Government.

52. Members have enquired about the reason for the substantial increase in the EELs of CE elections from \$15,700,000 before 27 March 2022 to \$17,600,000 on or after that date as set out in the proposed section 2 of the Maximum Amount of Election Expenses (Chief Executive Election) Regulation (Cap. 554A). The Administration has explained that 27 March 2022 is the prospective date of the upcoming CE election. The purpose of the proposed amendment is to adjust upward the EEL of the next CE election by around 10.28% (cumulative price adjustment calculated from 2017) to take effect on 27 March 2022.

### **Updating the composition and formation of the Legislative Council**

#### New composition of the Legislative Council

53. Members note that pursuant to the amended Annex II to the Basic Law, LegCo shall be composed of 90 members, including 40 members returned by ECC, 30 members returned by FCs, and the remaining 20 members returned by GCs through direct elections. The new composition of LegCo is at Annex F to the LegCo Brief.

### *ECC*

54. Under the Bill, the electorate of the LegCo ECC would be composed of 1 500 EC members who would return 40 members of the ECC in LegCo. The FR of EC members would be published on 22 October 2021.

### *FCs*

55. The 30 seats of FCs would be returned by 28 FCs in LegCo.<sup>7</sup> The composition and electorate of some FCs would be revamped as detailed in Annex G to the LegCo Brief. Among others, three new FCs would be created to return one seat each, with details as follows:

- (a) HKSAR Deputies to NPC, HKSAR Members of the National Committee of CPPCC and Representatives of Relevant National Organizations;
- (b) Commercial (Third); and
- (c) Technology and Innovation (in replacement of the current Information Technology FC).

Meanwhile, the existing DC (First) FC and DC (Second) FC will be abolished, and the existing Medical FC and Health Services FC will be combined to form the Medical and Health Services FC. In view of the importance of the Chinese Medicine sector to Hong Kong, the electorate of the Medical and Health Services FC would include representatives of the Chinese Medicine sector.

56. Besides, under the Bill, the electorate of the following FCs would be composed of corporate electors only:

- (a) Real Estate and Construction;
- (b) Commercial (Second);
- (c) Industrial (First);

---

<sup>7</sup> The Labour FC shall continue to return three Members.



- (d) Financial Services;
- (e) SPCP;
- (f) Import and Export;
- (g) Textiles and Garment;
- (h) Wholesale and Retail; and
- (i) Catering.

At the same time, the Administration recommends revising the composition of FCs in items (e) to (i) above, and that of the Agriculture and Fisheries FC, Transport FC and Tourism FC.<sup>8</sup> Details are at Annex G to the LegCo Brief.

#### *GCs*

57. According to the amended Annex II to the Basic Law, the number of GCs would be increased from five to 10 (the name, delineation of boundaries and the approved map in part 4 of the Bill are at Annex H to the LegCo Brief), and two Members would be returned for each GC. GCs would adopt the simple or relative majority system (otherwise known as the "first past the post" voting system) for returning a total of 20 Members. Each voter may vote for one candidate on the ballot paper. The two candidates who obtain the greatest numbers of votes would be returned as Members of the respective GC.

#### Concerns about the eligibility requirements (e.g. nationality) for becoming Election Committee constituency candidates

58. Referring to Article 67 of the Basic Law and the amended Annex I to the Basic Law, members have enquired whether an individual who is not a Chinese citizen and has the right of abode in a foreign country can become an EC member and/or be nominated as a candidate for LegCo Member returned by EC.

---

<sup>8</sup> The Administration has advised that it has taken the opportunity of this exercise to remove corporates which have ceased operation since the last updating exercise, and update the names of corporates that have had their names changed since the last updating exercise.

59. The Administration has advised that to ensure EC's broad representativeness and balanced participation, EC members do not have to be Chinese citizens with no right of abode in any foreign countries, but they have to be patriots. An oath-taking requirement would be imposed on EC members so as to ensure that they will uphold the Basic Law and bear allegiance to HKSAR. However, LegCo Members returned by EC would be subject to the requirement stipulated in Article 67 of the Basic Law, under which LegCo shall be composed of Chinese citizens who are permanent residents of the HKSAR with no right of abode in any foreign country. Currently, section 37(3) of Cap. 542 sets out that the candidature of 12 FCs<sup>9</sup> is open to Hong Kong permanent residents who are not Chinese nationals or who have the right of abode in a foreign country. The existing arrangement allows LegCo to attract different talents, reflects Hong Kong's inclusive and pluralistic culture, allows people who are not of Chinese nationality to continue to contribute to Hong Kong, and helps maintain the image of Hong Kong as an international metropolis.

60. The Administration has further advised that while the number of LegCo seats will increase from 70 to 90 under the amended Annex II to the Basic Law, the Administration does not recommend to increase the number of seats allowed for members who are not of Chinese nationality or who have the right of abode in foreign countries to 18 (i.e. 20% of the 90 seats). The Administration has pointed out that in fact, it did not increase the number of seats for members who are not of Chinese nationality or who have the right of abode in foreign countries when the number of LegCo members increased from 60 to 70 in the political reform carried out by the HKSAR Government in 2010 on the method for forming LegCo in 2012. The Administration proposes that the current amendment should make reference to the approach adopted in 2010 and maintain the upper limit of seats for members who are not of Chinese nationality or who have the right of abode in foreign countries at 12. For ECC, the Administration has explained that if persons who are not of Chinese nationality or who have the right of abode in foreign countries are allowed to be nominated as candidates of ECC, it may be possible that some of the 40 elected members in ECC would have the right of abode in

---

<sup>9</sup> The 12 FCs are Legal; Accountancy; Engineering; Architectural, Surveying, Planning and Landscape; Real Estate and Construction; Tourism; Commercial (First); Industrial (First); Finance; Financial Services; Import and Export; and Insurance.

foreign countries, which may contravene Article 67 of the Basic Law. Therefore, ECC candidates must be of Chinese nationality and not have the right of abode in foreign countries.

61. Members have further enquired whether an ECC candidate has to be an EC member. The Administration has advised that, in general, any registered GC elector can be nominated as ECC candidates. The 40 LegCo Members returned by ECC need not be EC members or even part of the electorate of any of the EC subsectors. The purpose of the design is to ensure that the ECC Members can represent different sectors and classes of the Hong Kong community, and to enable aspiring patriots interested in taking part in politics to become LegCo Members.

#### Composition of functional constituencies

62. Hon Tommy CHEUNG has expressed concerns about the composition of the revamped Catering FC set out in the proposed amended section 20ZA of Cap. 542. He has taken note that individual electors can no longer register as an elector in the Catering FC, and that bodies would have to fulfil two requirements, namely (i) being holders of food business licences under the Public Health and Municipal Services Ordinance (Cap. 132); and (ii) being entitled to vote at the board of The Association for Hong Kong Catering Services Management Limited, The Association of Restaurant Managers Limited or the Hong Kong Catering Industry Association Limited, in order to become eligible for registration in the FC. In light of this, he has expressed worry that some bodies with substantial connection with the Catering FC but only meeting one of the two aforesaid requirements would not be eligible to register as electors. For instance, certain large corporations in the catering industry which have multiple subsidiaries holding the requisite food business licences, despite having the rights to vote at the boards of the umbrella organizations prescribed in the proposed amended section 20ZA of Cap. 542, are not holders of such licences themselves. The Administration has taken note of his concerns and has stressed that when determining the electorate of various FCs, the Administration has taken into consideration the uniqueness and representativeness of each FC, as well as the actual situation in Hong Kong.

63. Considering that the latest estimation on the number of potential electors in the Catering FC (i.e. 140) would be relatively small, the Administration proposes to further amend the proposed section 25(3) of

Cap. 542 to include the Catering FC as one of the FCs with priority in VR.<sup>10</sup>

#### Delineation of geographical constituency boundaries and nomenclature of geographical constituencies

64. Members have raised concerns about the delineation of certain GC boundaries for 2021 LCGE and have asked the Administration to explain the factors considered in the delineation exercise. Using the Sha Tin District as an example, members have pointed out that "City One" and "Yue Tin Court", as well as "Prima Villa" and "Yu Chui Court", which are all adjacent communities, are now included in two different GCs, namely the "New Territories North East" and "New Territories South East" GCs, respectively. They are concerned whether the splitting up of the Sha Tin District into the two GCs may cause confusion among electors on the polling day.

65. The Administration has explained that the proposed boundaries of the 10 LegCo GCs are based on DC Constituency Area ("DCCA") boundaries for the 2019 DC Ordinary Election as recommended by EAC and approved by CE-in-Council. The delineation of the proposed GC boundaries has followed the criteria adopted by EAC to ensure that each GC comprises a number of contiguous whole DCCAs and that the projected population of each GC does not deviate from the resulting number (i.e. multiplying the population quota by the number of members to be returned by that GC) by more than 15%.<sup>11</sup> The community identities, preservation of local ties and the physical features of the areas concerned have also been taken into account. The Administration has

---

<sup>10</sup> Since the electorates of some FCs are relatively small, it is proposed in the Bill that if an individual/corporate is eligible to be registered in certain FCs (namely, (1) Heung Yee Kuk; (2) HKSAR Deputies to NPC, HKSAR Members of the National Committee of CPPCC and Representatives of Relevant National Organizations; (3) Agriculture and Fisheries; (4) Insurance; (5) Transport; (6) Finance; (7) SPCP; and (8) Technology and Innovation) and any other FC (excluding the Heung Yee Kuk FC) at the same time, the individual/corporate can only register in the aforesaid FCs but not in any other FC. The aforesaid eight FCs are the FCs with priority in VR.

<sup>11</sup> The population quota is the quotient in dividing the projected population of Hong Kong by the total number of elected seats from all GCs, which is 379 010. The resulting number is given by multiplying the population quota by the number of LegCo Members to be returned by that GC pursuant to electoral law. Therefore, the resulting number is  $379\,010 \times 2 = 758\,020$ .

further explained that as the total number of GCs would be increased from five to 10, it is inevitable that some areas within certain Districts would have to be split and incorporated into the boundaries of two different proposed GCs, so as to strike a good balance and minimize the impact. However, the Administration has stressed that no DCCAs are split in the proposal.

66. In response to members' concerns as to whether the delineation of the proposed GC boundaries may lead to confusion among GC electors on the polling day, the Administration has pointed out that the allocated polling station and its address and location map will be clearly shown on the poll cards. Therefore, electors should not have much difficulty in ascertaining the location of the polling stations assigned to them. Moreover, in order to secure the use of venues as polling stations that are most convenient to electors, the Bill proposes to empower CEO to require schools and NGOs receiving grants from the Government to make available their premises for use as polling and/or counting stations in public elections.

67. Some members consider that the nomenclature of the five reconstituted GCs in the New Territories ("NT") is difficult to remember. They have suggested revising them as "NT East", "NT South", "NT West", "NT North" and "Central NT". The Administration has explained that the proposed names are based on the corresponding geographical locations of the constituencies to facilitate electors' understanding of the GCs to which they belong. Most importantly, the Registration and Electoral Office ("REO") will issue poll cards to electors before polling day in accordance with the new delineation of GCs. The poll card will show clearly the constituency to which the elector belongs, the name and address of the polling station so that the elector will not be confused. The Administration has supplemented that with effect from the LCGE for the eighth term of LegCo (i.e. starting from the 2025 LCGE), EAC will continue to perform its statutory functions of reviewing the GC boundaries in accordance with the existing provisions of the Electoral Affairs Commission Ordinance (Cap. 541), including making provisional recommendations for public consultation and subsequently submitting formal recommendations for endorsement by CE-in-Council. EAC will take into account and reflect the views of society as appropriate in the future delineation exercise.

Specifying that an Election Committee member may subscribe more than one nomination form in multiple capacities

68. The Administration has explained that in accordance with the relevant requirements under the Bill, although each EC member could nominate candidates in his/her different capacities, an EC member would not be able to nominate different candidates in an FC or a GC election using his/her different capacities. Some members, however, consider that an EC member should not be restricted from nominating different candidates in GCs and FCs using their different capacities. For instance, an EC member may nominate one candidate in any GC as an EC member, while nominating another candidate in the GC to which he/she belongs as a GC elector. Taking into account members' views, the Administration proposes to lift the relevant restrictions in the Bill such that the maximum number of nomination forms that an EC member would be able to subscribe would be five.<sup>12</sup> The detailed arrangements are set out at **Appendix VI**.

Revising the requirements to terminate election proceedings for geographical constituencies and functional constituencies upon the death or disqualification of a candidate

69. Members have expressed concern that the proposed new section 42C of Cap. 542 which stipulates that, after the close of nominations for an election for a GC or an FC, but *before the date of the election*, if a validly nominated candidate has died or is disqualified from being nominated as a candidate, the Returning Officer ("RO") must declare that the proceedings for the election are terminated ("the proposed termination arrangement") with the result, among others, that other candidates would not be entitled to financial assistance for the terminated elections. Members consider that some persons with an ulterior motive may try to sabotage LegCo GC/FC elections by sending persons who have high risks of being disqualified from being validly nominated to run for the elections with an aim to trigger the proposed termination arrangement. They have requested the Administration to amend the relevant provisions such that if a validly nominated candidate has died or is disqualified after the close of nominations but before the date of the election, the GC and FC election proceedings would continue to proceed. Members further note that in addition to the aforesaid provision, the amended

---

<sup>12</sup> An EC member who is also an authorized representative ("AR") of a corporate elector may subscribe an additional nomination form in the capacity as an AR.

section 46A(1) and (2) of Cap. 542 also provides that if, on the date of an election but *before the close of polling* for the election, a validly nominated candidate in a GC, an FC or an ECC has died or is disqualified from being elected, the election proceedings of the constituency concerned must be terminated. Members consider that based on the same considerations, the requirement under section 46A(1) and (2) of Cap. 542 should also be amended.

70. The Administration has explained that making reference to the arrangements for FC elections since 1999, the proposed amended section 42C of Cap. 542 provides that if a validly nominated candidate in a GC has died or is disqualified after the close of nominations but before the date of the election, the RO must, in accordance with regulations in force under Cap. 541, publicly declare that the proceedings for the election for the constituency are terminated. The original policy intent of this provision was mainly that electors may be deprived of a choice in the event of the death or disqualification of a candidate in their GC after the close of nominations but before the date of the election under the "double-seat, single-vote" system. Having regard to members' concerns, the Administration proposes to amend the relevant clauses to provide that in case of death or disqualification of a validly nominated candidate in a GC and an FC after the close of nominations but before the close of polling for the election, the relevant election proceedings would not be terminated. Moreover, the Administration proposes to lift the requirement under section 46A(1) and (2) of Cap. 542, 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 would not be terminated. In light of this, the Administration also proposes to make corresponding amendments to other electoral legislation in order to implement the arrangement.

#### Enhancing the polling and counting arrangements in the Election Committee constituency central polling station

71. The Administration has advised that although the proposed section 30(4)(ab) of the amended Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D) permits CEO to designate the same polling station to serve as the polling station for ECC, and the polling stations for electors from 10 GCs and 28 FCs concurrently, as the number of voters for each GC in the ECC polling station is very likely to be less than 500, it is possible that the secrecy of

vote may be compromised.<sup>13</sup> As such, the Administration considers that it should not conduct counting of the GC ballot papers cast by EC members in the Central Counting Station. To safeguard the secrecy of votes, after the close of poll, the Administration needs to deliver the 10 GC ballot boxes to the main counting stations of the respective GCs for mixing with the ballot papers in the main counting stations before counting. However, if a misplaced ballot paper of a GC is found in the ballot box for another GC, the situation could be very chaotic, and the current legislative framework does not provide for a mechanism that deals with the misplaced ballot paper under this situation. That said, if the Administration is to place one GC ballot box in the polling station, the current legislative framework does not allow the Administration to sort the GC ballot papers according to the 10 GCs after the close of poll.<sup>14,15</sup>

72. In consultation with REO, the Administration proposes to amend the relevant provisions to allow one GC ballot box to be placed in the ECC polling station for electors from the 10 GCs to cast their votes, and the designation of the ECC polling station as a ballot paper sorting station. After the close of poll, the Administration would first arrange to sort the GC ballot papers according to the 10 GCs in the ECC polling station (i.e. ballot paper sorting station), and then deliver the ballot papers to the main counting stations of the respective GCs for mixing with the GC ballot papers in the station before counting. The Administration considers that this arrangement can safeguard the secrecy of votes, and ensure that misplaced ballot papers can be located in time, lest these ballot papers might have been wrongly delivered to another GC and there would be a need to send them back to the main counting station of the correct GC, which may in turn lead to delay in counting time.

---

<sup>13</sup> Under the existing electoral law, CEO must designate a polling station at which less than 500 electors are allocated to vote as a small polling station and ballot papers therein should be delivered to the main counting station for mixing with other ballot papers before counting so as to preserve the secrecy of votes.

<sup>14</sup> Section 28(1)(c) of Cap. 541D provides that the ballot paper sorting station can only receive GC ballot papers from dedicated polling stations for sorting.

<sup>15</sup> All along, one ballot box will be used for the 28 FCs, and the ballot papers in the ballot box will be delivered to the Central Counting Station for sorting according to different FCs before counting. As such, there would be no need for sorting to be conducted in the ballot paper sorting station.



**Eligibility of corporate members of umbrella organizations to register as a corporate voter/elector**

73. In response to members' enquiries, the Administration has explained that in general, the number of eligible corporate members of umbrella organizations in an ECSS is clearly defined in the constitutions of these organizations, and any changes would require the approval of the Secretary for Constitutional and Mainland Affairs for the purpose of defining the composition of the subsector. For umbrella organizations that do not state the number of eligible corporate members in their constitutions, the Administration would request these organizations to provide a list of their eligible corporate members in accordance with their constitutions in force as at 14 April 2021, i.e. the date of First Reading of the Bill. If there are subsequent major changes to the list (such as a sudden increase in the number of eligible corporate members of the organizations concerned) without a reasonable explanation, the Administration would consider revoking the eligibility of the umbrella organizations in the corresponding ECSS by way of legislative amendments.

74. Members have expressed concerns that some umbrella organizations have more corporate members with voting rights in its committee (i.e. more corporate members which are eligible to be registered as voters) than others. They ask whether this would lead to an uneven distribution of voting rights in the relevant ECSS. The Administration has explained that as a general principle, corporate members entitled to vote in the general committees or executive committees of the umbrella organizations are eligible to be registered as voters in the relevant ECSS. While the Administration has no plans to restrict the number of corporate members with such voting rights in an umbrella organization, these umbrella organizations would have a fixed number of such corporate members as governed by their respective constitutions by the time of the passage of the Bill as explained in the preceding paragraph.

75. Members have enquired how an umbrella organization should deal with offices of its Boards/General Committees/Councils being vacated, as corporate members holding these offices are eligible voters/electors in certain subsectors/FCs. The Administration has advised that it would be up to the umbrella organizations themselves to deal with such internal matters of finding replacements for these vacated offices of their Boards/General Committees/Councils.

76. In reply to members' questions, the Administration has confirmed that a "corporate" elector in Cap. 542 means a "body" that includes organizations, whether incorporated or unincorporated, such as firms and partnerships.

### **Authorized representatives of corporate voters/electors**

77. Members have also enquired whether an individual representing more than one eligible corporate voter may cast multiple votes. The Administration has advised that if an individual is appointed as an authorized representative ("AR") by a corporate voter of an ECSS, he/she may only vote on behalf of that corporate voter. An individual may only be the AR of one corporate voter at any one time.

78. The Administration has further advised that the existing section 26(2) of Cap. 542 and section 13(2) of the Schedule to Cap. 569 have stipulated the requirement and eligibility for becoming ARs of corporate electors and corporate voters respectively. One of the requirements is that the natural person must have a substantial connection with the corporate elector/voter for him/her to become eligible to be appointed as the AR of the body. Members have requested that it should be provided clearly in the law that AR should be appointed by the governing authority of the corporate elector/voter. Having considered members' views, the Administration has agreed to clearly stipulate the requirement by way of amendments to the Bill.

79. In response to members' enquiry about the three-year operational requirement for becoming eligible corporate voters/electors in an ECSS/FC, the Administration has advised that while the ARs of bodies, who may be members of the board of directors of a company, can change on an annual basis, this would not affect the eligibility of the body itself provided that it has been operating for not less than three years after acquiring the relevant eligibilities for the subsector/FC concerned.

80. Upon enquiry by the Legal Adviser to the Bills Committee, the Administration has further clarified that the requisite three-year operating period would be subject to acquirement of the relevant eligibilities for that ECSS/FC, i.e. the proposed corporate elector/voter must have been operating for three years after obtaining the relevant licence and/or becoming a corporate member of the relevant association. As such, the Administration has also confirmed that the Bill already specifies the basis of calculation of the relevant commencement date of the requisite three-year operating period.

## **Procedures for voting on bills and motions in the Legislative Council**

81. Members note that pursuant to the amended Annex II to the Basic Law, LegCo will adopt the following procedures for voting on motions, bills or amendments: The passage of bills and motions introduced by the government shall require a simple majority vote of the Members of the LegCo present. The passage of motions, bills or amendments to government bills introduced by individual Members shall require a simple majority vote of each of the two groups of Members present:

- (a) Members returned by ECC; and
- (b) Members returned by FCs and GCs.

It is also stipulated in the same Annex that the above procedures for voting on bills and motions shall come into force on 31 March 2021, and that Annex II and its amendment previously in force shall cease to apply.

82. Members note that the new split voting procedures for bills and motions introduced by LegCo Members as stipulated by Article 7 of the amended Annex II to the Basic Law may be construed as having taken effect on 31 March 2021, but no corresponding amendments have been made to the Rules of Procedure of LegCo (specifically Rule 46(2)).<sup>16</sup> Some members are worried that failure to adopt the new split voting procedures under the amended Annex II and LegCo's decisions on bills and motions introduced by LegCo Members based on the existing Rule 46(2) in the interim could be subject to judicial challenges.

83. The Administration has advised that notwithstanding the fact that the amended Annex II to the Basic Law has come into effect on 31 March 2021, the legislative intent is clear that NPCSC's amendments to Annex II to the Basic Law are concerned with the seventh term of LegCo and beyond, and should not affect the conduct of business of the current term LegCo.

---

<sup>16</sup> Under Rule 46(2), the passage of a motion or bill introduced by a Member, or an amendment introduced by a Member to any motion or bill, shall require a majority vote of each of the following two groups of Members present: (a) Members returned by FCs (Group I); and (b) Members returned by GCs through direct elections (Group II).

## Revising the arrangements of voter registration

84. The Administration has advised that in view of the major change to the composition of the ECSSs and FCs, it needs to conduct a VR exercise to compile the registers of electors for use in the several upcoming public elections. As the 2021 VR cycle (which started on 3 May 2020) is currently in progress, the Administration needs to formulate special arrangements for the 2021 VR cycle, such as to specify a special VR deadline, revise the arrangements for claims and objections, and specify the publication dates of the different registers of electors. In view of the scheduled dates of the public elections in the future, the Administration also needs to make revisions to the regular VR process, as set out in the table below.

<b>VR deadlines</b>	<b>Existing VR deadlines (non-DC election year)</b>	<b>Regular deadlines from 2022 and onwards</b>
(1) Change of Particulars	2 April	2 June
(2) New Registration	2 May	2 June
(3) Electors to reply to inquiry letters to maintain their VR status	2 May	2 June
(4) Publication of Provisional Register and Omission List	1 June	1 August
(5) Claims and Objection Period	1 to 25 June	1 to 25 August
(6) Publication of Final Register	25 July	25 September

Details of the special VR deadline, proposed new arrangements for claims and objections, timing of publication of different registers of electors in 2021, and the regular VR cycle from 2022 onwards, are set out at **Appendix VII**.

85. Members have stressed that the Administration should allow sufficient time for individuals and bodies who are eligible to register in the ECSSs and FCs which are newly created or whose registration eligibilities have been revised, as well as the electors/voters who are no longer eligible to register in their original ECSSs/FCs but eligible to register in other ECSSs/FCs, to submit VR applications. The Administration has acknowledged that following the improved electoral system, there are major changes to the composition of ECSSs and FCs. In order to allow more time for the aforementioned individuals and

bodies to handle their VR matters, the Administration proposes further amendments to the Bill to extend the special VR deadline from 14 June to 5 July 2021. Newly eligible and affected electors/voters may submit VR applications after the relevant legislation comes into effect following passage of the Bill and not later than 5 July 2021. The dates of the other VR procedures would also be amended correspondingly, as set out in the following table –

VR statutory deadline	Special arrangement in 2021			
	ECSS		GC/FC	
	Original Proposal	Committee stage amendments ("CSA")	Original Proposal	CSA
(1) Submission of applications for change of particulars (excluding change of registered address)	14 June	<b>5 July</b>	14 June	<b>5 July</b>
(2) Submission of applications for new registration	14 June	<b>5 July</b>	14 June	<b>5 July</b>
(3) Affected electors to respond to inquiry letters to retain their VR	N/A	N/A	14 August	<b>19 September</b>
(4) Publication of provisional registers and omissions lists	27 June	<b>18 July</b>	13 September	<b>26 September</b>
(5) Claims and objections period (All claims and objections in 2021 are to be handled by written submissions only, without hearings)	27 June to 1 July (5 days)	<b>18 to 22 July (5 days)</b>	13 to 25 September (14 days)	<b>26 September to 9 October (14 days)</b>
(6) Publication of FR	25 July	<b>5 August</b>	25 October	<b>29 October</b>

86. In addition, since EC members to be returned by nomination would be added to four ECSSs, namely the Accountancy, Chinese Medicine, Legal, as well as Technology and Innovation Subsectors, and given that there is only a limited number of persons who are potentially eligible to be nominated as EC members in these four subsectors, to facilitate registration of these four categories of persons as GC electors in time so that they would be eligible to be nominated as EC members in the relevant Subsectors, the Administration has also proposed to expand the application scope of the special VR deadline of 5 July 2021 to cover these persons.

87. Some members have suggested that the Administration should reopen VR to accept applications for registration as new voters/electors following the passage of the Bill. The Administration has explained that in light of the tight timetable for improving the electoral system and holding the aforementioned elections, it plans to reopen VR to only applications from individuals and bodies newly eligible to register in the ECSSs/FCs due to the changes to the electoral system, as well as the existing voters/electors who are no longer eligible to register in their original ECSSs/FCs (including the to-be abolished DC (Second) FC) to register in any other ECSS/FC if they are so eligible. If VR is to be reopened to all applications as new electors in general, the relevant VR workload will increase substantially and the FR of electors for the 2021 LCGE might not be able to be published in time before the commencement of the relevant nomination period. The Administration has assured members that under the proposal, sufficient time would be allowed for the newly eligible and affected voters/electors to apply for making necessary changes to their VR.

88. Members have expressed concerns that some existing electors/voters might not be aware of the special VR arrangements for 2021 and therefore might miss the special VR deadline. Members have called on the Administration to provide the necessary information in an easy-to-understand manner and assistance to the individuals and bodies eligible to register as voters/electors in ECSSs/FCs to facilitate their VR. At the request of members, the Administration has provided supplementary information on the special VR arrangements (LC Paper No. CB(4)921/20-21(01)) for members' reference.

89. The Administration has advised that REO will make available new guidelines and VR forms on its website after consulting EAC. REO will strive to ensure that the information provided in these guidelines is as

concise and clear as possible. After passage of the Bill, the Administration will step up publicity efforts to promote the special VR arrangements for 2021 including the proposed special VR deadline for eligible individuals and bodies. Assistance will also be provided by REO to facilitate VR by the relevant individuals and bodies.

90. Members have also enquired about the procedures for making objections in respect of eligibility for VR. The Administration has advised that in general, any person may lodge with REO objections in the specified period as regards entries in the provisional register of an ECSS/FC. These objection cases will be referred to the Revising Officer, who would be a judicial officer, for ruling. For the purpose of the VR exercise for 2021, the Bill seeks to streamline the relevant process such that the claims and objection procedures will be conducted on the basis of written submissions only instead of having to go through an oral hearing procedure.

### **Updating the eligibility of becoming candidates in Chief Executive elections, Election Committee Subsector elections, and Legislative Council elections**

#### The new candidate eligibility review mechanism

91. Members note that pursuant to the amended Annexes I and II to the Basic Law, the eligibility of candidates standing for CE elections, EC Subsector elections and LegCo elections will be reviewed and confirmed by the newly established Candidate Eligibility Review Committee of the HKSAR ("CERC"). The chairperson and members of CERC would be appointed by CE by notice in the Gazette.

92. The Administration has further advised that pursuant to the amended Annexes I and II to the Basic Law, the Committee for Safeguarding National Security of the HKSAR ("the Committee on National Security") shall, on the basis of the review by the department for safeguarding national security of the Police Force of HKSAR, make findings as to whether a candidate meets the legal requirements and conditions of upholding the Basic Law and bearing allegiance to HKSAR, and issue an opinion to CERC in respect of a candidate who fails to meet such legal requirements and conditions.

93. In view of the constitutional status of CERC and its important function in the candidate eligibility review mechanism, members have suggested that the HKSAR Government should report the composition of CERC to the Central People's Government for the record. The Administration has accepted the suggestion and proposes to amend clause 383 of the Bill to clearly set out such a requirement in the proposed section 9A(6) of Cap. 569.

94. Members note that 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 CERC on the eligibility of a candidate for membership of EC, a candidate for the office of CE and a candidate for membership of LegCo pursuant to the opinion of the Committee on National Security. Clauses 327 and 391 of the Bill as originally drafted simply propose that for the purpose of questioning a CE or LegCo election by petition on specified grounds, "election" (including a decision by CERC) would be construed subject to Annexes I and II to the Basic Law. Upon members' suggestion, the Administration proposes to amend the Bill to introduce a new section 9B in Cap. 569, and a new section 3B in Cap. 542, to specify that "According to Annex I/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 EC, a candidate for the office of CE, or a candidate for membership of LegCo pursuant to the opinion of the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region".

95. Upon enquiry by the Legal Adviser to the Bills Committee, the Administration has confirmed that "legal proceedings" include EPs, judicial reviews and any forms of legal challenge.

96. Members have asked whether a candidate disqualified by CERC, whether on national security grounds or any other reasons, would be provided with the reason for disqualification and/or an opportunity to defend himself/herself as a matter of procedural fairness. The Administration has advised that where CERC makes its decision based on national security reasons, CERC would only state in the nomination form that its decision is based on the opinion of the Committee on National Security.



## Rationalizing the composition and duties of the Candidate Eligibility Review Committee

---

### *Composition*

97. Clause 383 of the Bill provides that CERC is to consist of the chairperson and two to four other members, all of whom is confined to POs appointed pursuant to Article 48(5) of the Basic Law. Taking into account the views in the community, CE announced at the press conference on 13 April 2021 her intention to expand the composition of CERC to include patriotic, independent and apolitical individuals with a view to further enhancing the credibility of CERC. Members in general support the plan. Hon Martin LIAO considers it preferable to appoint three members of society to CERC. After consideration, the Administration proposes to move amendments to increase the upper limit of members in CERC from five to eight, and stipulate that CE shall, in addition to the chairperson and two to four official members, appoint one to three non-official members.

98. Some members have expressed concerns about the prevention of corruption of CERC members. Upon enquiry by the Legal Adviser to the Bills Committee, the Administration has confirmed that as all members of CERC would be appointed by CE, CERC would be a "public body" within the meaning of section 2 of the Prevention of Bribery Ordinance (Cap. 201).<sup>17</sup> Although the definition of "prescribed officer" in section 2 of Cap. 201 only includes "any principal official of the Government appointed in accordance with the Basic Law", as CERC would be a public body, its members (including the non-official members) would be regarded as public servants within the meaning of paragraph (a) of the definition of "public servant"<sup>18</sup> in section 2 of Cap. 201. In other words, the anti-corruption regime concerning "public body" and "public servant" under Cap. 201 would be applicable to CERC and its members.

99. On the other hand, in order to more accurately reflect the fact that the CERC referred to in the Decision and the amended Annex I and

---

<sup>17</sup> Under section 2 of Cap. 201, "public body" is defined to include "(e) any board, commission, committee or other body, whether paid or unpaid, appointed by or on behalf of the Chief Executive or the Chief Executive in Council".

<sup>18</sup> In accordance with the interpretation under section 2 of Cap. 201, public servant (公職人員) means any prescribed officer and also any employee of a public body and— in the case of a public body other than a body referred to in paragraph (aa), (b) or (c) of this definition, any member of the public body;...

Annex II to the Basic Law is actually the same committee, the Administration proposes to amend clauses 262(5) and 80(16) of the Bill (i.e. the proposed section 3(1) in Cap. 542 and the proposed section 2(1) in Cap. 541D) to the effect that only one CERC would be established under Cap. 569 for the purpose of implementing Annex I and Annex II to the Basic Law.

100. Members have expressed concerns about any potential conflict of interests for POs, who are subordinates of CE, to vet the eligibility of candidates in the CE election as members of CERC. Some members are concerned that the appointed POs would also be responsible for vetting the eligibility of incumbent LegCo Members seeking re-election, particularly those who have been critical of some POs in the past. These members have expressed worry about whether those LegCo Members seeking re-election would be subject to unfair treatment when they are vetted by CERC. They have also enquired about the arrangement for a PO to declare his/her intention to stand for a CE election if the PO is a CERC member. Dr Hon CHENG Chung-tai has questioned why it is not expressly stipulated in the Bill that the chairperson and members of CERC cannot run for the CE elections and LegCo elections. He has further expressed concerns that while CE has earlier stated that she would withdraw from the relevant discussions of the Committee on National Security if she is seeking to be re-elected, such an arrangement is not expressly provided for in the Bill. The Administration has advised that as CE has earlier stated the above in public, the said arrangements would be made if the situation arises. Hence, there should not be concern about any conflict of interests with CE being the Chairman of the Committee on National Security.

101. The Administration has advised that as POs have considerable administrative experience and political resolve to withstand foreign sanctions, and they are trusted by the Central Authorities in upholding the principle of "patriots administering Hong Kong", POs are considered appropriate choices to be appointed as CERC members. Criticisms from LegCo Members would not affect their work in performing the functions of CERC in an objective and impartial manner. The Administration has further advised that if a PO decides to stand for a public election, he/she would have to resign from his/her post.

102. Noting that members of society outside the Government would be appointed as non-official CERC members, Dr Hon CHENG Chung-tai has expressed concerns about the security measures in place for

information handled by CERC, as CERC members would have access to classified information such as information relating to national security.

103. The Administration has advised that to qualify for appointment to CERC, members of society would be reputed persons in society, have served the society for a long time and have a good knowledge of the operation of the HKSAR Government. They must also be patriots as they would have to judge whether the candidate complied with the legal requirements and conditions for upholding the Basic Law and bearing allegiance to HKSAR. Appropriate administrative arrangements would be put in place to ensure that all CERC members have to observe confidentiality requirements.

*Division of labour between CERC and RO*

104. In accordance with the relevant requirements in the Bill, although CERC would be responsible for deciding whether the nominations of candidates are valid, after CERC has made a decision on the validity of nomination of an individual, CERC must inform the relevant RO of its decision, and the RO should make relevant administrative arrangements to publish a notice stating the particulars of validly nominated candidates in the Gazette. Taking into account the important function of CERC in the candidate eligibility review mechanism, there have been views that it should be CERC, instead of RO, who publishes a notice on the validly nominated candidates in the Gazette. In this regard, the Administration proposes to amend relevant provisions in the Bill (see, for example, clause 386(2) and (3)) to provide that CERC shall be responsible for publishing a notice in the Gazette to identify the validly nominated candidates. Following this principle, the Administration proposes that in case a validly nominated candidate is disqualified before the polling day, CERC shall be responsible for publishing a notice in the Gazette specifying that its earlier decision has been varied, and stating the particulars of each candidate who remains validly nominated in the election.<sup>19</sup>

105. The Administration has further advised that ROs would be responsible for assessing whether a candidate meets other general eligibility criteria as laid down in the law (e.g. the age requirement, nationality and criminal records). ROs would not participate in the process of CERC's request for additional information from candidates.

---

<sup>19</sup> In the event that a validly nominated candidate is proved to have died before the polling day, RO shall be responsible for publishing the gazette notice.

106. Members have enquired whether an independent secretariat would be provided to support CERC. The Administration has advised that it is still conducting an internal study on the matter and has yet to come to a view.

107. Members have enquired how much time would be allowed for appeals to be lodged by persons whose registration has been determined by CERC as invalid under the proposed new section 4A of the Election Committee (Appeals) Regulation (Cap. 569A). The Administration has advised that a prospective candidate may lodge an appeal to the Revising Officer by submitting a written representation within seven days from the relevant date (e.g. the date of publication of the interim register), and the Revising Officer would make a decision in writing within 20 days thereafter. However, this arrangement would be applicable to the 2021 voter registration cycle only.

108. Noting that the proposed offence of interfering with CERC would only entail a maximum penalty of a fine not exceeding level 5 (i.e. \$50,000), some members consider that the penalty level is not commensurate with the heavy political pressure borne by CERC members and would not achieve sufficient deterrent effect. The Administration has explained that the proposed penalty level is on par with that for the offence of interfering with ROs as stipulated in the subsidiary legislation under Cap. 541. The Administration considers the proposed penalty level appropriate.

### **Specifying the types of information to be sought from Election Committee and Legislative Council candidates**

109. Pursuant to the proposed sections 10(10), 11(11) and 12A(10) of Cap. 541D and sections 7(6) and 8(10) of the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541I), RO may require a candidate/nominee/designated body to furnish any other information that Officer considers appropriate for enabling the CERC to be satisfied: (a) that the candidate/nominee is eligible to be nominated as a candidate; or (b) otherwise as to the validity of the nomination. Meanwhile, pursuant to the amended section 16(3A) of Cap. 541D and sections 12(6) and 13(3A) of Cap. 541I, CERC may require a candidate to furnish any other information that the committee considers appropriate to be satisfied for the aforesaid purposes in deciding whether a candidate is validly nominated. Members have

expressed the view that the law should specify any other information that CERC can seek from candidates, nominees, et al, including, among others, whether the person is in possession of foreign nationalities or the right of abode in foreign countries, whether the person has connections with political organizations in foreign countries and has received funding from such organizations, and issues pertaining to the integrity of the candidates, etc. Moreover, such information provided by the candidates/nominees should be made public.

110. The Administration has explained that the existing drafting approach of the provisions aims to provide flexibility for CERC to request any other information from candidates, nominees, et al. when considering the validity of their nominations, including but not limited to the information mentioned by Members. The Administration therefore recommends maintaining the existing drafting approach of the provision in order to provide the greatest flexibility for CERC. Upon passage of the Bill, the Administration would consult CERC on the types of information to be collected.

**Setting election expenses limits for geographical constituencies, functional constituencies, and the Election Committee constituency starting from the 2021 Legislative Council General Election**

111. In view of the proposed new composition of LegCo, the Administration has advised that there is a need to determine the EELs for GCs, FCs and the ECC. In relation to the ECC and new FCs, the level of EELs would be based on the prevailing principle, i.e. having regard to the number of registered electors in the FR of the relevant constituency. As for GCs, the Administration recommends that the level of EELs be set with reference to the number of DCCAs in the GC. On this, the Administration recommends that the corresponding EEL for each DCCA should be set at \$69,000.<sup>20</sup> The Administration recommends revising the Maximum Amount of Election Expenses (Legislative Council Election) Regulation (Cap. 554D) to implement the aforesaid recommendations. The detailed proposal for EELs is set out in Annex J to the LegCo Brief.

---

<sup>20</sup> The EELs for each DCCA in the 2019 DCOE is \$68,800. Taking into account the inflation level in 2020 (0.3%), the Administration proposes that the EEL for each DCCA be set at \$69,000.

112. Some members have enquired about the reason for the substantial increase of EEL for each GC in the 2021 LCGE vis-à-vis the EELs of the 2016 LCGE, while the geographical sizes of GCs have been reduced. The Administration has explained that the calculation of the EEL for a GC is based on the EEL of each DCCA from the past DC election in 2019 and the number of DCCAs covered by the GC concerned, with a slight upward adjustment for inflation in price.

**Introducing a new offence under Cap. 554 to prohibit any person from inciting another person not to vote, or to cast a blank or invalid vote by way of public activity during an election period, and providing that any person who wilfully obstructs or prevents another person from voting at an election commits a corrupt conduct**

113. Members note that the Decision stipulates that HKSAR should organize and regulate relevant electoral activities in accordance with law, with a view to implementing a new electoral system that accords with the actual situation in Hong Kong. The amended Annexes I and II to the Basic Law provides that HKSAR should take measures in accordance with the law to regulate acts that manipulate or undermine elections.

114. To this end, the Administration proposes in clause 366 of the Bill to introduce a new provision (i.e. section 27A) to Cap. 554 to create a new offense, i.e. the illegal conduct of inciting another person not to vote or to cast an invalid vote by public activity during an election period.<sup>21</sup> According to the Administration, the proposed new offence would not prevent a person from appealing to electors not to vote for a particular candidate, subject to compliance with the requirements of other electoral legislation, in particular those relating to election advertisements and election expenses.

115. The Administration also proposes introducing a new offence under section 14(1A) of Cap. 554 to prevent any person from wilfully obstructing or preventing another person from voting at an election. Any person who incites another person or commits in conspiracy the proposed new offence under section 14(1A), including calling on others to take

---

<sup>21</sup> According to the definition under section 2(1) of Cap. 554, in relation to an election, "election period" means the period beginning with the nomination day for the election and ending with the polling day for the election.

away the identity cards of elderly electors to prevent them from voting, would also commit the offence.

Proposed new section 27A of Cap. 554

116. Members have expressed concerns that the proposed new section 27A as currently drafted is ambiguous and may be breached inadvertently. Members have suggested that the provision should clearly require that the incitement conduct be specified with an intent to manipulate and undermine the election. It is suggested that reference be made to the relevant offence provisions in the National Anthem Ordinance in this regard.<sup>22</sup>

117. Having considered members' views and suggestions, the Administration has advised that it would be very difficult for enforcement in practice to prove that a person has the intent of "manipulating and undermining the election" while inciting another person not to vote or to cast an invalid vote by public activity. The Administration considers that if this offence requires the prosecution to prove an intent to "manipulate and undermine the election", it is likely to indirectly prevent the Government from effectively regulating electoral activities in accordance with the amended Annexes I and II to the Basic Law. The Administration does not therefore propose to specify the relevant intent in the provision.

118. The Administration has also explained that "incite" in the proposed provision should be interpreted in accordance with common law principles and therefore it already includes the need to prove the relevant *mens rea* in the form of a specific intent to bring about the conduct/outcome incited. Furthermore, the proposed provision would allow a defendant to plead lawful authority or reasonable excuse as a defence. Overall speaking, the Administration considers that the existing provision adequately addresses the concerns raised by members and strikes a reasonable balance.

119. Upon enquiry by the Legal Adviser to the Bills Committee, the Administration has also confirmed that the Bill, including the proposal to create the aforesaid new offence, is in conformity with the Basic Law, including the provisions concerning human rights such as the freedom of

---

<sup>22</sup> Under section 7 of the National Anthem Ordinance, the offence of insulting behaviour requires the prosecution to prove that the defendant "publicly and intentionally" committed the prohibited act(s) "with intent to insult the national anthem".

speech. The Administration has explained that while it attaches great importance to, and will continue to fulfill, its constitutional duty to safeguard and protect human rights and freedoms, such freedoms are not absolute and may be subject to restrictions in the interests of national security, public safety, public order or the rights and freedoms of others etc. According to the Administration, if someone openly incites voters not to vote, or to cast blank or invalid votes during an election period, undue pressure may be created on voters, which would sabotage an election; the HKSAR Government is therefore obliged to regulate such conduct in accordance with the Decision and the amended Annexes I and II to the Basic Law.

120. Members have requested the Administration to explain what would constitute "lawful authority or reasonable excuse" which could be used as a defence under the proposed new section 27A(4). Two examples have been provided by the Administration, which include a person inciting another person not to vote in an election based on his/her genuine belief that the other person is not qualified to vote, or based on his/her genuine belief that the election is a *de facto* referendum which is illegal. Upon enquiry by the Legal Adviser to the Bills Committee, the Administration has further clarified that "legal authority" generally refers to engaging in actions necessary for performing duties in accordance with the law, while in considering the defence of "reasonable excuse", the court would: (a) identify the matters said to constitute reasonable excuse; (b) examine whether the excuse is genuine; and (c) objectively assess whether that excuse is reasonable, having regard to the particular facts of the case and the context of the relevant legislation.

121. In response to members' suggestions that the proposed new section 27A(4) should be amended to make it clear that the illegal conduct in question only applies to those who intentionally commit the relevant conduct, the Administration has explained that it does not propose to add the word "wilfully" as "incite" under the common law already includes the need to prove *mens rea*, i.e. a specific intent to bring about the conduct/outcome incited.

122. The Administration has advised that the illegal conduct in the proposed new section 27A(1) only covers an activity carried out during the election period. However, the Administration has cautioned that while an activity carried out outside the election period may not be caught by that proposed section, it may nevertheless constitute an offence under other applicable laws in Hong Kong, such as the Law of the People's



Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region.

123. Members have raised enquiries on the definition of "activity in public" in the proposed new section 27A(5). In particular, they are concerned whether dissemination of messages through the Internet, social media, or emails, which are not specifically listed under the new proposed section 27A(5), would fall within the definition of an "activity in public". The Administration has advised the abovementioned means of communication would be regarded as activities in public.

124. The Administration has considered members' suggestion of adding the Internet as one of the examples of "any form of communication to the public" in the proposed section 27A(5)(a). It is of the view that the proposed provision (modelled on section 46(3) of the Disability Discrimination Ordinance (Cap. 487) and section 45(4) of the Race Discrimination Ordinance (Cap. 602)) would clearly state that all communications to the public (in any form) fall within the scope of public activity. The major consideration is on the "communication to the public" and there is no need to specify whether the communication is made on the Internet or other platforms.

125. Dr Hon CHENG Chung-tai has expressed concerns that the expression "activity in public" is so broad that what one wears or his gestures made during the election period may easily be framed as symbolizing an act to incite others not to vote. The Administration has explained that there is a high threshold for the conviction of a criminal offence in court and, as far as the proposed new section 27A is concerned, the prosecution has to prove with evidence that an activity constitutes the illegal conduct in the proposed section 27A(1) having regard to all relevant circumstances of the case.

126. In response to members' enquiry on whether an illegal conduct under the proposed new section 27A(1) would be prosecuted if the conduct is carried out outside Hong Kong, the Administration has advised that the existing section 5 of Cap. 554 provides that the Ordinance applies to all conduct concerning an election, whether the conduct is carried out within Hong Kong or elsewhere. If the illegal conduct is performed by disseminating a message via the Internet, the Police would be authorized to request the Internet platforms to take down the messages. Furthermore, anyone who commits an offence under Cap. 554 outside Hong Kong can be arrested and prosecuted upon entering Hong Kong.

Proposed new section 14(1A) and (1B) of Cap. 554

127. Members have raised a number of activities as examples and enquired whether these activities would be regarded as corrupt conduct under the proposed new section 14(1A). Such activities include joining and leaving the line of voters queuing outside the polling stations repeatedly with a view to prolonging the queuing process; taking away the identity cards of family members living in an elderly home on the election day with the intent to protect the elderly from being forced to vote unwillingly; locking away someone from voting; wilfully guiding others to a wrong polling station; or persuading others not to vote by misleading them with the false information that others will know which candidate they have voted for.

128. The Administration has explained that if a person wilfully obstructs or prevents another person from voting at the election or gets another person to obstruct or prevent a third person from voting at the election, he may have engaged in corrupt conduct under the proposed new section 14(1A) of Cap. 554. On the other hand if, by deception, a person induces another person to vote or not to vote, the person concerned may have engaged in the corrupt conduct in the existing section 14(1). As to what would constitute lawful authority or reasonable excuse as a valid defence under the proposed section 14(1B), the Administration advises that it would be up to the enforcement agencies and the court to decide on the basis of facts and the applicable law.

129. The Legal Adviser to the Bills Committee has reminded members that the defence under the proposed new section 14(1B) of Cap. 554, i.e. "lawful authority or reasonable excuse", would only apply to wilful obstruction under the proposed new section 14(1A) but not to deceptive conduct under the existing section 14(1).

**Implementing electronic poll register in public elections**

130. The Administration has advised that to enhance efficiency and accuracy in the ballot paper issuance process, it intends to introduce EPR in public elections (including CE, ECSS, LegCo and DC elections) starting from 2021. To provide the legal basis for implementing the EPR in public elections, the Bill seeks to amend four pieces of subsidiary

legislation<sup>23</sup> under Cap. 541 to cater for the LegCo, DC, ECSS, and CE elections respectively. The relevant proposed amendments are as follows:

- (a) specify the manner of making a record on the FR upon issuance of ballot paper(s) to an elector so as to accommodate the use of EPR;
- (b) require that FR in printed form (if used) should be sealed in packets at the close of the poll, and that the marked FR (whether in printed or electronic form) should be retained for six months after a poll before destruction; and
- (c) create new provisions to enable the implementation of EPR for the purpose of the relevant ballot paper issuance process, stipulate the permitted use of EPR, grant EAC with the authority to allow access to EPR for specific purpose (such as for technical maintenance and for use in the ballot paper issuance process), and provide for the offence and penalty of accessing EPR without legal authority, damaging the information and data contained in EPR, or tampering with EPR, the penalty for which would be up to two years' imprisonment without a corresponding fine.

131. With regard to the proposed adoption of EPR for the upcoming elections, members have expressed concerns about the security measures to protect EPR from theft or unauthorized access. The Administration has advised that it would hire consultants to conduct independent audits on security and data privacy for the systems developed for electronic polling. Also, EPR would be stored centrally on the Government Cloud Infrastructure Services protected by high security standards instead of in local devices, which means that the data of electors would remain secure even if the hardware terminals are stolen or lost.

---

<sup>23</sup> These four pieces of subsidiary legislation are:

- (i) Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D);
- (ii) Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap. 541F);
- (iii) Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541I); and
- (iv) Electoral Procedure (Chief Executive Election) Regulation (Cap. 541J).

132. Some members have raised concerns on the slight discrepancy between the references to EPR for use in the LegCo, EC and CE elections as appearing in Cap. 541D, Cap. 541I, Cap. 541J and Cap. 541F in that provisions in Cap. 541D, Cap. 541I and Cap. 541J refer to the FR "electronic copy", whereas provisions in Cap. 541F refer to "copy or extract". The Administration has explained that the slight discrepancy is due to the difference in the arrangement for the printed copy of the registers as provided under the four pieces of subsidiary legislation, and thus the corresponding arrangements were adopted when stipulating the provisions for EPR in the Bill for each piece of subsidiary legislation. Nevertheless, in view of members' suggestion, to allow greater operational flexibility for the use of EPR, the Administration has proposed that reference of EPR in the context of different elections be made consistent across the four pieces of subsidiary legislation. As such, the relevant provisions are proposed to be amended to refer to "the FR electronic copy or extract" consistently.

133. Members have enquired, if the FR electronic copy is leaked and circulated on the Internet, whether a person would commit the offence under the proposed new section 111(1) of Cap. 541D if he/she has browsed the leaked information unknowingly. The Administration has explained that the elements of the offence under the proposed new section 111(1) include "obtains access to an FR electronic copy" and "without legal authority", and the meaning of "obtain access" is defined in the proposed new section 109. It further advises that in criminal prosecution cases, the prosecution would have to prove the existence of "*mens rea*", as well as "*actus reus*", i.e. the commission of the prohibited act (i.e. in this case, obtaining access without authority).

134. For the proposed offences of obtaining access to EPR without legal authority, damaging any data or information contained in EPR or otherwise tampering with EPR to make its operation defective as specified under the proposed new section 111(1) and (3) of Cap. 541D, some members have raised concerns on whether the penalty of imprisonment for two years is appropriate. The Administration has advised that since the use of EPR relates to electoral procedure, the relevant arrangement and legal provisions are stipulated in the four pieces of subsidiary legislation under Cap. 541. The aforesaid penalty of imprisonment for two years corresponds to section 7(5) of Cap. 541 which specifies the highest level of penalty that may be imposed by its subsidiary legislation. Furthermore, considering the nature and severity

of the relevant offence, and making reference to the offences and provisions on damaging other electronic records, the Administration is of the view that the proposed penalty of two years' imprisonment for the offences related to EPR is suitable and proportionate.

135. Members have also commented that for the description of EPR in section 110(1) of Cap. 541D, examples might be added to illustrate the phrase "to be stored on an electronic platform". The Administration has advised that the legislative intent of the relevant provision is to provide the legal basis for EAC to create and maintain EPR. The proposed provisions could allow a suitable degree of flexibility to take into account new technologies emerging in future which may be applicable to EPR. The Administration is of the view that the proposed provisions are sufficiently clear and could also take into account the operational needs and development of EPR in future, and therefore no amendments are required.

### **Enhancing the inspection and compilation of the registers of electors**

136. Members note that the Bill (see, for example, clauses 19, 23 and 29) also seeks to introduce a package of enhancement measures in relation to the inspection and compilation arrangement for the registers of electors. The Bill proposes the following enhancements:

- (a) Limiting inspection to "specified persons", i.e. the press, candidates and political parties only – The Administration proposes limiting inspection of Registers with "Linked Information" (i.e. the full names and principal residential addresses of registered individual electors) to the press subscribed to the Government News and Media Information System ("GNMIS") maintained by the Director of Information Services ("DIS"), validly nominated candidates and political parties only, while parts of the Registers containing only body electors would be unaffected and still be made available for public inspection;
- (b) Partially redacting all electors' particulars on the registers of electors – To better achieve the privacy protection aim, the Administration also proposes to partially redact all of the

individual electors' particulars on the registers of electors to be provided for inspection by specified persons<sup>24</sup>; and

- (c) Extending the requirement for address proof to all new VR applications – To counter-balance against the limitations arising from the measures in (a) and (b) above, the Administration proposes to extend the requirement to submit address proof, currently applicable only to change of particulars applications, to covering all new VR applications.

137. The enhanced arrangement of inspection and compilation of the registers of electors as set out at paragraph 136(a) to (c) above would be implemented on 1 May 2022, i.e. in the 2022 VR cycle and onwards.

138. While appreciating the policy intent to include *"a body or organization that is incorporated, or is registered or exempt from registration, under any law of Hong Kong and has publicly declared an intention to arrange for any person (including a person yet to be specified) to stand as a candidate at a coming election"* in the proposed definition of "specified person" under the proposed new section 10(5) of the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541A), members are concerned about the possible abuse of the arrangements since a body or organization may, out of an ulterior malicious motive for inspecting the registers of electors, declare a false intention to arrange for person(s) to stand as candidates at a coming election as such declarations are easy to be made. Members have questioned whether there is a need to tighten the scope of "specified persons".

139. The Administration has explained that once a declaration of an intention to stand as a candidate for an election has been made by a body or an organization, the relevant law and regulations governing electoral activities will forthwith be applicable to the body/organization. The Administration considers it necessary to cater for the need of persons (and the political parties they belong to) who seek candidature for the first time to inspect the registers of electors in order to reach out to electors for

---

<sup>24</sup> The Administration proposes to show only the first character/word of an elector's name (whether in Chinese or English) and his registered residential address in full. This would still allow persons scrutinizing the registers of electors to use the common method of identifying suspicious VR cases by spotting multiple surnames / large number of electors registered under the same address.

electioneering purpose. The Administration has further explained that with the proposed new section 10(3A) and other relevant provisions<sup>25</sup> of Cap. 541A to enhance personal data privacy protection, the information in the omissions list/registers of electors available for inspection by the specified persons would be quite limited as electors' personal particulars will be partially redacted. Moreover, the Electoral Registration Officer may require a person who wishes to inspect the omissions list/registers of electors to produce his/her identity document and sign a form under the proposed section 10(4) and other relevant provisions<sup>26</sup> of Cap. 541A. These would also provide additional safeguards against abuses.

140. Members note that paragraph (a) of the proposed definition of "specified person" in the proposed new section 20(7) of Cap. 541A refers to a person who is a subscriber to GNMIS maintained by DIS. Some members are concerned about the procedure for verifying the authenticity of a subscriber as a media organization.

141. The Administration has explained that in processing applications for subscription to GNMIS from media organizations (including on-line media), the Information Services Department ("ISD") will carefully assess the organization's profile and proof of news reporting activities. ISD also reserves the right to review and revoke a media organization's subscription to GNMIS should certain situations arise, such as when the media organization is no longer legally registered or no longer considered a mass news media organization.

### **Empowering Presiding Officers to set up a special queue for electors in need in public elections**

142. The Administration proposes in clauses 112, 163 and 204 of the Bill that a new provision be added in Cap. 541D to empower PRO to set up a special queue for electors in need, namely electors aged 70 or above, pregnant women, and persons who are unable to queue for a long time or have difficulty in queuing due to illness, injury, disability or dependence on mobility aids. In actual operation, these electors would be assigned to a priority queue for receiving the ballot papers. The Administration also proposes that the new provision be added in Cap. 541F and Cap. 541I to

---

<sup>25</sup> See also the proposed sections 13(4B) and 20(4B) of Cap. 541A.

<sup>26</sup> See also the proposed sections 13(5) and 20(5) of Cap. 541A.

align the arrangements across different public elections. For the avoidance of doubt, as an administrative measure, electoral staff (i.e. the ones working in polling stations) who are going to cast their votes may also join the priority queue upon presentation of a staff badge. In so doing, they would be able to vote as soon as possible and return to the station where they are assigned to discharge electoral duties thereafter.

143. Members in general have expressed support for the proposal of setting up special queues for electors in need in public elections. They have further suggested expanding the right to use priority queues at polling booths to persons aged below 70 who have physical difficulties to wait in queues.

144. The Administration has advised that the proposed amendments to Cap. 541D empower PROs to set up a priority queue for "*electors in need, namely electors whose age is 70 or above, pregnant women, and persons who are likely to suffer from severe physical pain or suffering when queuing to vote due to illness, injury or disability*". A person may appeal to PRO of a polling booth to demonstrate his/her physical need to use the priority queue.

145. Some members have enquired about the reason for setting the lower age limit at "not less than 70 years of age" while it is generally accepted in the community that persons aged over 65 are elderly as they are eligible for the Senior Citizen Card. The Administration has explained that if the minimum age limit for persons eligible to use the special queue is lowered to, say, 65, the number of potential users of the special queue would increase by more than 20%. As a result, the special queue may become ineffective which would undermine the legislative intent of setting it up.

146. Members have suggested specifying in the proposed new provision that persons accompanying electors in need may also queue up to vote through the special queue. The Administration has explained that according to the prevailing EAC Guidelines, only electors and designated/authorized persons are allowed entry into a polling station. Electors requiring assistance from others for entering a polling station may make a request to PRO for discretionary arrangements as appropriate. The Administration has also highlighted that, based on the principles of the autonomy of voting and secrecy of votes, the law prohibits anyone (even if he/she is an elector's relative or friend) from accompanying or assisting the elector to cast his/her vote. An elector



who has difficulty in marking the ballot paper by himself/herself may, in accordance with the law, ask PRO or the PRO's deputy to mark the ballot paper on his/her behalf according to his/her voting preference, in the presence of one polling staff as a witness. PROs have been allowed to exercise discretion, where appropriate, to allow accompanying persons to use the special queue together with electors who have a genuine need to be accompanied by others. If the legislation is further amended to allow all accompanying persons to use the special queue across the board, the special queue may become ineffective in terms of facilitating electors in need. REO will provide adequate guidelines and training to polling staff.

**Empowering the Chief Electoral Officer to require schools and non-governmental organizations receiving grants from the Government to make available their premises for use as polling station(s) and/or counting station(s) in public elections**

147. The Administration has advised that to ensure the securing of venues as polling stations that are most convenient to electors, the Administration recommends empowering CEO to require schools and NGOs receiving grants from the Government to make available their premises for use as polling station(s) and/or counting station(s) in public elections. Specifically, the Administration proposes to introduce legislative amendments to Cap. 541, Cap. 541D, Cap. 541F and Cap. 541I so as to:

- (a) enable CEO to require the owner or occupier of schools and buildings occupied by NGOs receiving grants from the Government to make available their premises as a polling station and/or a counting station in LegCo, DC and ECSS elections. As a matter of administrative arrangement, exceptions would be made of hospitals, clinics and places of worship;
- (b) allow persons authorized by CEO to conduct site visits, carry out preparatory work and store materials in the premises;
- (c) require CEO to pay the relevant owner or occupier a user fee for the period during which the premises are used as a polling station and/or a counting station; and
- (d) impose a financial penalty of \$10,000 (which would be recoverable as a civil debt due to the Government) against non-compliance.

Proposed financial penalty for non-compliance

148. Members consider that the financial penalty of \$10,000 proposed under the new section 28A(5) of Cap. 541D is grossly inadequate to achieve any deterrent effect. Some members have suggested that the Government should reduce the grants to those non-compliant schools and NGOs, or their management bodies, with warning letters issued to them for record purpose. If licences are required for the continuous operation of the management bodies concerned, members consider that relevant terms and conditions should be included in the licences to provide that their premises must be made available for use as polling and/or counting stations when required.

149. Some members have also suggested that for schools and NGOs which refuse to make available their premises and are required to pay the financial penalty, the Education Bureau and the Labour and Welfare Bureau should be notified with a view to taking appropriate actions, such as reducing the grants in the following year, against the organizations concerned.

150. In response to members' view that the originally proposed level of financial penalty (\$10,000) is not a sufficient deterrent, the Administration has proposed amendments to clauses 7(2), 102, 161 and 202 of the Bill so as to increase the proposed financial penalty to \$50,000 for enhancing the deterrent effect of the penalty.

151. On the other hand, members note that CEO shall pay to the occupier/owner a user fee if the occupier/owner complies with the requirements of CEO by making available the premises for use as a polling and/or counting station. Some members have criticized that the procedure for determining the user fee payable under the proposed section 28A(4) of Cap. 541D is rather clumsy. They suggest that the user fee payable should be calculated by a formula provided in law with all the parameters for calculation clearly specified, rather than relying on an agreement to be reached between CEO and the owner/occupier or, if an agreement cannot be reached, being determined by the court.

152. The Administration has explained that this is not a new arrangement and REO had communicated with venue owners in the past to determine the amount of user fee and no problems arose. If the two parties cannot reach an agreement on the amount of the user fee, the occupier/owner may apply to the court for a determination of the amount

of the user fee under the proposed section 28A(4)(b) of Cap. 541D. The Administration has advised that given the prevailing civil jurisdiction and procedure<sup>27</sup> are applicable to the above proceedings, it does not consider it necessary to specify these matters in the provisions.

153. In addition, having regard to members' views on the proposed new provisions concerning the user fee, the Administration also proposes to make appropriate amendments to the provisions to set out the arrangements more clearly.

154. Some members have suggested that the calculation of user fee should be specified in the provisions. The Administration has explained that given the different physical locations or settings of different premises, it is difficult to work out an objective formula for calculation. On the other hand, where no agreement can be reached on the amount of the user fee, the occupier/owner may apply to the court for a determination of the amount of the user fee in accordance with the proposed provisions, which already stipulate a reasonable basis for the court to determine the user fee with reference to the loss suffered by the owner/occupier.

155. Some members have suggested that the non-compliance with the requirement be specified as a criminal offence with the civil "financial penalty" to be changed to a "fine". The Administration has advised that some of the target premises are not registered as a corporation and imposing criminal liability on these bodies would further complicate the issue. Moreover, even if the failure to comply with the requirement is specified as a criminal offence and a fixed penalty is imposed, the Administration would still need to face the possibility that some bodies would refuse to pay the penalty. With reference to other legislation, the Administration would need to draft provisions for these situations to set out in detail the manner and procedures for recovering the fixed penalty. The drafting process and enforcement may not be simpler than the current proposal. The Administration has explained that the proposed financial penalty is intended to reduce the difficulty of REO in borrowing venues for use as polling/counting stations, rather than a punitive arrangement. In fact, the Administration envisages that only a small number of cases may warrant the consideration for recovering the financial penalty

---

<sup>27</sup> Claims up to \$75,000 will be dealt with in the Small Claims Tribunal; claims more than \$75,000 but not more than \$3,000,000 will be dealt with in the District Court; and claims more than \$3,000,000 will be dealt with in the CFI of the High Court.

following the introduction of the new requirements. The Administration considers it appropriate and proportionate to continue to impose the financial penalty as a civil debt.

156. Some members have enquired whether the owner or occupier of the targeted premises, who genuinely believe that their premises are unsuitable for use as polling and/or counting stations, would be given opportunities to make representation to CEO. The Administration has explained that under the proposed new section 28A(1)(a) of Cap. 541D, the authorized person would carry out a site visit to ascertain from the owner/occupier whether they have any difficulties in making their premises available, and if he/she finds that the premises are not suitable for use as a polling station or counting station, the owner or occupier would not be required to make the premises available.

157. The Administration has further explained that, if proceedings are commenced in the Small Claims Tribunal ("SCT") to recover a financial penalty, and any party to the proceedings is not satisfied with the order or judgment of the adjudicator, the party may apply to SCT for review or to CFI for leave to appeal. However, the proposed new section 28A of Cap. 541D does not provide what would constitute a defence for the purposes of any civil proceedings to recover the financial penalty, or stipulate any substantive grounds for the review of or appeal against the SCT adjudicator's order or judgment thereon. The Legal Adviser to the Bills Committee has referred members to section 45C(3) of the Mandatory Provident Fund Schemes Ordinance (Cap. 485) which provides that in proceedings to recover a financial penalty for failing to perform a duty or to comply with a requirement or standard, it is a defence that it was not reasonably practicable to perform the duty, or to comply with the requirement or standard, to which the proceedings relate.

158. Upon enquiry by the Legal Adviser to the Bills Committee, the Administration has confirmed that the proposed section 28A of Cap. 541D as drafted does not provide expressly for any statutory defence to the financial penalty, and that the review or appeal against its imposition would be based on whether the non-compliance was substantiated or not.

159. The proposed section 28A(7) of Cap. 541D, the proposed section 31A(7) of Cap. 541F and the proposed section 28A(7) of Cap. 541I seek to define, among others, "owner" as a person who appears to be "the owner of the land on which the premises situate". Considering the suggestion from the Legal Adviser to the Bills Committee, the

Administration has proposed that the definition of "owner" be revised as "the owner of the land on which the premises are situated" in relevant sections.

**Lifting the requirement of withholding financial assistance payable until disposal of election petitions arising from Legislative Council and District Council elections**

160. Members note that the Bill also proposes to lift the requirement to withhold FA payable until disposal of EPs. The Administration has explained that the rationale behind the proposal is to strike a balance between the prudent use of public money and the policy intent of the FA scheme which is to encourage public-spirited candidates to take part in LegCo and DC elections and cultivate an environment to facilitate the development of potential talents in Hong Kong for both LegCo and DC elections. Clauses 326 and 360 of the Bill include proposed amendments to Cap. 542 and the District Councils Ordinance (Cap. 547) respectively to give effect to this proposal. Members have raised no objection to the proposal.

**PROPOSED AMENDMENTS TO THE BILL**

161. Members in general have expressed support for the Administration's proposed amendments as elaborated in paragraphs 29, 50, 63, 68-72, 78, 85, 86, 93-94, 97-99, 104, 132, 150 and 159. Moreover, the Administration proposes various textual and technical amendments to the Bill, including those in response to concerns raised by members and the Legal Adviser to the Bills Committee. The Bills Committee will not propose any amendment to the Bill.

**RESUMPTION OF SECOND READING DEBATE**

162. Subject to the moving of the proposed amendments by the Administration referred to above, the Bills Committee supports the resumption of the Second Reading debate on the Bill at the Council meeting of 26 May 2021.

## **SUBMISSIONS AND MEMBERS' LETTERS**

163. In the course of its scrutiny process, the Bills Committee has received submissions made by members of the public and letters from Members (including Bills Committee members and non-Bills Committee Members) expressing views or raising enquiries on the content of the Bill. All these submissions and letters have been referred to the Administration for written responses. The submissions and letters as well as the Administration's written responses are at **Appendix VIII**.

## **MISCELLANEOUS**

164. The Bill proposes amending eight principal Ordinances and 24 items of subsidiary legislation. The Bill covers many different areas and comprises a total of 464 clauses with a large volume of proposed amendments. In order to ensure that the clause-by-clause examination of the Bill be conducted in an efficient manner, the Chairman of the Bills Committee has suggested adopting a new approach, i.e. to divide the clauses of the Bill into categories based on the 10-plus areas involved in the Bill, and examine the clauses covered in each of these categories. The Bills Committee has adopted this approach in the clause-by-clause examination of the Bill and the scrutiny of the amendments to the Bill proposed by the Administrations. The Bills Committee finds this approach very useful in enhancing the efficiency of the clause-by-clause examination and ensuring a smooth scrutiny process. The Bills Committee recommends that this approach be considered by other bills committees for adoption when scrutinizing complex bills in the future.

## **CONSULTATION WITH THE HOUSE COMMITTEE**

165. The Bills Committee reported its deliberations to HC on 7 May 2021.

## **ADVICE SOUGHT**

166. Members are invited to note the deliberations of the Bills Committee and the Subcommittee.

**LC Paper No. CB(4)679/20-21(02)**

**China adopts decision to improve Hong Kong electoral system**

(Article issued by Xinhua on March 11, 2021)

The National People's Congress (NPC), China's top legislature, on Thursday adopted a decision on improving the electoral system of the Hong Kong Special Administrative Region (HKSAR).

The decision was passed by an overwhelming majority vote at the fourth session of the 13th NPC.

The decision is another major step taken by the state to improve the HKSAR's legal and political systems since the Law on Safeguarding National Security in the HKSAR was adopted in June 2020.

While deliberating a draft of the decision, the NPC session was of the view that the return of Hong Kong to the motherland put the region once again under the overall governance system of the country, and China's Constitution and the Basic Law of the HKSAR jointly form the constitutional basis of the HKSAR.

The electoral system of the HKSAR, which includes the methods for the selection of the Chief Executive and for the formation of the Legislative Council (LegCo), is an important part of the political structure of the HKSAR, according to the session.

The electoral system should conform to the policy of "one country, two systems," meet the realities in the HKSAR and serve to ensure that Hong Kong is administered by people who love the country and love Hong Kong, according to the session.

The electoral system should be conducive to safeguarding China's national sovereignty, security, and development interests and help maintain the long-term prosperity and stability of Hong Kong, according to the session.

The NPC made the decision for the purpose of improving the electoral system of the HKSAR and developing a democratic system suited to the HKSAR's realities, in accordance with China's Constitution, the HKSAR Basic Law and the Law on Safeguarding National Security in the HKSAR.

The decision has nine articles:

- Improving the electoral system of the HKSAR must fully and faithfully implement the policy of "one country, two systems" under which the people of Hong Kong administer Hong Kong with a high degree of autonomy, uphold the constitutional order in the HKSAR as established by the Constitution and the Basic Law, ensure the administration of Hong Kong by Hong Kong people with patriots as the main body, effectively improve the governance efficacy of the HKSAR, and safeguard the right to vote and the right to stand for election of permanent residents of the HKSAR.
- The HKSAR shall establish an Election Committee which is broadly representative, suited to the HKSAR's realities, and representative of the overall interests of its society. The Election Committee shall be responsible for electing the Chief Executive designate and part of the members of the LegCo. The Election Committee shall also be responsible for nominating candidates for the Chief Executive and LegCo members, as well as for other matters. The Election Committee shall be composed of 1,500 members from the following five sectors: industrial, commercial and financial sectors; the professions; grassroots, labour, religious and other sectors; LegCo members and representatives of district organizations; Hong Kong deputies to the NPC, Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference and representatives of Hong Kong members of related national organizations.



- The Chief Executive shall be elected by the Election Committee and appointed by the Central People's Government. Candidates for the office of the Chief Executive shall be nominated jointly by not less than 188 members of the Election Committee, among whom the number of members of each sector should be not less than 15. The Election Committee shall elect the Chief Executive designate by secret ballot on a one-person-one-vote basis. The election of the Chief Executive designate shall require a simple majority vote of all the members of the Election Committee.
- The LegCo of the HKSAR shall be composed of 90 members in each term. Members of the LegCo shall include members returned by the Election Committee, those returned by functional constituencies, and those by geographical constituencies through direct elections.
- A candidate qualification review committee of the HKSAR shall be established. The committee shall be responsible for reviewing and confirming the qualifications of candidates for the Election Committee members, the Chief Executive, and the LegCo members. The HKSAR shall improve the system and mechanisms related to qualification review, to ensure that the qualifications of candidates are in conformity with the Basic Law, the Law on Safeguarding National Security in the HKSAR, the NPC Standing Committee's interpretation of Article 104 of the Basic Law, the NPC Standing Committee's decision on the qualification of HKSAR LegCo members, and provisions of relevant local laws of the HKSAR.
- The NPC Standing Committee is authorized to, in accordance with the decision on improving the electoral system of the HKSAR, amend Annex I: Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region and Annex II: Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures, to the Basic Law.

- In accordance with the decision and the Basic Law's Annex I and Annex II amended by the NPC Standing Committee, the HKSAR shall amend relevant local laws, and organize and regulate election activities accordingly.
- The Chief Executive of the HKSAR shall submit in a timely manner reports to the Central People's Government on relevant important situations including the institutional arrangements for elections of the HKSAR and the organization of the elections.
- The decision shall go into effect as of the date of promulgation.

Source:

<http://www.npc.gov.cn/englishnpc/c23934/202103/8343acdf80ba4a8c898441ff89770398.shtml>

## Annex I

**Method for the Selection of the Chief Executive of the  
Hong Kong Special Administrative Region**

(Adopted at the Third Session of the Seventh National People's Congress on 4 April 1990, amended, as approved at the Sixteenth Meeting of the Standing Committee of the Eleventh National People's Congress on 28 August 2010, and amended at the Twenty-Seventh Meeting of the Standing Committee of the Thirteenth National People's Congress on 30 March 2021)

1. The Chief Executive shall be elected in accordance with this Law by an Election Committee which is broadly representative, suited to the actual situation of the Hong Kong Special Administrative Region (HKSAR), and represents the overall interests of society, and shall be appointed by the Central People's Government.

2. The Election Committee shall be composed of 1,500 members from the following sectors:

First Sector: Industrial, commercial and financial sectors	300
Second Sector: The professions	300
Third Sector: Grassroots, labour, religious and other sectors	300
Fourth Sector: Members of the Legislative Council, representatives of district organisations and other organisations	300
Fifth Sector: HKSAR deputies to the National People's Congress (NPC), HKSAR members of the National Committee of the Chinese People's Political Consultative Conference (CPPCC), and representatives of Hong Kong members of	300

relevant national organisations

Members of the Election Committee must be permanent residents of the HKSAR.

The term of office of the Election Committee shall be five years.

3. The delimitation of and the number of seats allocated to each sector of the Election Committee are as follows:

The First Sector shall be composed of the following 18 subsectors:

Industrial (first)	17
Industrial (second)	17
Textiles and garment	17
Commercial (first)	17
Commercial (second)	17
Commercial (third)	17
Finance	17
Financial services	17
Insurance	17
Real estate and construction	17
Transport	17
Import and export	17
Tourism	17
Hotel	16
Catering	16
Wholesale and retail	17
Employers' Federation of Hong Kong	15
Small and medium enterprises	15

The Second Sector shall be composed of the following 10 subsectors:

Technology and innovation	30
Engineering	30
Architectural, surveying, planning and landscape	30

Accountancy	30
Legal	30
Education	30
Sports, performing arts, culture and publication	30
Medical and health services	30
Chinese medicine	30
Social welfare	30

The Third Sector shall be composed of the following five subsectors:

Agriculture and fisheries	60
Labour	60
Grassroots associations	60
Associations of Chinese fellow townsmen	60
Religious	60

The Fourth Sector shall be composed of the following five subsectors:

Members of the Legislative Council	90
Heung Yee Kuk	27
Representatives of members of Area Committees, District Fight Crime Committees, and District Fire Safety Committees of Hong Kong Island and Kowloon	76
Representatives of members of Area Committees, District Fight Crime Committees, and District Fire Safety Committees of the New Territories	80
Representatives of associations of Hong Kong residents in the Mainland	27

The Fifth Sector shall be composed of the following two subsectors:

HKSAR deputies to the NPC and HKSAR members of the CPPCC National Committee	190
Representatives of Hong Kong members of relevant national organisations	110

4. The Election Committee shall be constituted in the following manner:

- (1) HKSAR deputies to the NPC, HKSAR members of the CPPCC National Committee, Hong Kong members of the Committee for the Basic Law of the HKSAR under the NPC Standing Committee, members of the Legislative Council, university presidents or chairpersons of the board of governors or the council of universities, and responsible persons of statutory bodies, advisory bodies and relevant associations of the subsectors of engineering (15), architectural, surveying, planning and landscape (15), education (5), medical and health services (15) and social welfare (15) shall be Election Committee members of the corresponding subsectors.

An HKSAR deputy to the NPC or an HKSAR member of the CPPCC National Committee may choose to register as an Election Committee member in a subsector other than one in the Fifth Sector with which he or she has a substantial connection. If an HKSAR deputy to the NPC or an HKSAR member of the CPPCC National Committee is registered as an Election Committee member in a subsector other than one in the Fifth Sector, his or her seat shall be counted as one in that subsector and the number of members to be returned by that subsector in accordance with paragraph (3) of this subsection shall be reduced accordingly. After the registration of HKSAR deputies to the NPC and HKSAR members of the CPPCC National Committee as Election Committee members of the relevant subsectors, the number of members to be returned by those subsectors in accordance with paragraphs (1), (2) and (3) of this subsection, as determined by the provision in this sub-paragraph, shall remain unchanged within the term of office of the Election Committee.

(2) Election Committee members of the religious subsector shall be nominated;

15 members of the technology and innovation subsector shall be nominated from among Hong Kong academicians of the Chinese Academy of Sciences and the Chinese Academy of Engineering;

15 members of the accountancy subsector shall be nominated from among Hong Kong Accounting Advisors appointed by the Ministry of Finance;

9 members of the legal subsector shall be nominated from among Hong Kong members of the Council of the China Law Society;

15 members of the sports, performing arts, culture and publication subsector shall be nominated respectively by the Sports Federation and Olympic Committee of Hong Kong, China, China Federation of Literary and Art Circles Hong Kong Member Association and Hong Kong Publishing Federation;

15 members of the Chinese medicine subsector shall be nominated from among Hong Kong members of the Council of the World Federation of Chinese Medicine Societies; and

The 27 members of the subsector of representatives of associations of Hong Kong residents in the Mainland shall be nominated by such associations.

(3) Election Committee members of a subsector, except for those

specified in paragraphs (1) and (2) of this subsection, shall be elected by eligible corporate voters for the corresponding subsector. Eligible corporate voters for subsectors shall be composed of institutions, organisations, associations or enterprises which are representative and specified by law. Unless specified in the electoral law of the HKSAR, an association or enterprise may become a corporate voter for a subsector only if it has been operating for not less than three years after acquiring relevant qualifications for that subsector. Election Committee members of subsectors -- the Heung Yee Kuk, representatives of members of Area Committees, District Fight Crime Committees, and District Fire Safety Committees of Hong Kong Island and Kowloon, and representatives of members of Area Committees, District Fight Crime Committees, and District Fire Safety Committees of the New Territories in the Fourth Sector and representatives of Hong Kong members of relevant national organisations in the Fifth Sector may be elected by individual voters. A candidate for Election Committee member of a subsector shall be nominated by five voters for the subsector. The number of candidates each voter for a subsector may nominate shall not exceed the number of seats allocated to the subsector. Voters for a subsector of the Election Committee shall elect Election Committee members of that subsector from the list of nominations by secret ballot.

The specific method for returning the Election Committee members referred to in the preceding subsection, including the definition of statutory bodies, advisory bodies, relevant associations and eligible corporate voters for relevant subsectors, the method for nomination of candidates and the method for voting shall be prescribed by the electoral law of the HKSAR.



5. There shall be a system of conveners for the Election Committee. The conveners shall be responsible for convening meetings of the Election Committee as necessary and handle relevant matters. A chief convener shall be an Election Committee member who holds an office of state leadership. The chief convener shall designate a number of conveners for each sector of the Election Committee.

6. A candidate for the office of Chief Executive shall be nominated by not less than 188 members of the Election Committee, with not less than 15 members from each of the five sectors. Each Election Committee member may nominate one candidate only.

7. The Election Committee shall elect the Chief Executive designate from the list of nominations by secret ballot on a one-person-one-vote basis. The Chief Executive designate must obtain more than 750 votes. The specific election method shall be prescribed by the electoral law of the HKSAR.

8. The Candidate Eligibility Review Committee of the HKSAR shall be responsible for reviewing and confirming the eligibility of candidates for Election Committee members and for the office of Chief Executive. The Committee for Safeguarding National Security of the HKSAR shall, on the basis of the review by the department for safeguarding national security of the Police Force of the HKSAR, make findings as to whether a candidate for Election Committee member or for the office of Chief Executive meets the legal requirements and conditions of upholding the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and swearing allegiance to the Hong Kong Special Administrative Region of the People's Republic of China, and issue an opinion to the Candidate Eligibility Review Committee of the HKSAR in respect of a candidate who fails to meet such legal requirements and conditions.

No legal proceedings may be instituted in respect of a decision made by the Candidate Eligibility Review Committee of the HKSAR on the eligibility of a candidate for Election Committee member or for the office of Chief Executive pursuant to the opinion of the Committee for Safeguarding National Security of the HKSAR.

9. The HKSAR shall, in accordance with the law, take measures against acts of manipulating or undermining election.

10. The NPC Standing Committee exercises in accordance with the law the power to amend this Method. Prior to making any amendment, the NPC Standing Committee shall solicit views of various sectors of Hong Kong by appropriate means.

11. The term of office of the Election Committee constituted under the Method previously in force shall terminate upon the commencement of term of office of the Election Committee constituted under this Method.

12. This Method shall come into force on 31 March 2021. Annex I and its amendment previously in force shall cease to apply.

(Translation for information)

Source: <http://www.xinhuanet.com/english/download/2021-3-30/AnnexI.pdf>

**Annex II**

**Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures**

(Adopted at the Third Session of the Seventh National People's Congress on 4 April 1990, amended, as recorded at the Sixteenth Meeting of the Standing Committee of the Eleventh National People's Congress on 28 August 2010, and amended at the Twenty-Seventh Meeting of the Standing Committee of the Thirteenth National People's Congress on 30 March 2021)

1. The Legislative Council of the Hong Kong Special Administrative Region (HKSAR) shall be composed of 90 members for each term. The composition of the Legislative Council shall be as follows:

Members returned by the Election Committee	40
Members returned by functional constituencies	30
Members returned by geographical constituencies through direct elections	20

The above-mentioned Election Committee refers to the one provided for in Annex I to this Law.

2. Candidates for members of the Legislative Council returned by the Election Committee shall be nominated by at least 10 but no more than 20 members of the Election Committee, with at least 2 but no more than 4 members from each sector. Any eligible voter in an election of the Legislative Council may be nominated as a candidate. Each Election Committee member may nominate one candidate only.

The Election Committee shall elect members of the Legislative Council from the list of nominations by secret ballot. A ballot paper is valid only if the number of candidates voted for is equal to the number of

members of the Legislative Council to be returned. The 40 candidates who obtain the highest numbers of votes shall be elected.

3. There shall be 28 functional constituencies for election of members of the Legislative Council:

Agriculture and fisheries

Heung Yee Kuk

Industrial (first)

Industrial (second)

Textiles and garment

Commercial (first)

Commercial (second)

Commercial (third)

Finance

Financial services

Insurance

Real estate and construction

Transport

Import and export

Tourism

Catering

Wholesale and retail

Technology and innovation

Engineering

Architectural, surveying, planning and landscape

Accountancy

Legal

Education

Sports, performing arts, culture and publication

Medical and health services

Social welfare

Labour

HKSAR deputies to the National People's Congress (NPC),

HKSAR members of the National Committee of the Chinese People's Political Consultative Conference (CPPCC), and representatives of relevant national organisations

Three members shall be returned by the labour functional constituency, and one member shall be returned by each of the other functional constituencies.

Members of the Legislative Council returned by the following functional constituencies shall be elected by individual voters:

Heung Yee Kuk

Engineering

Architectural, surveying, planning and landscape

Accountancy

Legal

Education

Medical and health services

Social welfare

HKSAR deputies to the NPC, HKSAR members of the CPPCC

National Committee and representatives of relevant national organisations

Members of the Legislative Council returned by the other functional constituencies shall be elected by eligible corporate voters. Eligible corporate voters for functional constituencies shall be composed of institutions, organisations, associations or enterprises which are representative and specified by law. Unless specified in the electoral law of the HKSAR, an association or enterprise may become a corporate voter for a functional constituency only if it has been operating for not less than three years after acquiring relevant qualifications for that functional constituency.

A candidate for a functional constituency shall be nominated by at least 10 but no more than 20 voters for the functional constituency as

well as at least 2 but no more than 4 members from each sector of the Election Committee. Each Election Committee member may nominate one candidate only for the election of members of the Legislative Council returned by functional constituencies.

Voters for a functional constituency shall elect Legislative Council member for that functional constituency from the list of nominations by secret ballot.

The delimitation of corporate bodies and the definition of eligible corporate voters for functional constituencies, and the election method shall be prescribed by the electoral law of the HKSAR.

4. There shall be 10 geographical constituencies for returning members of the Legislative Council through direct elections. Two members shall be returned by each geographical constituency.

A candidate for a geographical constituency shall be nominated by at least 100 but no more than 200 voters for the geographical constituency as well as at least 2 but no more than 4 members from each sector of the Election Committee. Each Election Committee member may nominate one candidate only for direct election of members of the Legislative Council returned by geographical constituencies.

For each geographical constituency, a voter may vote for one candidate on the list of nominations by secret ballot. The two candidates who obtain the highest numbers of votes shall be elected.

The delineation of geographical constituencies and the voting method shall be prescribed by the electoral law of the HKSAR.

5. The Candidate Eligibility Review Committee of the HKSAR shall be responsible for reviewing and confirming the eligibility of candidates

for members of the Legislative Council. The Committee for Safeguarding National Security of the HKSAR shall, on the basis of the review by the department for safeguarding national security of the Police Force of the HKSAR, make findings as to whether a candidate for member of the Legislative Council meets the legal requirements and conditions of upholding the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and swearing allegiance to the Hong Kong Special Administrative Region of the People's Republic of China, and issue an opinion to the Candidate Eligibility Review Committee of the HKSAR in respect of a candidate who fails to meet such legal requirements and conditions.

No legal proceedings may be instituted in respect of a decision made by the Candidate Eligibility Review Committee of the HKSAR on the eligibility of a candidate for member of the Legislative Council pursuant to the opinion of the Committee for Safeguarding National Security of the HKSAR.

6. The HKSAR shall, in accordance with the law, take measures against acts of manipulating or undermining election.

7. Unless otherwise provided for in this Law, the Legislative Council shall adopt the following procedures for voting on bills and motions:

The passage of bills introduced by the government shall require a simple majority of votes of the members of the Legislative Council present.

The passage of motions, bills or amendments to government bills introduced by individual members of the Legislative Council shall require a simple majority of votes of each of the two groups of members present, i.e. members returned by the Election Committee, and those returned by functional constituencies and by geographical constituencies through direct elections.

8. The NPC Standing Committee exercises in accordance with the law the power to amend this Method and the procedures for voting on bills and motions. Prior to making any amendment, the NPC Standing Committee shall solicit views of various sectors of Hong Kong by appropriate means.

9. This Method and the procedures for voting on bills and motions shall come into force on 31 March 2021. Annex II and its amendment previously in force shall cease to apply.

(Translation for information)

Source: <http://www.xinhuanet.com/english/download/2021-3-30/AnnexII.pdf>



**Subcommittee on Decision of the National People's Congress on Improving  
the Electoral System of the Hong Kong Special Administrative Region**

**Membership list**

**Chairman** Hon Martin LIAO Cheung-kong, GBS, JP

**Deputy Chairman** Hon CHEUNG Kwok-kwan, JP

**Members** Hon Tommy CHEUNG Yu-yan, GBS, JP  
Hon CHAN Hak-kan, BBS, JP  
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP  
Hon WONG Kwok-kin, SBS, JP  
Hon Mrs Regina IP LAU Suk-yee, GBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon Frankie YICK Chi-ming, SBS, JP  
Hon MA Fung-kwok, GBS, JP  
Hon Alice MAK Mei-kuen, BBS, JP  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon Wilson OR Chong-shing, MH  
Dr Hon CHENG Chung-tai

(Total : 14 members)

**Clerk** Ms Joanne MAK

**Legal Advisers** Mr Bonny LOO  
Ms Clara WONG

**Date** 26 March 2021

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

**Membership list**

<b>Chairman</b>	Hon Martin LIAO Cheung-kong, GBS, JP
<b>Deputy Chairman</b>	Hon CHEUNG Kwok-kwan, JP
<b>Members</b>	Hon Tommy CHEUNG Yu-yan, GBS, JP Hon CHAN Hak-kan, BBS, JP Dr Hon Priscilla LEUNG Mei-fun, SBS, JP Hon WONG Kwok-kin, SBS, JP Hon Mrs Regina IP LAU Suk-yee, GBS, JP Hon Paul TSE Wai-chun, JP Hon Frankie YICK Chi-ming, SBS, JP Hon MA Fung-kwok, GBS, JP Hon Alice MAK Mei-kuen, BBS, JP Ir Dr Hon LO Wai-kwok, SBS, MH, JP Hon Wilson OR Chong-shing, MH Dr Hon CHENG Chung-tai  (Total : 14 members)
<b>Clerks</b>	Ms Joanne MAK Mr Lemuel WOO
<b>Legal Advisers</b>	Mr Bonny LOO Ms Clara WONG
<b>Date</b>	16 April 2021

**Detailed arrangements for each EC member  
to subscribe nomination forms using different capacities**

<b>Constituency</b>	<b>As a EC member</b>	<b>As a GC/ a FC elector</b>	<b>Maximum number of forms that a EC member may subscribe in different capacities</b>
GC	In any GC: 1	In his/her own GC: 1	2 <sup>1</sup>
FC	In any FC: 1	In his/her own FC: 1 (Labour FC: 3)	2 <sup>2</sup> (If the EC member is an elector in the Labour FC: 4)
EC constituency ("ECC")	1		1

Source : Paper provided by the Constitutional and Mainland Affairs Bureau  
(LC Paper No. CB(4)912/20-21(01) )

<sup>1</sup> Specifically, an EC Member can nominate one candidate as a GC elector in the GC that he/she belongs to, and nominate another candidate as an EC member in either the GC that he/she belongs to or in any other GC. Meanwhile, an EC member can also choose to nominate the same candidate in the same nomination form in the GC that he/she belongs to, both as an EC member and as a GC elector.

<sup>2</sup> Specifically, an EC Member can nominate one candidate as an FC elector in the FC that he/she belongs to (if he/she is an elector in the Labour FC, he/she can nominate up to three persons), and nominate another candidate as an EC member in either the FC that he/she belongs to or in any other FC. Meanwhile, an EC member can also choose to nominate the same candidate in the same nomination form in the FC that he/she belongs to, both as an EC member and as an FC elector.

X X X X X X X X

Special VR arrangements for 2021

50. Due to the major changes in composition of ECSSs and FCs, we need to make special arrangements to allow newly eligible and affected voters/electors to handle their VR matters. We will specify 5 July 2021 as a special VR deadline, allowing individuals and bodies who are eligible to register in the ECSSs and FCs which are newly created or whose registration eligibilities have been revised, as well as the voters/electors who are no longer eligible to register in and omitted from their original ECSSs/FCs, but eligible to register in other ECSSs/FCs, to submit VR applications.

51. The individuals and bodies who are eligible to submit VR applications by the special VR deadline of 5 July 2021 are set out in the table below:

Category	Individuals and bodies eligible to submit VR applications by the special VR deadline
(a) EC ex-officio members	All individuals who are eligible to register as EC ex-officio members should submit application forms.
(b) ECSS	Since the composition of the EC will be re-constituted, individuals and bodies who meet the registration eligibilities for ECSS (whether they are existing voters or not) should submit VR applications, and/or relevant documentation and proof, before they will be included in the 2021 ECSS PR.
(c) FC	(i) All existing electors who are no longer eligible to register in and omitted from their original FCs may apply to register in other FCs they are eligible for (if applicable); (ii) All individuals and bodies who are eligible to register in the three newly created FCs <sup>15</sup> (whether they are existing electors or not); and

<sup>15</sup> The three newly created FCs are –

- (i) Commercial (third) FC (*Body electors only*);
- (ii) Technology and Innovation FC (*Body electors only*); and
- (iii) HKSAR deputies to the NPC, HKSAR members of the National Committee of the CPPCC, and representatives of relevant national organisations FC (*Individual electors only*).

	(iii) All individuals and bodies eligible to register in six FCs with revised registration eligibilities <sup>16</sup> (whether they are existing electors or not).
(d) GC	<p>In general, the special VR deadline does not apply to VR applications for GC, except for the following who may submit such VR applications:</p> <p>(i) Individuals eligible to register as EC ex-officio members;</p> <p>(ii) Individuals eligible to register as ECSS voters<sup>17</sup>;</p> <p>(iii) Individuals eligible to register in FCs which are newly created or whose registration eligibilities have been revised (see items (c)(ii) and (iii) above); and</p> <p>(iv) Individuals appointed by eligible body voters/electors as their authorized representatives.</p>

### Arrangement to omit existing electors who are no longer eligible in 2021

52. Apart from including the voters and electors who meet the new registration eligibilities, we also need to make special arrangements to omit the existing electors and voters who are no longer eligible, so as to compile the registers of electors afresh. The said arrangements are summarised below:

---

<sup>16</sup> The six FCs are –

- (i) Agriculture and fisheries FC (*Body electors only*);
- (ii) Transport FC (*Body electors only*);
- (iii) Tourism FC (*Body electors only*);
- (iv) Catering FC (*Body electors only*);
- (v) Sports, Performing Arts, Culture and Publication FC (*Body electors only*); and
- (vi) Medical and Health Services FC (*Individual electors only*).

<sup>17</sup> Four ECSSs will comprise individual voters:

- (i) HYK subsector in the Fourth Sector;
- (ii) Representatives of members of Area Committees, District Fight Crime Committees, and District Fire Safety Committees of Hong Kong Island and Kowloon subsector in the Fourth Sector;
- (iii) Representatives of members of Area Committees, District Fight Crime Committees, and District Fire Safety Committees of the New Territories subsector in the Fourth Sector; and
- (iv) Representatives of Hong Kong members of relevant national organisations subsector in the Fifth Sector.

Category	Arrangement in 2021
(a) Existing FC electors who are no longer eligible <i>[Except those in category (c) below]</i>	As per established procedures, these FC electors would be included in the inquiry process. If they meet other registration eligibilities, these electors may submit VR applications and/or relevant documentation and proof. Otherwise, they will be included in the OL.
(b) All existing ECSS voters <i>[Except those in category (c) below]</i>	As the ECSS has been reconstituted, individuals and bodies who are eligible to register as ECSS voters should submit VR applications and/or relevant documentation and proof. As a special arrangement, all of the existing voters will be included directly into the OL without going through the process of issuing inquiry letters.
(c) Existing voters/electors registered in ECSSs/FCs to be deleted <sup>18</sup>	Since the ECSSs/FCs concerned will be deleted, as a special arrangement, the relevant existing electors and voters will be directly removed from the registers of electors without going through the process of issuing inquiry letters. They will be included into neither the OL nor the PR.

### Timing of publication of the registers of electors in 2021

53. Given the heavy workload and time constraints in conducting the VR work, taking into account the operational concerns, the ECSS and GC/FC registers of electors will be published separately. The ECSS PR, OL and FR will be published in July to August 2021, while the relevant registers of electors for GC/FC will be published in September to October 2021.

### Arrangement for claims and objections

54. After compiling the PR and OL, in accordance with established procedures, we will provide for a claims and objections period so that electors may lodge claims and objections with regard to the PR, which would then be reflected in the FR after being considered and approved by the Revising Officer. Similar to the other items above, special arrangements would also be made for the claims and objections period. In addition, all claims and

<sup>18</sup> The three ECSSs to be deleted are (i) HK & Kowloon DCs, (ii) NT DCs and (iii) Information Technology, while the three FCs to be deleted are (i) DC(first), (ii) DC(second), and (ii) Information Technology.

objections relating to the ECSS, FC and GC in 2021 will be considered by the Revising Officer on the basis of written submissions only. No hearings will be arranged.

The regular VR cycle from 2022 and onwards

55. At present, two sets of VR procedures and deadlines applicable to DC election years and non-DC election years are prescribed in the electoral laws. The relevant arrangements were originally intended to ensure that the registers of electors in the years concerned were published closer to the DC Ordinary Election usually held in November and the LCGE usually held in September, such that the relevant VR particulars would be more accurate and up-to-date.

56. After the improvements to the electoral system are implemented, the three public elections, namely the ECSS, LegCo and DC elections, will all be held in the vicinity of November and December. As such, there is no need to specify two sets of VR procedures and deadline. Instead, we may adopt the existing arrangement for DC election years as the regular VR procedures and deadlines to be implemented from 2022 and onwards. It is worth noting that, instead of the existing arrangement in specifying two different deadlines for new registration and change of particulars applications, in the newly specified regular VR procedures, the two will come under the same deadline. See Part (L) for further elaboration on the reason.

X X X X X X X X

Extracted from Legislative Council Brief (File Ref: CMAB C1/30/5/5)

**Submissions from members of the public,  
Members' letters and the Administration's written responses**

Submissions from members of the public (Appendix VIII(a))

1. Submission dated 14 April 2021 from 陳先生  
[LC Paper No. CB(4)847/20-21(01)]
2. Submission dated 14 April 2021 from Cyberport Startup Alumni Association  
[LC Paper No. CB(4)865/20-21(01)]
3. Submission dated 27 April 2021 from the Council of Hong Kong Indian Associations  
[LC Paper No. CB(4)922/20-21(01)]
4. Submission dated 28 April 2021 from 李明佩  
[LC Paper No. CB(4)910/20-21(01)]

Letters from Members (Appendix VIII(b))

1. Letter dated 12 April 2021 from Hon Christopher CHEUNG  
[LC Paper No. CB(4)791/20-21(01)]
2. Letter dated 20 April 2021 from Hon Abraham SHEK  
[LC Paper No. CB(4)862/20-21(01)]
3. Letter dated 23 April 2021 from Hon Alice MAK  
[LC Paper No. CB(4)883/20-21(01)]
4. Letter dated 26 April 2021 from Hon CHAN Hak-kan  
[LC Paper No. CB(4)889/20-21(01)]
5. Joint letter dated 28 April 2021 from 38 Members  
[LC Paper No. CB(4)901/20-21(01)]
6. Joint letter dated 28 April 2021 from 38 Members  
[LC Paper No. CB(4)901/20-21(02)]
7. Letter dated 29 April 2021 from Dr Hon Priscilla LEUNG  
[LC Paper No. CB(4)911/20-21(01)]
8. Joint letter dated 30 April 2021 from 12 Bills Committee members  
[LC Paper No. CB(4)925/20-21(01)]

Administration's written responses (Appendix VIII(c))

1. Administration's combined response to submission from 陳先生 and submission from Cyberport Startup Alumni Association  
[LC Paper No. CB(4)918/20-21(01)]
2. Administration's response to submission from 李明佩  
[LC Paper No. CB(4)929/20-21(01)]
3. Administration's response to submission from the Council of Hong Kong Indian Associations  
[LC Paper No. CB(4)949/20-21(01)]
4. Administration's response to the letter dated 12 April 2021 from Hon Christopher CHEUNG  
[LC Paper No. CB(4)860/20-21(01)]
5. Administration's response to the letter dated 20 April 2021 from Hon Abraham SHEK  
[LC Paper No. CB(4)871/20-21(01)]





就《2021 年完善選舉制度 (綜合修訂) 條例草案》發表意見

Hiro hitama

to:

cmabenq@cmab.gov.hk, PID, h\_c@legco.gov.hk

14/04/2021 13:03

Hide Details

From: Hiro hitama

To: "cmabenq@cmab.gov.hk" <cmabenq@cmab.gov.hk>, PID <pid@legco.gov.hk>,

"h\_c@legco.gov.hk" <h\_c@legco.gov.hk>,

History: This message has been forwarded.

內務委員會主席：

本人就《2021 年完善選舉制度 (綜合修訂) 條例草案》第 6 部——第 1 分部第 366 條，即在《選舉 (舞弊及非法行為) 條例》(第 554 章)中 (第 C2146 頁)，加入「27A. 在選舉期間內藉公開活動煽惑另一人不投票或投無效票的非法行為」提出意見：

1. 經修訂的《基本法》附件一及二修改選舉委員會、行政長官及立法會的產生辦法，並沒有限制呼籲別人投甚麼票的權利。
2. 不投票或投無效票本身不是犯法行為，因此「煽惑」他人做合法行為，不應視為犯法。

因此，本人要求當局撤回此條文。

陳先生

香港中區

立法會道 1 號

立法會綜合大樓

《2021 年完善選舉制度（綜合修訂）條例草案》委員會主席

廖長江議員

**立法會CB(4)865/20-21(01)號文件**  
**LC Paper No. CB(4)865/20-21(01)**

尊敬的廖議員

### 支持立法會《2021 年完善選舉制度（綜合修訂）條例草案》

隨着全國人民代表大會於 2021 年 3 月 11 日通過《全國人民代表大會關於完善香港特別行政區選舉制度的決定》及全國人大常委會於 3 月 30 日通過經修訂的《基本法》附件一和附件二，香港特別行政區政府於昨日（4 月 13 日）將《2021 年完善選舉制度（綜合修訂）條例草案》（《條例草案》）刊憲。

數碼港創業學會（學會）支持《條例草案》的公布，並高興成為立法會功能組別「科技創新界」的合資格團體選民，學會將配合政府的安排，履行選民責任。

數碼港創業學會於 2013 年 1 月成立，是根據香港法例第 151 章《社團條例》註冊的社團，旨在為畢業於數碼港創業家計劃的初創公司提供交流平台，冀望匯集志同道合的信息和通信技術專才，建立溝通平台以及與創新領先科技樞紐保持緊密聯繫。

學會及會員在過去一年的抗疫過程中，以科技造福社會，為公眾提供數碼科技方案渡過當前的困境迎難而上，包括早於去年 2 月已經夥拍數碼港發起「敢創抗疫」行動，一站式網上平台網羅約 70 間數碼港社群的提供的不同類型解決方案，涵蓋「遙距學習及在家工作」、「醫療及保健護理服務」、「保險服務及支援保障」和「改善家居及工作環境」四大範疇，在疫情期間獲市場廣泛採納，切實解決社會各界所需。

學會支持《條例草案》的公布，會配合政府的安排，履行選民責任。學會期望，隨著香港特區選舉制度的完善和實施，政治環境能夠更穩定，讓香港重新聚焦社會、經濟、民生建設，確保長期繁榮穩定，促進香港創科產業發展。初創企業和科技公司可以在這有利條件下，繼續為香港締造嶄新經濟動力。

林苑莉

數碼港創業學會聯合會長

2021 年 4 月 14 日



# COUNCIL OF HONG KONG INDIAN ASSOCIATIONS

C/O G. P. O. BOX 1910, HONG KONG

Tel: 2522 2852 Fax: 2810 5771

**立法會CB(4)922/20-21(01)號文件**

**LC Paper No. CB(4)922/20-21(01)**

**Member Associations:**

- \* The Indian Chamber of Commerce HK (Hon. Treasurer)
- \* The India Association HK
- \* The Hindu Association
- \* The India Club
- \* The HK Indian Women's Club

- \* The Nav Bharat Club
- \* The Khalsa Diwan Hong Kong
- \* Overseas Indian Organisation
- \* Non-Resident Indian Association of HK Ltd

27 April 2021

The Hon Andrew LEUNG Kwan-yuen, GBS, JP.  
The President of the Legislative Council  
Room 710, Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear *Andrew*,

**Representation for the Indian Community on the Election Committee**

I congratulate the HKSAR Government personally, and also on behalf of the members of the Council of Hong Kong Indian Associations (CHIA), for laying a road map to the election of the Chief Executive and LegCo, while preserving national unity and upholding the 'One Country, Two Systems' principle.

CHIA, established in 1977 under the Hong Kong Societies Ordinance, is the apex body of the 50,000-strong Hong Kong Indian community, representing business, cultural, social and religious bodies registered in Hong Kong, whose presidents sit on the Executive Committee of CHIA. The Indian Chamber of Commerce Hong Kong acts as its Honorary Treasurer.

At its recent Executive Committee meeting, the representation of the Indian community on the reconstituted Election Committee came up for discussion and the Committee expressed the desire to make representation as herein contained.

The Indian community's contribution, dating back to the mid-19th century, is well acknowledged. We have always been at the forefront of promoting Hong Kong globally and our members are pioneers in introducing goods of Chinese origin internationally.

According to the Hong Kong SAR Government's estimated statistics, the Indian businesses' share in Hong Kong's exports is between 5% and 7%. Taking account of our presence in other sectors such as hospitality, shipping and logistics, information technology, finance, tourism, retail, manufacturing and service industries, the share rises substantially in Hong Kong's economic landscape.

The Indian community's contribution in education, adding cultural diversity to Hong Kong, and engaging itself in philanthropy for the underprivileged, has been commended.

The interest to learn Cantonese and Mandarin has been rising among the Indian community. The acquisition of the Hong Kong SAR passport has been steadily increasing, reflecting our community's confidence in Hong Kong. We have maintained a strong bond and harmonious relationship with the local community.

President	:	Mr. Raj Sital, SBS, JP.
Vice Presidents	:	Mrs. Purviz Shroff and Mr. Larry Parmanand
Members	:	Mrs. Seema Kothari, Dr. Harry Banga, Mr. Notan Tolani and Dr. Aron Harilela, JP.



# COUNCIL OF HONG KONG INDIAN ASSOCIATIONS

C/O G. P. O. BOX 1910, HONG KONG

Tel: 2522 2852 Fax: 2810 5771

## *Member Associations:*

- \* The Indian Chamber of Commerce HK (Hon. Treasurer)
- \* The India Association HK
- \* The Hindu Association
- \* The India Club
- \* The HK Indian Women's Club

- \* The Nav Bharat Club
- \* The Khalsa Diwan Hong Kong
- \* Overseas Indian Organisation
- \* Non-Resident Indian Association of HK Ltd

The HKSAR Government's various measures to support ethnic minorities have enabled them to integrate themselves into local society and been beneficial to our community.

We fully support the Central Government's steps to maintain stability in the Hong Kong SAR and further increase its stature as an international city under the 'One Country, Two Systems' policy.

The community has been steadfastly focused on the development of Hong Kong, considering the close bond with the Hong Kong SAR, and the contribution of the Hong Kong Indian community, we would like to request that our community be given some representation on the Election Committee. This would provide a broader-based composition of the Committee. Our representation on the Election Committee will further enhance our bond with the Hong Kong SAR.

We stress that the Hong Kong Indian community strongly supports the decisions of the Central and HKSAR government and its policies for security and development of Hong Kong, and have no political interest diverse to the welfare of Hong Kong.

We look forward to receiving a favourable response so that we can take the matter forward.

Yours Sincerely

RAJ SITAL SBS JP  
PRESIDENT

<i>President</i>	:	Mr. Raj Sital, SBS, JP.
<i>Vice Presidents</i>	:	Mrs. Purviz Shroff and Mr. Larry Parmanand
<i>Members</i>	:	Mrs. Seema Kothari, Dr. Harry Banga, Mr. Notan Tolani and Dr. Aron Harilela, JP.

**立法會CB(4)910/20-21(01)號文件**  
**LC Paper No. CB(4)910/20-21(01)**

**From:** Ming Pui mavis Lee <[REDACTED]>  
**To:** panel\_ca@legco.gov.hk

**Date:** Wednesday, April 28, 2021 06:52PM

**Subject:** Re: 完善選舉制度的意見和建議

尊敬的廖長江主席

本人李明佩有如下的意見和建議僅供閣下考慮。

Subject: 完善選舉制度的意見和建議

1. 選委會之合資格登記為投票人的團體名單

1) 我們認同曾局長提出的三個準則，但政府似乎對不同界別和團體有不同的標準，令人費解。

因為有些界別的團體被全數納入，而合併後的醫學及衛生服務界却只有部份團體被接納。

不少積極運作多年、貢獻不小的專業學會/工會均被遺漏，如香港醫院藥劑師學會、香港放射學技師會、香港物理治療學會、香港護士總工會等等卻被遺漏。

如依「愛國者治港」準則，則被青睞的是否個愛國？被遺漏的又是否全屬不愛國？

2) 關於香港護士協會

質疑香港護士協會被認可為合資格登記為投票人的團體的理據。

由佔中開始，到反修例風波及暴亂、醫護「黑警」「仇警」、醫護罷工，甚至「35+」「立法會初選」等，該會均從不缺席，橫看豎看均體現不到愛國者治港的精神及原則！面對如此劣跡斑斑的反中亂港行徑，當局仍選擇認可該會為「符合資格登記為投票人」的團體，是否表示第三項準則可有可無，難怪不少界內外人士均甚感詫異！更有人為此十分憤懣，心寒。

3) 建議當局應容許「指明實體」名單上相關團體數目可加可減，不要以立法時間緊迫為由而拒絕優化之、修正之！

2. 選委會內之1.分區委員,2.減罪委員和3.防火委員將會如何產生？條件是什麼？又如何參加到立法會選舉？

目前區議員是上述三者的當然委員，角色是否重疊？

3. 區議會

1) 十分贊同取消區議員晉身立法會的制度，讓區議員專心做好地區事務的本職。作為諮詢架構的區議會，我認為曾局長的三項準標亦同樣適用。

2) 建議區議會宜恢復部份委任制，委任各行各業、德才兼備的專業和地區人士提供有關地區行政和民生等方面的意見，包括分區、減罪和防火委員。我認為單憑明星和政黨效應的選舉則只會備促進民粹和福利主義，不利香港的長遠發展。

4. 培訓

建議政府管治班子，包括行政會議成員、選舉委員會委員、立法局議員及區議員等都必須接受上崗前培訓和持續教育，包括中國憲法/基本法、國情、港程教育，香港政府管治架構、議會程序、議員操守及廉政教

育、應付傳媒技巧等等

#### 5. 議會紀律和監察制度

- 1) 各級議員必須對香港和國家有責任承擔，遵守議會和議事規則。
- 2) 強化議會紀律和監察制度，  
提升議會效率，避免流會、拉布等行為。
- 3) 建議規定議員的出席率不能低於80%。
- 4) 不得無故遲到早退，避免要點人數等費時失事的發生。

#### 6. 醫學衛生界內的衛生界選民

現在只有持執業牌照的護士才算是衛生界功能組別成員。

我們建議應按照香港護士管理局的註冊/登記護士名冊把所有註冊/登記護士都重新列入為衛生服務界功能組別成員，恢復他們的選民資格和投票權，而不是按照執業證明書的名冊，因為護士註冊/登記條例是終身有效的。

李明佩敬上。 19/4/2021

註冊護士、護士教師

香港護士訓練及教育基金委員

前理工大學護理系高級講師

前黃大仙區委任區議員

前立法會選委、選舉會議成員

前香港護理學院秘書

前華員會護士分會秘書

前中華護理學會理事

前佛教醫院、九龍及眼科醫院管治委員會委員



中華人民共和國香港特別行政區  
Hong Kong Special Administrative Region of the People's Republic of China

立法會 LEGISLATIVE COUNCIL  
金融服務界功能組別 Functional Constituency - Financial Services

立法會CB(4)791/20-21(01)號文件

LC Paper No. CB(4)791/20-21(01)



張華峰議員，銀紫荊星章，太平紳士

Hon Christopher CHEUNG Wah-fung, SBS, JP

致 《全國人民代表大會關於完善香港特別行政區選舉制度的決定》

小組委員會 廖長江主席

廖主席：

全國人民代表大會通過完善香港特別行政區選舉制度的決定，堵塞了現有選舉制度上的漏洞，將有利於議會有效運作、有利於政府施政，更有利於市民安居樂業，有利於香港長期繁榮穩定。我們金融服務界早前與財經事務及庫務局局長許正宇見面時，都一致對人大通過決定表達支持。

本人近日與業界不同持份者溝通，其中多位中資證券商代表向本人表達，近年來中資券商在港業務及市場貢獻日益擴大，不少中資券商代表更積極參與香港金融市場發展，包括對金融政策出謀獻策，他們亦表明，希望未來能夠更多中資背景的代表成為金融服務界的選委。有見及此，我希望能透過委員會表達有關意見，並希望有更多中資證券商代表能投身香港事務，一同為香港金融業的未來發展作出建設。

張華峰議員 謹啟

2021年4月12日





立法會 LEGISLATIVE COUNCIL  
石禮謙 議員 Hon Abraham Shek Lai-Him J.P.

20 April 2021

The Honourable Martin LIAO Cheung-kong, GBS, JP  
Chairman  
Bills Committee on Improving Electoral System  
(Consolidated Amendments) Bill 2021  
The Legislative Council  
Hong Kong

Honourable Chairman,

**Clarification on Improving Electoral System**  
**(Consolidated Amendments) Bill 2021**

I would like to draw your attention to the following issues in Clause 427 of the Bill, seeking to add Division 5 - Entities to the Chief Executive Election Ordinance (Cap. 569):

**Division 5 – Entitles**

**Subdivision 1 – First Sector**

**39M. Specified entitles of the real estate and construction subsector (P. 502 of the Bill)**

**The specified entities of the real estate and construction subsector are ---**

**(a) any body that ---**

**(i) is a corporate member of The Real Estate Developers Association of Hong Kong Limited; and**

**(ii) is entitled to vote at the general committee or executive committee of the company;**

1. "Limited" should be removed for consistence
2. "general committee" should be replaced by "Board of Directors".



中華人民共和國香港特別行政區  
Hong Kong Special Administrative Region of the People's Republic of China



立法會 LEGISLATIVE COUNCIL

石禮謙 議員 Hon Abraham Razack J.P.

Thank you.

Yours faithfully,

Abraham Shek Lai Him

c.c. Honourable Ir Dr Hon LO Wai-kwok, SBS, MH, JP

**黃國健**  
WONG KWOK KIN**麥美娟**  
ALICE MAK**郭偉強**  
KWOK WAI KEUNG**陸頌雄**  
LUK CHUNG HUNG**立法會CB(4)883/20-21(01)號文件**  
**LC Paper No. CB(4)883/20-21(01)****《2021 年完善選舉制度(綜合修訂)條例草案》委員會****主席廖長江議員, GBS, JP**

廖主席，

**要求政府當局就以下事項提交書面回應**

就《2021 年完善選舉制度(綜合修訂)條例草案》(條例草案)，公眾對參選人公佈外國國籍等資料、因有參選人過身或取消資格而停止選舉，以及功能組別委任投票人的規範深表關注，本人已在會議上提出相關的意見，現再特函政府當局，希望當局作出書面回覆，以便清楚解說政府對上述各項關注的回應。

**一、 有關參選人公開外國國籍以及外國政治聯繫**

按現時條例草案條文，選委會和立法會的參選人無須主動申報是否擁有外國國籍/英國國民(海外)護照(BNO)，有否與外國政治組織聯繫和接受外國組織捐款等，但政府當局解釋，由於資格審查委員會可以向參選人索取任何資料，應能取得上述資料，但取得的資料將不會公開。

選委會和立法會參選人如獲選，將在本港擔任重要公職，以至進入管治架構，公開是否擁有外國國籍，有否與外國有政府聯繫等，屬應有之義，也是公眾的知情權。就此，謹請政府當局回覆會否考慮就條例草案提出修正案，規定有意參選人士在參選的過程中公開上述資料，例如在提交申請表格或作出聲明時表明。

## 二、 因有參選人過身或被取消資格而停止選舉

當局表示條例草案將訂明，地方選區在選舉日前，如果有候選人去世或喪失參選資格，將與傳統功能界別選舉安排一致，由選舉主任發出公告，宣布選舉程序中止。

此機制對其他候選人不公平，更有機會被利用來癱瘓選舉，例如在十個區截止報名前幾分鐘才報名參選，令資格審查委員會不夠時間預先進行資格審查，事實上過去的選舉有不少人在最後數分鐘才報名參選。謹請當局重新考慮，在未來地區選舉中，在這一項是否必須與傳統功能界別選舉安排一致。

## 三、 訂明團體選民或團體委任投票人的規範

現時條例草案訂明團體選民或團體投票人委任獲授權代表的方式，由團體自行決定，亦未有訂明團體內何人有權作出委任，當局會否考慮在法例中訂明委任獲授權代表者，須為該團體的管理機關等？

由於完善選舉制度的審議工作時間緊迫，本人期望政府能儘快就上述事項作出回覆。

工聯會立法會議員



麥美娟

2021 年 4 月 23 日



立法會 LEGISLATIVE COUNCILOR

陳克勤議員, BBS, JP Hon Gary CHAN Hak-kan, BBS, JP

《2021 年完善選舉制度(綜合修訂)條例草案》委員會主席  
廖長江議員：

政府在《2021 年完善選舉制度(綜合修訂)條例草案》中，對《立法會條例》第 42C 條作出修訂，訂明獲有效提名的地方選區或功能界別的候選人於選舉日期之前去世或喪失資格，相關選區或界別的選舉程序將會終止。本人認為，有關安排構成漏洞，易被別有用心的人利用來干擾破壞選舉。這些人如果在不同選區或界別獲得提名，然後在選舉日前製造事端而主動招致 DQ，將可能導致多個選區或界別的選舉程序被終止。為保障選舉順利進行、防止公帑浪費，以及對其他候選人公平，本人建議刪去而非修訂第 42C 條，即取消終止選舉程序的安排，並將第 42B 條一併適用於選舉委員會界別、功能界別及地方選區的候選人。



立法會議員陳克勤

2021 年 4 月 26 日

致 香港特別行政區立法會

《2021年完善選舉制度(綜合修訂)條例草案》委員會主席

廖長江議員：

廖議員，

### 有關《立法會條例》第42C 條的修訂

政府在《2021年完善選舉制度(綜合修訂)條例草案》中，對《立法會條例》第42C 條作出修訂，訂明獲有效提名的地方選區或功能界別的候選人於選舉日期之前去世或喪失資格，相關選區或界別的選舉程序將會終止。我們認為，有關安排構成漏洞，易被別有用心的人利用來干擾破壞選舉。這些人如果在不同選區或界別獲得提名，然後在選舉日前製造事端而主動招致 DQ，將可能導致多個選區或界別的選舉程序被終止。為保障選舉順利進行、防止公帑浪費，以及對其他候選人公平，我們建議刪去而非修訂第42C 條，即取消終止選舉程序的安排，並將第42B 條一併適用於地方選區、功能界別及選舉委員會界別的候選人，並同時修訂相關法律條文。

立法會議員

姚思榮	馬逢國	陳健波	陳振英
李慧琼	陳克勤	張國鈞	黃定光
劉國勳	蔣麗芸	鄭泳舜	梁志祥
陳恒鏌	葛珮帆	何俊賢	周浩鼎
柯創盛	石禮謙	盧偉國	林健鋒
梁美芬	張華峰	劉業強	吳永嘉
黃國健	麥美娟	郭偉強	陸頌雄
張宇人	鍾國斌	易志明	邵家輝
葉劉淑儀	容海恩	田北辰	謝偉俊
潘兆平	何君堯		

2021年4月28日

致 香港特別行政區立法會

《2021年完善選舉制度(綜合修訂)條例草案》委員會主席

廖長江議員：

廖議員

### **有關團體投票人及團體選民的規定**

《2021年完善選舉制度(綜合修訂)條例草案》對團體投票人及團體選民如何指定獲授權代表沒有明確規定，只要求獲授權代表與相關團體有密切聯繫。為避免產生分歧，我們建議在條例草案中加入規定，就選舉委員會界別分組選舉及立法會選舉而言，明確要求團體投票人或團體選民須由該團體的管理機構指定獲授權代表。

立法會議員

姚思榮	馬逢國	陳健波	陳振英
李慧琼	陳克勤	張國鈞	黃定光
劉國勳	蔣麗芸	鄭泳舜	梁志祥
陳恒鏞	葛珮帆	何俊賢	周浩鼎
柯創盛	石禮謙	盧偉國	林健鋒
梁美芬	張華峰	劉業強	吳永嘉
黃國健	麥美娟	郭偉強	陸頌雄
張宇人	鍾國斌	易志明	邵家輝
葉劉淑儀	容海恩	田北辰	謝偉俊
潘兆平	何君堯		

2021年4月28日



梁美芬

立法會議員

信箋

*Dr Hon Priscilla M F Leung*  
Member of Legislative Council (Kowloon West)  
Barrister (Hong Kong)

Rm706, 7/F, Legislative Council Complex, 1 Legislative Council Road, Hong Kong  
TEL : 2537-3518 FAX : 2537-3516 E-mail : priscilla@lmf.hk



**立法會CB(4)911/20-21(01)號文件**  
**LC Paper No. CB(4)911/20-21(01)**

中華人民共和國香港特別行政區立法會

《2021 年完善選舉制度(綜合修訂)條例草案》委員會主席

廖長江議員, GBS, JP

廖主席：

建議政府就草案第 327 條及 391 條提出修正

就《2021 年完善選舉制度(綜合修訂)條例草案》，本人建議政府就草案第 327 條及第 391 條作出修訂如下：

根據全國人大常委會於 3 月 30 日通過新修訂的《基本法》附件一《香港特別行政區行政長官的產生辦法》的第八款第二段和附件二《香港特別行政區立法會的產生辦法和表決程序》的第五款第二段，候選人資格審查委員會（資審會）負責審查並確認選舉委員會委員候選人、行政長官候選人和立法會議員候選人的資格，資審會根據維護國家安全委員會的審查意見書作出的候選人資格確認的決定，不得提起訴訟。

本人認為草案第 327 條建議修改《立法會條例》(第 542 章)第 61(3)(a)的寫法過於空泛，只直接提及「在《基本法》附件二的規限下予以解釋」。同樣問題亦出現在草案第 391 條，即《行政長官選舉條例》(第 569 章)第 32(2)(a)的原建議。本人建議政府修訂相關條文，將



梁美芬

立法會議員

信箋

*Dr Hon Priscilla M F Leung*  
Member of Legislative Council (Kowloon West)  
Barrister (Hong Kong)

Rm706, 7/F, Legislative Council Complex, 1 Legislative Council Road, Hong Kong  
TEL : 2537-3518 FAX : 2537-3516 E-mail : priscilla@lmf.hk



「候選人資格審查委員會按照《基本法》附件二第五款第二段根據香港特別行政區維護國家安全委員會的審查意見書作出的決定，不得提起訴訟。」的內容清晰反映出來。

上述補充意見，供政府參考垂注。

如有查詢，可致電 25373518 與本人聯絡。耑此

順頌

台祺

委員

梁美芬

梁美芬謹上

2021 年 4 月 29 日

**《2021年完善選舉制度(綜合修訂)條例草案》委員會主席**

廖長江議員：

我們注意到，政府就《2021年完善選舉制度(綜合修訂)條例草案》建議的委員會審議階段修正案中，第4部第1分部有關《立法會條例》(第542章)第46A條中仍保留了“選舉當日投票結束前”出現候選人去世或喪失當選資格的情形時，仍採用終止選舉程序的處理辦法。我們認為，有關不終止選舉程序的修改應包括“選舉當日投票結束前”的情形。為與對42C條的修正案保持一致，我們建議修改第46A(2)條，明確選舉程序不會終止。並請政府再次全面檢視修正案，同時修訂其他相關法律條文。

2021年4月30日

**《2021年完善選舉制度(綜合修訂)條例草案》委員會委員**

張國鈞	張宇人	陳克勤	梁美芬
黃國健	葉劉淑儀	謝偉俊	易志明
馬逢國	麥美娟	盧偉國	柯創盛

政制及內地事務局  
政府總部

香港添馬添美道2號  
政府總部東翼



Appendix VIII(c)  
**LC Paper No. CB(4)918/20-21(01)**  
CONSTITUTIONAL AND MAINLAND AFFAIRS BUREAU  
GOVERNMENT SECRETARIAT  
EAST WING  
CENTRAL GOVERNMENT OFFICES  
2 TIM MEI AVENUE, TAMAR  
HONG KONG

Our Ref.: CMAB C1/30/5/5  
Your Ref.: LS/B/26/20-21

Tel. No.: 2810 2908  
Fax No.: 2840 1976

By Email

29 April 2021

Ms Joanne MAK  
Clerk to Bills Committee on Improving Electoral System  
(Consolidated Amendments) Bill 2021  
Legislative Council Secretariat  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear Ms Mak,

**Improving Electoral System (Consolidated Amendments) Bill 2021**

Thank you for the public submissions relayed on 26 April 2021.  
Our consolidated reply is set out below.

**Prohibition from inciting another person not to vote, to cast a blank or invalid vote by way of public activity during an election period**

2. Item 1 of the Decision on Improving the Electoral System of the Hong Kong Special Administrative Region (“the Decision”) passed by the National People’s Congress (“NPC”) on 11 March 2021 clearly laid down the fundamental principles for improving the electoral system of the Hong Kong Special Administrative Region (“HKSAR”), including “upholding HKSAR permanent residents’ right to vote and the right to stand for



election in accordance with law”. Therefore, the Standing Committee of the NPC (“NPCSC”) had made careful consideration and balance of these rights in amending Annexes I and II to the Basic Law (“BL”), in order to establish a political structure that upholds the “one country, two systems” principle, reflects the actual situation of Hong Kong and ensures “patriots administering Hong Kong”.

3. The Decision stipulated that the HKSAR should effectively organise and regulate relevant electoral activities in accordance with law, with a view to implementing a new electoral system that accords with the actual situation in Hong Kong. In Annexes I and II to BL as amended by the NPCSC, the HKSAR is required to take measures in accordance with law for regulating acts that manipulate and undermine elections. The Government attaches great importance to, and will continue to fulfil, its constitutional duty to safeguard and protect human rights and freedoms. Like any other jurisdictions, however, most of the freedoms are not absolute. As far as freedom of speech is concerned, the International Covenant on Civil and Political Rights and the Hong Kong Bill of Rights (Cap. 383) stipulate that the freedoms concerned may be subject to restrictions as prescribed by law if it is necessary in the interests of national security, public safety, public order or the rights and freedoms of others, etc.

4. Voting is not only a right but a civic duty. Although Hong Kong does not have a compulsory voting system as in some jurisdictions, the HKSAR Government has a responsibility to take measures to encourage eligible voters to exercise their right to vote and to combat improper conduct that may affect the exercise of the right to vote by voters. If someone openly incites voters not to vote, to cast blank or invalid votes during an election period, it may create undue pressure on voters and affect their freedom to choose whether to exercise their right to vote. Such a conduct is one of the acts that can undermine an election, and the HKSAR Government is therefore obliged to regulate it in accordance with the Decision and the amended Annexes I and II to BL. It should be noted that the new offence does not regulate the personal choice made by an elector according to his wish, nor does it prevent a person from appealing to electors not to vote for a particular candidate, subject to compliance with the requirements of other electoral legislation, in particular those relating to election advertisements and election expenses.

**Support for improving the electoral system and the Improving Electoral System (Consolidated Amendments) Bill 2021**

5. The Government is thankful for the support from the relevant organisation in improving the electoral system. We will continue to fully complement the work of the Legislative Council in scrutinising the Bill, and will organise elections in accordance with law after passage of the Bill.

Yours sincerely,



(Ms Cherie YEUNG)  
for Secretary for Constitutional and  
Mainland Affairs

**c.c.**

Department of Justice

Law Officer (Special Duties) Acting  
Senior Assistant Law Draftsman  
Government Counsel

Mr Llewellyn MUI  
Mr Peter SZE  
Mr Wallance NG

政制及內地事務局  
政府總部

香港添馬添美道2號  
政府總部東翼



CONSTITUTIONAL AND MAINLAND AFFAIRS BUREAU  
GOVERNMENT SECRETARIAT

EAST WING  
CENTRAL GOVERNMENT OFFICES  
2 TIM MEI AVENUE, TAMAR  
HONG KONG

Our Ref.: CMAB C1/30/5/5  
Your Ref.: CB4/BC/5/20

Tel. No.: 2810 2908  
Fax No.: 2840 1976

**By Email**

3 May 2021

Ms Joanne MAK  
Clerk to Bills Committee on Improving Electoral System  
(Consolidated Amendments) Bill 2021  
Legislative Council Secretariat  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear Ms Mak,

### **Views and Suggestions on Improving the Electoral System**

In response to the public submission relayed on 29 April 2021, our reply is set out below.

To improve the electoral system of the Hong Kong Special Administrative Region ("HKSAR"), the National People's Congress ("NPC") adopted the Decision on Improving the Electoral System of the HKSAR on 11 March 2021, authorising the Standing Committee of the NPC ("NPCSC") to amend Annex I to the Basic Law on Method for the Selection of the Chief Executive of the HKSAR and Annex II to the Basic Law on Method for the Formation of the Legislative Council of the HKSAR and Its Voting Procedures. The NPCSC adopted the amended Annexes I and II to the Basic Law on 30 March.



According to the amended Annexes I and II to the Basic Law, the specific election or formation methods of the Chief Executive, the Election Committee (“EC”) and the Legislative Council (“LegCo”), including matters such as the delineation of eligible corporate electors of the relevant EC Subsectors (“ECSSs”) or Functional Constituencies (“FCs”), the delineation of Geographical Constituencies, the nomination method and the voting method, shall be prescribed by the HKSAR by means of electoral law. In this connection, the HKSAR Government has prepared the Improving Electoral System (Consolidated Amendments) Bill 2021 (“the Bill”), details of which are set out in the relevant LegCo Brief.

According to Annex I to the Basic Law, two subsectors, viz. “Representatives of members of Area Committees, District Fight Crime Committees, and District Fire Safety Committees of Hong Kong Island and Kowloon” and “Representatives of members of Area Committees, District Fight Crime Committees, and District Fire Safety Committees of the New Territories” subsectors would be created in the EC. The composition of the new subsectors is at the Annex.

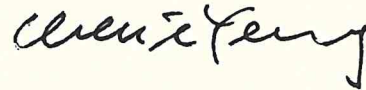
Regarding the Medical and Health Services subsector and the LegCo Medical and Health Services FC, we consider that the composition of ECSSs and FCs as set out in the Bill has already reflected the spirit and intent of the amended Annexes I and II to the Basic Law and is in line with the principles of having a substantial connection with the relevant subsector, being broadly representative, reflecting the actual situation of Hong Kong and implementing a political structure that ensures “patriots administering Hong Kong”.

As for the District Councils (“DCs”), Article 97 of the Basic Law provides that district organisations which are not organs of political power may be established in the HKSAR. Under this provision, 18 DCs are established by the Government. Section 61 of the District Councils Ordinance (Cap. 547) further elaborates that the functions of a DC are to, inter alia, advise the Government on district administration affairs and where funds are made available for the purpose, to promote community, recreational and cultural activities and environmental improvement projects within the district. The views of the member of the public on the composition and the electoral system of DCs are well noted.

We will relay the views on the training of public officers and the discipline and monitoring system of Councils to the departments concerned for reference.

Thank you for the support and advice on improving the electoral system.

Yours sincerely,



(Ms Cherie YEUNG)  
for Secretary for Constitutional and  
Mainland Affairs

**c.c.**

Department of Justice

Law Officer (Special Duties) (Acting)

Senior Assistant Law Draftsman

Government Counsel

Mr Llewellyn MUI

Mr Peter SZE

Mr Wallance NG



### **36. Representatives of members of Area Committees, District Fight Crime Committees, and District Fire Safety Committees of Hong Kong Island and Kowloon (*new*) (76 seats)**

*(with reference to the Schedule of the Chief Executive Election Ordinance (Cap. 569)<sup>1</sup>)*

<b>Method</b>	<b>Seat</b>	<b>Details</b>
Members returned by election (Section 39ZH)	76	Members of the Area Committees, District Fight Crime Committees and District Fire Safety Committees established in any of the following Districts— (a) Central & Western District (b) Eastern District (c) Southern District (d) Wan Chai District (e) Kowloon City District (f) Kwun Tong District (g) Sham Shui Po District (h) Wong Tai Sin District (i) Yau Tsim Mong District

---

<sup>1</sup> The list on this Annex is extracted from the Improving Electoral System (Consolidated Amendments) Bill 2021 (the Bill). In case of discrepancy, the content of the Bill should prevail.

### **37. Representatives of members of Area Committees, District Fight Crime Committees, and District Fight Crime Committees of the New Territories (*new*) (80 seats)**

*(with reference to the Schedule of the Chief Executive Election Ordinance (Cap. 569)<sup>1</sup>)*

<b>Method</b>	<b>Seat</b>	<b>Details</b>
Members returned by election (Section 39ZI)	80	Members of the Area Committees, District Fight Crime Committees and District Fire Safety Committees established in any of the following Districts— (a) Islands District (b) Kwai Tsing District (c) Sai Kung District (d) Sha Tin District (e) Tsuen Wan District (f) Tuen Mun District (g) Yuen Long District (h) North District (i) Tai Po District

---

<sup>1</sup> The list on this Annex is extracted from the Improving Electoral System (Consolidated Amendments) Bill 2021 (the Bill). In case of discrepancy, the content of the Bill should prevail.

政制及內地事務局  
政府總部

香港添馬添美道2號  
政府總部東翼

Our Ref: C1/30/5/5



CONSTITUTIONAL AND MAINLAND AFFAIRS BUREAU  
GOVERNMENT SECRETARIAT

EAST WING  
CENTRAL GOVERNMENT OFFICES  
2 TIM MEI AVENUE, TAMAR  
HONG KONG  
Tel. No.: 2810 2852  
Fax No.: 2840 1976

**By Email**

(E-mail: lwcyu@legco.gov.hk)

7 May 2021

Ms Joanne Mak  
Clerk to the Bills Committee on Improving Electoral System  
(Consolidated Amendments) Bill 2021  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear Ms Mak,

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

I refer to the letter dated 27 April 2021 from the Council of Hong Kong Indian Associations, which was referred by the Committee on 3 May 2021, reply is provided as follows.

With a view to improving the electoral system of the HKSAR, the National People's Congress adopted the Decision on Improving the Electoral System of the Hong Kong Special Administrative Region (HKSAR) on 11 March 2021, authorising the Standing Committee of the NPC (NPCSC) to amend Annex I to the Basic Law on Method for the Selection of the Chief Executive of the HKSAR and Annex II to the Basic Law on Method for the Formation of the Legislative Council of the HKSAR and Its Voting Procedures. The NPCSC approved the newly amended Annexes I and II to the Basic Law on 30 March 2021.

According to the amended Annexes I and II to the Basic Law, the specific methods for electing the Chief Executive, returning members of the Election Committee and the formation of Legislative Council, including matters such as the delineation of eligible corporate electors of the relevant Election Committee subsectors or functional constituencies, the delineation of geographical constituencies, the nomination method and the voting method, shall be prescribed by the HKSAR by means of

electoral law. In this connection, the HKSAR government has prepared the Improving Electoral System (Consolidated Amendments) Bill 2021 (the Bill). Please refer to the Legislative Council Brief<sup>1</sup> for the details of the Bill.

In accordance with the amended Annexes I and II to the Basic Law, and with a view to improving the electoral system of HKSAR and establishing a political system that accords with “One Country, Two Systems” and the actual situation of Hong Kong, and that implements the principle of “patriots administering Hong Kong”, the Bill has specified the composition of each Election Committee subsector or Legislative Council functional constituency. You may refer to the following thematic website for improving electoral system: <https://www.cmab.gov.hk/improvement/en/home/index.html>

Thank you for your interest in the matters of improving the electoral system.

Yours sincerely,



( Ms Carmen KONG )

for Secretary for Constitutional and Mainland Affairs

---

<sup>1</sup> The Legislative Council Brief of the Bill:  
[https://www.legco.gov.hk/yr20-21/english/bills/brief/b202104131\\_brf.pdf](https://www.legco.gov.hk/yr20-21/english/bills/brief/b202104131_brf.pdf)

政制及內地事務局  
政府總部

香港添馬添美道2號  
政府總部東翼



CONSTITUTIONAL AND MAINLAND AFFAIRS BUREAU  
GOVERNMENT SECRETARIAT

EAST WING  
CENTRAL GOVERNMENT OFFICES  
2 TIM MEI AVENUE, TAMAR  
HONG KONG

File Ref. : C1/30/1/11  
Phone : 2810 2852  
Fax : 2840 1976

**By Email**

(E-mail: lwcyu@legco.gov.hk)

20 April 2021

Ms Joanne Mak  
Clerk to the Bills Committee on Improving Electoral System  
(Consolidated Amendments) Bill 2021  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Ms Mak,

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

I refer to your letter regarding the letter dated 12 April 2021 from Hon Christopher Cheung.

With a view to improving the electoral system of the HKSAR, the National People's Congress adopted the Decision on Improving the Electoral System of the Hong Kong Special Administrative Region (HKSAR) on 11 March 2021, authorising the Standing Committee of the NPC (NPCSC) to amend Annex I to the Basic Law on Method for the Selection of the Chief Executive of the HKSAR and Annex II to the Basic Law on Method for the Formation of the Legislative Council of the HKSAR and Its Voting Procedures. The NPCSC approved the newly amended Annexes I and II to the Basic Law on 30 March.



According to the amended Annexes I and II to the Basic Law, the specific methods for electing the Chief Executive, returning members of the Election Committee and the formation of Legislative Council, including matters such as the delineation of eligible corporate electors of the relevant Election Committee Subsectors or Functional Constituencies, the delineation of Geographical Constituencies, the nomination method and the voting method, shall be prescribed by the HKSAR by means of electoral law. In this connection, the HKSAR government has prepared the Improving Electoral System (Consolidated Amendments) Bill 2021 (the Bill). Please refer to the Legislative Council Brief<sup>1</sup> for the details of the Bill.

In accordance with the amended Annexes 1 and 2 to the Basic Law, and with a view to improving the electoral system of HKSAR and establishing a political system that accords with “One Country, Two Systems” and the actual situation of Hong Kong, and that implements the principle of “patriots administering Hong Kong”, the Bill has specified the composition of each Election Committee Subsector or Legislative Council Functional Constituency.

The delineation of the eligible voters of Financial Services Election Committee Subsector and Financial Services Legislative Council Functional Constituency is at **Annex** for your reference.

Thank you for your interest in the matters of improving the electoral system.

Yours sincerely,



( Ms Carmen KONG )

for Secretary for Constitutional and Mainland Affairs

c.c. Secretary for Financial Services and the Treasury  
(Attn: Ms Crystal YIP, Fax: 2537 1736)

---

<sup>1</sup> The Legislative Council Brief of the Bill:  
[https://www.legco.gov.hk/yr20-21/english/bills/brief/b202104131\\_brf.pdf](https://www.legco.gov.hk/yr20-21/english/bills/brief/b202104131_brf.pdf)

### **Financial services (17 seats)**

*(with reference to the Schedule of the Chief Executive Election Ordinance (Cap. 569)<sup>2</sup>)*

<b>Method</b>	<b>Seat</b>	<b>Details</b>
Members returned by election <sup>^</sup> (Section 39G)	17	<p>(a) any body that is licensed under the Securities and Futures Ordinance (Cap. 571), and—</p> <ul style="list-style-type: none"><li>(i) is entitled to vote at the specified authority (i.e. either the Council or Board of Directors as specified by the President of the company) of The Chinese Securities Association of Hong Kong Company Limited<sup>#</sup>;</li><li>(ii) is entitled to vote at the Board of Hong Kong Securities Professionals Association Limited<sup>#</sup>;</li><li>(iii) is entitled to vote at the Committee of The Institute of Securities Dealers Limited<sup>#</sup>;</li><li>(iv) is entitled to vote at the Board of Hong Kong Securities Association Limited<sup>#</sup>;</li><li>(v) is entitled to vote at the Executive Committee of The Hong Kong Association of Online Brokers Limited<sup>#</sup>;</li><li>(vi) is entitled to vote at the Executive Committee of The Hong Kong Institute of Financial Analysts and Professional Commentators Limited<sup>#</sup>;</li><li>(vii) is entitled to vote at the Council of Hong Kong Securities and Futures Professional Association<sup>#</sup>; or</li><li>(viii) is entitled to vote at the Board of Chinese Futures Association of Hong Kong Company Limited<sup>#</sup>; or</li></ul> <p>(b) any body that is entitled to vote at the Executive and Supervisory Committee of the Chinese Gold and Silver Exchange<sup>#</sup></p>

**Remarks:**

- (<sup>^</sup>) According to section 12(19A) of the Schedule to the CEEO as amended in the Bill, the specified entity of the subsector concerned is eligible to be registered as a corporate voter for that subsector only if it has been operating for the 3 years immediately before making its application for registration as a voter.
- (<sup>#</sup>) According to section 11A of the Schedule to the CEEO as amended in the Bill,
- (1) a reference to an entitlement to vote at a general meeting / specified authority of a body is a reference to an entitlement to vote at the general meeting / specified authority as provided by the body's constitution;
  - (2) In relation to a subsector, a body (***first-mentioned body***) is also regarded as being entitled to vote at the specified authority within another body if—

---

<sup>2</sup> The list on this Annex is extracted from the Improving Electoral System (Consolidated Amendments) Bill 2021 (the Bill). In case of discrepancy, the content of the Bill should prevail.

- (i) a natural person who is entitled to vote at that authority specifies in writing to the Electoral Registration Officer that the natural person represents the first-mentioned body at that authority; and
  - (ii) that natural person has substantial connection with the first-mentioned body;
- (3) if more than one body is specified by the same natural person, only the body last so specified is regarded as being entitled to vote at that authority.
-



## Financial Services (1 seat)

(with reference to the Legislative Council Ordinance (Cap. 542)<sup>3</sup>)

Details
(Section 20U)
(1) The financial services functional constituency is composed of— <ul style="list-style-type: none"><li>(a) subject to subsection (2), exchange participants of a recognized exchange company<sup>^</sup>; and</li><li>(b) <i>(Repealed 5 of 2002 s. 407)</i></li><li>(c) corporate members of The Chinese Gold &amp; Silver Exchange Society entitled to vote at general meetings of the Society*.</li></ul>
(2) Notwithstanding any other enactment or rule of law— <ul style="list-style-type: none"><li>(a) by virtue of this subsection, the rules of a recognized exchange company may provide that a class of exchange participants specified in the rules are not exchange participants for the purposes of this Ordinance;</li><li>(b) no amendment or substitution of the rules of a recognized exchange company made on or after the commencement of this subsection shall have effect—<ul style="list-style-type: none"><li>(i) for the purposes of this Ordinance to the extent, if any, to which the amendment or substitution, as the case may be, causes a person to become or to cease to be an exchange participant of the recognized exchange company; and</li><li>(ii) unless the amendment or substitution, as the case may be, has been approved in writing by the Secretary for Constitutional and Mainland Affairs.</li></ul></li></ul>

### **Remarks:**

(<sup>^</sup>) According to S.25(4) of the Legislative Council Ordinance amended by the Bill, a body specified in section 20C, 20L, 20T, 20U(1)(a) or 20ZA is eligible to be registered as a corporate elector for the relevant functional constituency only if it has been operating for the 3 years immediately before making its application for registration as an elector.

(\*) According to S.25(5) of the Legislative Council Ordinance amended by the Bill, a body that is a corporate member of a body specified in section 20B(a), 20N, 20O, 20P, 20Q, 20QA, 20R, 20S, 20U(1)(c), 20V(a) or (c), 20W, 20X(a) or (b) or 20Y is eligible to be registered as a corporate elector for the relevant functional constituency only if it has been a corporate member of the second-mentioned body and has been operating for the 3 years immediately before making its application for registration as an elector.

---

<sup>3</sup> The list on this Annex is extracted from the Improving Electoral System (Consolidated Amendments) Bill 2021 (the Bill). In case of discrepancy, the content of the Bill should prevail. Sections in the brackets are referring to the *amended Legislative Council Ordinance (Cap.542)*.

政制及內地事務局  
政府總部  
香港添馬添美道2號  
政府總部東翼



**LC Paper No. CB(4)871/20-21(01)**

CONSTITUTIONAL AND MAINLAND AFFAIRS BUREAU  
GOVERNMENT SECRETARIAT  
EAST WING  
CENTRAL GOVERNMENT OFFICES  
2 TIM MEI AVENUE, TAMAR  
HONG KONG

File Ref. : CMAB C1/30/5/5  
Phone : 2810 2852  
Fax : 2840 1976

**By Email**

22 April 2021

Ms Joanne Mak  
Clerk to the Bills Committee on  
Improving Electoral System  
(Consolidated Amendments) Bill 2021  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Ms Mak,

**Improving Electoral System  
(Consolidated Amendments) Bill 2021**

I refer to your letter of 21 April 2021 forwarding Hon Abraham Shek's letter. The proposed amendments are well noted and we will propose the relevant amendments at committee stage.

Yours sincerely,

  
( Ms Carmen KONG )

for Secretary for Constitutional and Mainland Affairs

c.c.      Department of Justice  
Law Officer (Special Duties)  
Senior Assistant Law Draftsman  
Government Counsel

Mr Llewellyn Mui  
Mr Peter Sze  
Mr Wallance Ng