

立法會
Legislative Council

LC Paper No. AS 2/2022

Ref. AM 1/60/20/01

Paper for the House Committee meeting on 14 January 2022

**Motion on election of members of
The Legislative Council Commission**

Purpose

This paper aims to seek the House Committee (“HC”)’s endorsement for a motion to be moved in the Legislative Council (“LegCo”) on the manner of election of members of The Legislative Council Commission (“the Commission”).

Background

2. The Commission is a body corporate established under The Legislative Council Commission Ordinance (Cap. 443). Under section 9 of Cap. 443, the Commission has the following functions:

- (a) providing through the LegCo Secretariat administrative support and services to the Council;
- (b) providing office accommodation to LegCo Members and staff of the Secretariat;
- (c) supervising the Secretariat’s operation;
- (d) producing an official report of all proceedings in the Council and in any committee of the whole Council; and
- (e) performing such other duties as the Council may by resolution determine.

3. Under section 4(1) of Cap. 443, the Commission consists of:

- (a) the President of LegCo who is the Chairman of the Commission;
- (b) the Chairman of HC who is the Deputy Chairman of the Commission;
- (c) the Deputy Chairman of HC; and
- (d) not more than 10 other members elected, in such manner as the Council may determine, by and from amongst LegCo Members.

4. Under section 5(4) of Cap. 443, the term of the office of the members elected under section 4(1)(e) shall be such period not exceeding one year as the Council may determine at the time of the election.

Manner of election before the Seventh LegCo

5. From the First to Sixth LegCo, an election of members of the Commission was held in the manner set out in the resolution (**Appendix 1**) passed by LegCo on 8 July 1998. Pursuant to the resolution, the election was held at a meeting of HC which comprised all the Members other than the President, and the election date was appointed by HC.

Proposed changes to the manner of election

6. On 22 October 2021, the Council passed an amendment to Rule 75(1) of the Rules of Procedure to the effect that starting from the Seventh LegCo, HC no longer comprises all the Members except the President; it is instead consisted of not less than 50 members including the chairman, and its members must be those Members (other than the President) who signify membership in accordance with the procedure determined by HC.

7. In view of the reduced membership of HC and the requirement of section 4(1) of Cap. 443 for not more than 10 members of the Commission being **elected by and from amongst LegCo Members**, it is necessary for the Council to pass a new resolution to the effect that not only HC members but also non-HC members may cast their votes in the election. It is therefore proposed that the election will not be held at a HC meeting. The opportunity is also taken to revise the manner of the election to bring it broadly in line with the proposed nomination and election procedures for members of certain LegCo committees¹ as set out in LC Paper No. CB(4)1/2022.

8. The proposed changes to the manner of election of members of the Commission are summarized in **Appendix 2**.

Recommendation

9. The election should be held as soon as possible to form the Commission for the 2022 session to supervise the provision of administrative support and services for LegCo. If members agree to the proposed changes set

¹ Those committees are Public Accounts Committee, Committee on Members' Interests, Committee on Rules of Procedure and Committee on Access to the Legislature's Documents and Records.

out in paragraphs 6 to 8 above, it is recommended that the motion in **Appendix 3** be moved by the HC Chairman at the Council meeting of 19 January 2022, subject to the President's approval for dispensing with the 12-day notice period.

Advice sought

10. Members are invited to endorse the recommendation in paragraph 9 above.

Administration Division
Legislative Council Secretariat
January 2022

THE LEGISLATIVE COUNCIL COMMISSION ORDINANCE

RESOLUTION

(Determination made under sections 4(1)(e) and 5(4)
of The Legislative Council Commission Ordinance (Cap 443))

RESOLVED that with effect from 8 July 1998 the membership of The Legislative Council Commission, the election of members thereof and their term of office, be determined as follows:

Membership

1. In accordance with section 4(1)(e) of The Legislative Council Commission Ordinance (“the Ordinance”), the maximum number of members to be elected shall be 10.

Manner of election

2. An election of members referred to in section 4(1)(e) of the Ordinance shall be held at a meeting of the House Committee, the date of which (“election date”) shall be appointed by the House Committee.

3. The Legislative Council Secretariat shall issue a circular and a nomination form to the Members of the Legislative Council at least seven clear days before the election date, inviting nominations to be made.

4. Each nomination form shall be for the nomination of one Member and shall be signed by one Member as the proposer, one Member as the seconder, and by the nominee Member to signify his consent to the nomination.

5. Duly completed nomination forms shall be delivered to the Legislative Council Secretariat at least three clear days before the election date.

6. In cases where the number of nominations received by the Legislative Council Secretariat by the deadline for nomination is less than the number referred to in paragraph 1, further nominations may be proposed, at the House Committee meeting at which the election is conducted, by any Member and seconded by another, with the proposed nominee signifying his consent to the nomination.

7. In cases where the number of nominations received under paragraphs 5 and 6 is less than or equal to the number referred to in paragraph 1, the Chairman of the House Committee shall declare the nominees duly elected.

8. In cases where the number of nominations received under paragraphs 5 and 6 is more than the number referred to in paragraph 1, a poll shall be taken at the House Committee meeting at which the election is conducted; voting at which shall be by secret ballot and counted in accordance with the simple or relative majority system of election (otherwise known as “first-past-the-post” system of election), whereby a Member may vote for as many nominees as the number of vacancies and no more and the nominees who get the highest numbers of votes will be declared elected.

9. In cases where a nominee would have been elected but for there being one or more other nominees having been given the same number of votes, a separate poll shall be taken in respect of that nominee and such other nominee(s) in accordance with the system of election mentioned in paragraph 8 above until all the remaining vacancy or vacancies are filled.

Term of Office

10. Unless otherwise determined by the Council by resolution, the term of office of members elected under section 4(1)(e) shall be one year or until the next House Committee meeting held for the election of Commission members, or until the next dissolution of Legislative Council, whichever is the earlier.

Appendix 2

A comparison between the proposed changes to the manner of election of members of The Legislative Council Commission (“the Commission”) and the proposed procedures for nomination and election of members of certain committees of the Legislative Council (“LegCo”) ¹

	Election of members of the Commission		Election of members of LegCo committees
	Before the Seventh LegCo	Proposed changes in the Seventh LegCo	Proposed procedures in the Seventh LegCo
Meeting where the election is held	Meeting of the House Committee (“HC”) which comprised all Members other than the President	All Members may participate in the election	Meeting of HC which comprises not less than 50 Members
Member presiding the election	HC Chairman	President’s Deputy referred to in Rule 5 of the Rules of Procedure, who is the HC Chairman	HC Chairman
Election date	Appointed by HC	Appointed by the President’s Deputy	Appointed by HC
Commencement of nomination	At least 7 clear days before the election date	At least 5 clear days before the election date	
Nomination deadline	At least 3 clear days before the election date	At least 2 clear days before the election date	
Means of submitting nominations	Not specified	Must be submitted by electronic means specified by the LegCo Secretariat	

¹ Those committees are Public Accounts Committee (“PAC”), Committee on Members’ Interests (“CMI”), Committee on Rules of Procedure (“CRoP”) and Committee on Access to the Legislature’s Documents and Records (“CoA”).

	Election of members of the Commission		Election of members of LegCo committees
	Before the Seventh LegCo	Proposed changes in the Seventh LegCo	Proposed procedures in the Seventh LegCo
Whether the name of a Member can appear on more than one nomination	Not specified	The name of a Member must not appear on more than one nomination, whether in the capacity as a Member being nominated, or as a Member making the nomination, or as a Member seconding the nomination; otherwise, only the first such nomination received by the Secretariat shall be valid.	
Whether a Member can self-nominate himself/herself	Not specified	Yes, provided that such nomination is seconded by at least one other Member.	
Number of valid nominations received being less than or equal to the number of seats, i.e. 10	Further nominations may be proposed at the HC meeting	The President's Deputy must inform all Members in writing that the nominees are duly elected, and the scheduled election will not be held.	<p>In the case of CoA, the HC Chairman must declare the nominees duly elected at the HC meeting.</p> <p>In the case of PAC, CMI and CRoP, the deadline for nomination will automatically be extended to one clear day before the election date. If the number of valid nominations received by the extended deadline is still less than the number of seats, HC will determine another date for the election.</p>

	Election of members of the Commission		Election of members of LegCo committees
	Before the Seventh LegCo	Proposed changes in the Seventh LegCo	Proposed procedures in the Seventh LegCo
No valid nomination received	Not specified	The deadline will automatically be extended to one clear day before the election date. If there is still no valid nomination received by the extended deadline, the President's Deputy must determine another date for the election.	In the case of CoA, the deadline for nomination will automatically be extended to one clear day before the election date. If no valid nominations is received by the extended deadline, HC must determine another date for the election.
Ballot	Secret ballot	Open ballot by using the Electronic Voting System	
Two or more nominees receiving the same number of votes	A separate poll must be taken until all the remaining seats are filled.	A separate poll must be taken in respect of these nominees. If, after a separate poll, there is still a nominee who would have been elected but for there being one or more other nominees having been given the same number of votes, lots must be drawn by the President's Deputy to determine which of them will take up the remaining seat(s).	

THE LEGISLATIVE COUNCIL COMMISSION ORDINANCE

RESOLUTION

(Determination made under sections 4(1)(e) and 5(4)
of The Legislative Council Commission Ordinance (Cap. 443))

RESOLVED that with effect from 19 January 2022 the membership of The Legislative Council Commission, the election of members thereof and their term of office, be determined as follows:

Membership

1. In accordance with section 4(1)(e) of The Legislative Council Commission Ordinance (“the Ordinance”), the maximum number of members to be elected to The Legislative Council Commission (“the Commission”) by and from amongst Members of the Legislative Council (“LegCo”) shall be 10.

Manner of election

2. An election of members referred to in section 4(1)(e) of the Ordinance shall be presided by the President’s Deputy referred to in Rule 5 of the Rules of Procedure of LegCo, who is the Chairman of the House Committee. The date, time and venue of the election shall be determined by the President’s Deputy.

3. The LegCo Secretariat (“the Secretariat”) shall issue a circular and a nomination form to all LegCo Members at least five clear days before the election date, inviting nominations to be made.

4. Nominations shall be submitted by electronic means specified by the Secretariat. A valid nomination shall be made by a Member, seconded by at least one other Member and accepted by the Member being nominated.

5. The name of a Member shall not appear on more than one nomination for the office as a member of the Commission, whether in the capacity as a Member being nominated, or as a Member making the

nomination, or as a Member seconding the nomination; otherwise, only the first such nomination received by the Secretariat shall be valid. Nevertheless, a Member may nominate himself/herself for the office as a member of the Commission, provided that such nomination is seconded by at least one other Member. In such case, the name of the Member concerned will appear on a nomination in the capacities as a Member making nomination and a Member being nominated. The Secretariat shall notify the Member who submitted any invalid nomination.

6. Nominations shall reach the Secretariat at least two clear days before the election date.

7. If no valid nomination is received by the deadline, the deadline will automatically be extended to one clear day before the election date. If such extended deadline falls on a Saturday or public holiday, the deadline shall be advanced to the first preceding day that is not a Saturday or public holiday. All Members will be so notified by the Secretariat. If there is still no valid nomination received by the extended deadline, the President's Deputy shall determine another date for the election.

8. If the number of valid nominations received by the deadline or the extended deadline referred to in paragraph 6 or 7 is less than or equal to 10, the President's Deputy shall inform all Members in writing that the nominees are duly elected and the election under paragraph 2 will not be held.

9. If the number of valid nominations received by the deadline or extended deadline referred to in paragraph 6 or 7 is more than 10, a poll shall be taken at the election, and Members shall cast their votes by open ballot with the use of the Electronic Voting System. A Member may vote for as many nominees as, but not more than, the number of seats, i.e. 10. The nominees who get the highest numbers of votes will be declared elected.

10. In cases where a nominee would have been elected but for there being one or more other nominees having been given the same number of votes, a separate poll shall be taken in respect of that nominee and such other nominee(s) in accordance with the manner of election provided in paragraph 9 above.

11. If, after a separate poll is held under paragraph 10, there is still a nominee who would have been elected but for there being one or more other nominees having been given the same number of votes, lots shall be drawn by the President's Deputy among such nominees to determine which of them will take up the remaining seat(s).

12. Members will be informed of the election results as soon as possible.

Term of Office

13. Unless otherwise determined by the Council by resolution, the term of office of members elected under section 4(1)(e) of Cap. 443 shall be one year or until the next election of Commission members, or until the next dissolution of LegCo, whichever is the earlier.