



Consultation Report on Arrangements for Filling Vacancies in the Legislative Council

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Content

Chapter One:	Introduction	1
Chapter Two:	Public consultation on arrangements for filling vacancies in the Legislative Council	5
Chapter Three:	Opinions on how to address the issue of Members resigning to trigger by-elections in which they seek to stand and be re-elected	7
Chapter Four:	Opinions on the options to fill a casual vacancy arising mid-term in the Legislative Council geographical constituencies and District Council (second) functional constituency	15
Chapter Five:	Summary of the legal analysis of the four options in the consultation paper	23
Chapter Six:	The proposal	31
Chapter Seven:	Conclusion	36

Chapter One: Introduction

Mischief arising from resignations of five Legislative Council Members

- 1.01 On 25 January 2010, five Legislative Council (“LegCo”) Members from the five respective geographical constituencies (“GCs”) gave written notice of resignation to the Clerk to the LegCo and their resignations took effect from 29 January 2010. The Electoral Affairs Commission (“EAC”) conducted by-elections on 16 May 2010 to fill the five vacancies in accordance with the Legislative Council Ordinance (Cap. 542) (“LCO”). All of the five resigned LegCo Members (“Members”) stood in the by-elections and were all re-elected. The by-elections had a record low voter turnout rate of 17.19%, with just around 580 000 electors voting. Public money incurred in this by-election amounted to \$ 126 million.
- 1.02 The incident led to considerable concern in the community. The resignations of five Members and their standing in the ensuing by-elections was considered by many members of the public and different political parties as an unnecessary political endeavour, resulting in significant drain on public resources, which could have been deployed for other more productive purposes. There are calls for the current arrangement for filling a vacancy in the LegCo through a by-election to be reviewed. There is also a large body of public opinion that the loophole should be plugged to prevent occurrence of similar incidents in future.
- 1.03 On the other hand, some (particularly those Members who resigned and stood in the by-elections and their supporters) have expressed the view that there is nothing inappropriate for a Member to be able to resign in order to trigger a by-election in which he or she seeks to stand. They take the view that such conduct could be a way to convey a political message.

The Administration’s legislative proposal in May 2011

- 1.04 After careful consideration, the Administration announced a proposal on the arrangements for filling vacancies in the GCs

and the future District Council (second) functional constituency (“DC (second) FC”) on 17 May 2011. The LegCo Panel on Constitutional Affairs was consulted on 24 May 2011 and a majority of Members agreed that the existing loophole had to be plugged. On 3 June 2011, the Legislative Council (Amendment) Bill 2011 (“the Bill”) was gazetted. The Bill proposes a replacement mechanism to fill a casual vacancy in any GC or the DC (second) FC¹ in all situations. This ensures that the will of the electorate is preserved for the four-year term of the LegCo.

- 1.05 The Bill provides for a replacement mechanism for filling any vacancy in the membership of the LegCo arising during the term of office of the LegCo in any GC or DC (second) FC. Such vacancy will be filled by a person from a precedence list compiled in the last general election. The first person eligible for replacement is the first candidate who has not yet been elected on the list with the largest number of remainder votes in the last general election. If the candidate concerned has died, or is now disqualified or does not wish to serve, the second person from the precedence list, i.e. the first unelected candidate on the list with the second largest number of remainder votes from the last general election, will fill the vacancy.
- 1.06 The proposal will not only cover vacancies arising from resignation but also other situations specified under sections 15 and 72 of the LCO and Article 79 of the Basic Law. The main considerations are that when a vacancy arises, the reference to the result of the preceding general election will indicate the preference of the electorate for the most suitable replacement. This will also obviate the need for holding by-elections under these situations. The replacement mechanism does not apply to casual vacancies in the existing 28 traditional functional constituencies (“FCs”)², because they do not adopt the list proportional representation system.

¹ For the GC and DC (second) FC, the list proportional representation system is adopted.

² The existing 28 traditional FCs are single seat constituencies except for the labour FC which comprises three seats. For the four FCs with small electorates (i.e. the Heung Yee Kuk FC, the agriculture and fisheries FC, the insurance FC and the transport FC), the preferential elimination system of voting is adopted. For the remaining 24 FCs, the first-past-the-post system is adopted.

- 1.07 A Bills Committee (“the Bills Committee”) was formed under the LegCo on 10 June 2011 and seven meetings were held to scrutinise the Bill. A special meeting of the LegCo Panel on Constitutional Affairs was held on 18 June 2011 to receive views from 116 organisations and individuals (in the event 88 turned up) on the Bill.

The Administration’s revised proposal in June 2011

- 1.08 After considering the views of the Bills Committee, the Administration put forward a revised proposal on 28 June 2011. Under the revised proposal, the vacancy concerned will first be filled by the first candidate who has not been elected on the same list as that of the vacating Member. If that candidate is ineligible or unwilling to fill the seat, the vacancy will be filled by the next candidate on the same list, and so on (i.e. the same list arrangement). When there is no more candidate on the same list who is eligible and willing to fill the vacancy, the vacancy will be filled by reference to the precedence list, i.e. the list of the first candidates who have not been elected on each of the lists with remaining votes at the previous general election, ranked in descending order according to the number of remaining votes of their respective lists (i.e. the fallback arrangement). Finally, if the vacancy cannot be filled by the above methods, a by-election will be held.
- 1.09 The Administration considers that the revised proposal can provide an objective and fair means to fill a casual vacancy in a constituency for which the list proportional representation system has been adopted. Taking the scheme as a whole, the revised proposal represents a reasonable and workable rule of certainty, and is consistent with the provisions of the Basic Law and the Hong Kong Bill of Rights. The revised proposal is a lawful solution within the discretionary area of judgment of the Legislature.
- 1.10 The revised proposal and the proposed Committee Stage Amendments (“CSAs”) to effect the revised proposal were discussed by the Bills Committee on 4 July 2011.
- 1.11 In response to the view of the Bills Committee that the Administration should provide more time to consider Members’

suggestions and listen further to public views, the Constitutional and Mainland Affairs Bureau prepared and published the Consultation Paper on Arrangements for Filling Vacancies in the Legislative Council (“Consultation Paper”) on 22 July for a two-month public consultation to collect the views of the public.

Chapter Two: Public consultation on arrangements for filling vacancies in the Legislative Council

2.01 On 22 July 2011, the Government published a Consultation Paper to consult the public on the arrangements for filling vacancies in the LegCo. The two-month consultation to collect the views of the public on the said arrangements ended on 24 September 2011.

Written submissions

2.02 During the public consultation period, various groups and organisations and individual members of the community were invited to submit their views on the key issues set out in the Consultation Paper as well as other related topics to the Constitutional and Mainland Affairs Bureau by mail, facsimile or email. During the consultation period, 31 120 written submissions were received. Of which, about 20 000 were submitted by mail, facsimile or other delivery methods and about 10 000 were submitted via email.

Public forums

2.03 In addition, during the public consultation period, the Government organised two public forums in the New Territories and the urban areas on 23 August and 1 September 2011 respectively to invite the public to express their views. At the public forums, the Secretary for Constitutional and Mainland Affairs briefed the public on the contents of the Consultation Paper and responded to their comments. The two public forums were attended by over 450 members of the public.

Meetings with different sectors of the community

2.04 To collect views on the arrangements for filling vacancies in the LegCo, the Chief Secretary for Administration, the Secretary for Constitutional and Mainland Affairs and other relevant secretaries including the Secretary for Labour and Welfare, the Secretary for Development and the Secretary for Financial Services and the Treasury also met with various sectors of the community and attended 11 forums and discussion sessions

organised by different organisations. Details of the forums and discussion sessions are set out at the Annex.

- 2.05 Apart from proactively engaging all sectors of the community and members of the public, we also closely followed the opinion polls conducted by the university, the media, organisations and political parties on the arrangements for filling vacancies in the LegCo in order to have a better understanding of public opinions. We also noted that some members of the public joined a demonstration on 24 September 2011 to express their views on the arrangements for filling vacancies in the LegCo.
- 2.06 Chapters 3 and 4 of this Report set out in detail the views received from different parties and organisations during the public consultation period as well as an analysis of the opinion polls and written submissions from members of the public and organisations on the phenomenon of Members resigning to trigger by-elections in which they seek to stand and be re-elected, as well as how the issue should be addressed and which option should be adopted.
- 2.07 The written submissions on the arrangements for filling vacancies in the LegCo submitted by members of the public and organisations (including political parties/groups and organisations) by means including mail, email and facsimile are at the Appendix and are available for public inspection at the Constitutional and Mainland Affairs Bureau. The Appendix is also available at the website of the Constitutional and Mainland Affairs Bureau.

Chapter Three: Opinions on how to address the issue of Members resigning to trigger by-elections in which they seek to stand and be re-elected

3.01 In the Consultation Paper, we invited the public to express views on the following questions:

- (a) whether the phenomenon of Members resigning at will, triggering by-elections in which they seek to stand and involving a considerable amount of public funds, is a loophole that needs to be plugged;
- (b) if it is considered that the loophole should be plugged, of the following options identified in Chapter Four of the Consultation Paper, which one(s) would be preferred:
 - (i) Option 1: restricting resigning Members from participating in any by-election in the same term;
 - (ii) Option 2: a replacement mechanism using the same candidate list followed by a precedence list system as proposed by the Administration;
 - (iii) Option 3: a replacement mechanism which does not cover causal vacancies arising from death, serious illness or other involuntary circumstances;
 - (iv) Option 4: a replacement mechanism using the same candidate list, followed by leaving the seat vacant when the list is exhausted;
- (c) if it is considered that the loophole need not be plugged, whether the status quo should be maintained i.e. no legislative amendment will be made, a by-election will be held if a Member resigns, the resigning Member can stand in the resulting by-election, and a considerable amount of public funds will be spent;
- (d) whether it is necessary to address the issue that holding a by-election (which adopts the first-past-the-post system) to fill a mid-term vacancy in GCs and the future DC (second)

FC (which adopt the list proportional representation system in general elections) may result in an unfair change in the proportion of seats allocated among political parties and groups in the previous general election; and if so, whether a replacement mechanism that is a fair and reasonable alternative to by-election can be considered; and

(e) whether there are other feasible options to plug the loophole or other relevant suggestions.

3.02 This chapter summaries the views expressed by different political parties/groups and organisations, results of the opinion polls conducted by the university, the media, organisations and political parties, as well as the 31 120 written submissions received during the public consultation period on whether the phenomenon of Members resigning at will, triggering by-elections in which they seek to stand and involving a considerable amount of public funds, is a loophole that needs to be plugged. As regards the written submissions, please refer to the Appendix (details in Paragraph 2.07).

Written submissions received from political parties/groups

3.03 Some political parties/groups point out that the incident of Members resigning in 2010 in order to trigger by-elections in which they stood resulted in significant drain on public resources and adversely affected the operation of the LegCo. They had failed the expectations of the public on Members. There is a risk that the same situation could also happen in respect of the five new DC (second) FC seats created in the next term of the LegCo. The impact will be even greater.

3.04 These political parties consider that the low voter turnout rate of the by-elections for the five GCs held in 2010 and the results of various opinion polls indicate that in general the public do not support Members resigning in order to trigger by-elections for the purpose of instigating a so-called “referendum”. There is also a political party which takes issue with Members taking advantage of the electoral process under which they resigned at will to trigger unnecessary by-elections in five GCs for the purpose of instigating a so-called “referendum” in order to force the public to express their views on the issue of “Universal

Suffrage for Chief Executive Election and LegCo Election in 2012”. The political party is of the view that from the perspectives of political science, democratic theory and public governance, any form of “referendum” will not be conducive to the constitutional development and social well-being of Hong Kong. As such, they support the Government plugging the loophole by way of legislation. According to the opinion poll conducted by a political party, of more than 1 600 people interviewed, 46.8% agree that the Government should put forth measures to plug the loophole so as to prevent the 2010 incident from recurring.

- 3.05 Some other political parties consider that having by-elections is a fundamental right of the Hong Kong people. The right is protected under the Basic Law and the International Covenant on Civil and Political Rights. The Government should not attempt to alter this arrangement without obtaining clear public support or mandate.
- 3.06 There are views that the existing by-election system has been operating well and it is a well-recognised means for filling LegCo vacancies. Resources for holding by-elections has never been a problem. One should not conclude that public resources were wasted merely because of a low voter turnout rate. Since reunification, two LegCo by-elections were held in 2000 and 2007. The voter turnout rate of these two elections stood at some 30% and 50% respectively. These political parties consider that the status quo should be maintained (i.e. to conduct by-elections when vacancies arise) as only then can the electorate’s right to stand for election and right to vote be fully protected.

Written submissions received from organisations

- 3.07 An organisation considers that the right to vote is the core value of a democracy. Article 26 of the Basic Law provides that permanent residents of the Hong Kong Special Administrative Region (“HKSAR”) shall have the right to vote and the right to stand for election in accordance with law. However, both electors and Members should maintain a solemn and serious attitude towards the right to vote and the right to stand for election. A Member resigning at will means that he declines to

fulfill his obligations as a Member and relinquishes his right to stand for election. This is an irresponsible act to the electors who vote in that term. As such, corresponding measures should be taken to prevent such conduct to avoid the adverse impact on the electoral system caused by Members resigning at will.

3.08 Some professional organisations do not consider that the phenomenon of Members resigning to trigger by-elections in which they seek to stand is a loophole. They take the view that by-election, instead of being a loophole that needs to be plugged, is a pre-existing civil right enjoyed by the Hong Kong people and a core value of the Hong Kong people. They are supportive of maintaining the status quo and continuing to hold by-elections which adopt the first-past-the-post system.

3.09 The questionnaire surveys sent out by the Hong Kong Institute of Architects, the Hong Kong Institute of Landscape Architects and the Hong Kong Institute of Planners to their members indicate that the majority of the respondents are supportive of maintaining the status quo. According to the questionnaire survey conducted by the Hong Kong Institute of Surveyors, over 50% of the respondents consider that the loophole needs to be plugged and close to 50% is in favour of Option 1. The questionnaire survey of the Hong Kong Medical Association shows that 44% of the respondents support maintaining the status quo and 42.5% support Option 1.

Opinion polls

3.10 The results of the opinions polls conducted by the university, the media, organisations and political parties to gauge the views of the public on the arrangements for filling vacancies in the LegCo during the public consultation period indicate that in general over or close to 50% of the respondents consider that the Government needs to plug the loophole by way of legislative amendments.

The Public Opinion Programme at the University of Hong Kong

3.11 Radio Television Hong Kong (“RTHK”) and the Public Opinion Programme at the University of Hong Kong jointly organised a

research project, the “Hong Kong Deliberative Forum”. Under the project, the public was encouraged to debate and think about the arrangements for filling LegCo vacancies at a debate session so that they would have an opportunity to look closely at the details and the arguments of the arrangements. The Public Opinion Programme at the University of Hong Kong interviewed between late August and early September 2011 about 1 000 people of which 57% consider that the Government should change the arrangements for filling vacancies by way of legislative amendments, 31% consider that the status quo should be maintained, and the remaining 12% answer “I don’t have any view” or “I don’t know”. This is the first round of the poll. The second and third rounds of the poll where there were only 85 respondents were conducted before and after the conduct of the “Hong Kong Deliberative Forum” on RTHK. The results of the second and the third rounds of the poll indicate that before the start of the Forum, 49% of the respondents support legislative amendments and 48% are in favour of maintaining the status quo. After the Forum, 43% of the respondents support legislative amendments and 55% prefer maintaining the status quo.

Hong Kong Research Association

- 3.12 The Hong Kong Research Association conducted three rounds of poll in late July, early September and late September 2011. In each round, over 1 000 people were interviewed. In the late September poll, 64% of the respondents consider that the Government should introduce legislative amendments to plug the loophole so as to stop Members from resigning at will to instigate by-elections. The percentage share of respondents who support the idea of plugging the loophole in the said round of poll is slightly higher than those found in the first two rounds held in late July (61%) and early September (63%) respectively. In the late September round of the poll, the percentage share of respondents who are against the idea of plugging the loophole by way of legislative amendments is 27%, lower than those found in late July (33%) and early September (32%).

Kowloon Federation of Associations

- 3.13 The Kowloon Federation of Associations conducted a poll between late July and early August 2011. Of the 1 161 people interviewed, 61% consider that it is necessary for the Government to plug the loophole by legislating against resignations of LegCo Members which aim at triggering by-elections in which the resigning Members seek to stand, while 30% do not think that this is necessary.

The New Territories Association of Societies

- 3.14 The New Territories Association of Societies conducted a poll in mid-July 2011. Of the 1 075 people interviewed, 51% indicate strong support or support for the Government to introduce legislative amendments to plug the loophole so as to stop Members from resigning at will to instigate by-elections, while 41% are against or strongly against this.

The Liberal Party

- 3.15 The Liberal Party conducted a poll between 29 June and 3 July 2011 to gauge the views of the public on “the replacement mechanism for filling vacancies in the LegCo”. The results reveal that of the 1 646 respondents aged 18 or above, nearly half of them (46.8%) “support” the Government to devise measures to plug the loophole and prevent the incident in which five Members resigned, stood in by-elections and instigated a so-called “referendum” in 2010 from recurring.

The Civic Party

- 3.16 The Civic Party conducted a telephone poll before the end of the consultation period to gauge the views of the public on the replacement mechanism. A total of 2 606 people responded to the poll. The results include:
- (a) 60% of the respondents consider that the Government should ensure that all options are legal and constitutional before putting them up for public consultation;

- (b) close to 50% of the respondents agree that the current by-election system should be kept unchanged and be introduced as Option 5 in the Consultation Paper; and
- (c) while 40% of the respondents believe that the proposed arrangements for filling vacancies in the LegCo put forward by the Government aims to abrogate the right to vote of the people, 26% disagree.

Written submissions received from members of the public and organisations

3.17 The Administration has received 31 120 written submissions. The majority of these submissions (around 70%) consider that the phenomenon of Members resigning at will, triggering by-elections in which they seek to stand and involving a considerable amount of public funds, is a loophole that needs to be plugged. The primary reasons for supporting plugging the loophole are:

- (a) the by-elections incurred huge expenditure. The amount of public money involved in holding the 2010 by-elections to fill the five vacancies was around \$126 million. The resources could have been deployed for other more productive purposes;
- (b) it is an abuse of process for the Members to resign at will in order to trigger and stand in by-elections;
- (c) they are discontent with Members who resigned and stood in the by-elections. Some consider that Members should discharge their duties in the LegCo and resignation at will shows disrespect to their electors and is irresponsible conduct; and
- (d) some consider that Members resigning at will would have an impact on the operation of the LegCo because between a Member's resignation and the by-election, the LegCo will be deprived of the service of a Member and the constituents will be deprived of the service of the Member as their representative for the relevant period.

3.18 A considerable number of submissions (around 30%), however, express the view that the phenomenon of Members resigning at will, triggering by-elections in which they seek to stand, is not a loophole that needs to be plugged. The main reasons are as follows:

- (a) voting or standing in a by-election is a right;
- (b) there is no problem whatsoever with the existing system and no change is, therefore, required;
- (c) if the electors are not supportive of Members' resignations and their intention to stand and seek re-election, the electors will not vote for the Members as a result;
- (d) resignation followed by standing in the ensuing by-election is a way for Members to express their views; and
- (e) any "replacement mechanisms" are contrary to the Basic Law.

Summary

3.19 The written submissions received and the results of the opinion polls reveal that in general the community is more supportive of the Administration's proposal to plug the loophole by way of legislative amendments. However, some organisations and individuals hold different views.

Chapter Four: Opinions on the options to fill a casual vacancy arising mid-term in the Legislative Council geographical constituencies and District Council (second) functional constituency

4.01 This Chapter sets out a summary of the views received from different sectors of the community on the Options to plug the loophole elaborated in the Consultation Paper. As regards the written submissions, please refer to the Appendix (details in Paragraph 2.07).

Written submissions by political parties/groups and organisations

Option 1: restricting resigning Members from participating in any by-elections in the same term

4.02 Some political parties/groups are of the view that more members of the public support Option 1. Option 1 retains the by-election system, under which members of the public can continue to stand for election and cast their votes. Their rights are protected and the mechanism is simple and straightforward.

4.03 Some political parties consider that the Administration has not examined whether Option 1 is consistent with the right to stand for election which is protected under the Basic Law. An attempt to restrict resigning Members from taking part in by-elections held within the same term may constitute discrimination and contravene Article 2 of the International Bill of Rights. Therefore the right to stand for election should not be denied on the basis of political views. A political party considers that prohibiting resigning Members from standing in elections is susceptible to legal challenge. Furthermore, this arrangement cannot totally plug the loophole because other members of the same political party of the resigning Member or people who share their political views can still stand in the by-election. That could also have the effect of instigating a “referendum”. So Option 1 is the least effective option in plugging the loophole. In addition, to fill a vacancy by way of a by-election also runs contrary to the spirit of proportional representation.

4.04 The results of the questionnaire survey conducted by the Hong Kong Institute of Architects indicate that 34.5% of the respondents support Option 1, which is second only to 49.6% of the respondents who support maintaining the status quo. The respective percentage of support for Options 2, 3 and 4 is less than 6%. The results of the questionnaire survey conducted by the Hong Kong Institute of Landscape Architects indicate that 14% of the respondents support Option 1, 86% of the respondents support maintaining the status quo, while none of the respondents support the other Options. The results of the questionnaire survey conducted by the Hong Kong Institute of Planners indicate that 22% of the respondents support Option 1, 71% support maintaining the status quo, and other Options receive only a small percentage of support. The results of the questionnaire survey conducted by the Hong Kong Institute of Surveyors indicate that more than 50% of the respondents consider that there is a need to plug the loophole, close to 50% of the respondents support Option 1, about 4% support Option 2, about 10% support Option 3, and about 7% support Option 4. The results of the questionnaire survey conducted by the Hong Kong Medical Association indicate that 42.5% of the respondents support Option 1, which is second only to 44% of the respondents who support maintaining the status quo. The respective percentage of support for Options 2, 3 and 4 is 5.8%, 6.3% and 4.3%.

Option 2: a replacement mechanism using the same candidate list followed by a precedence list system

4.05 A political party which supports Option 2 argues that the Option is the most effective one in plugging the loophole. Filling a vacancy by a candidate from the same list as that of the resigning Member is in line with the spirit of proportional representation. The Option also provides individuals with political aspirations with an opportunity to become LegCo Members and helps political parties nurture political talents, which is beneficial to the long-term development of party politics. In reality, the likelihood that a vacancy would be filled by a candidate from the list with the largest remainder votes is extremely low and the worry that the will of the electorate would be distorted is not warranted.

- 4.06 Some political parties/groups object to Option 2. According to Option 2, a vacancy will first be filled by a candidate on the same list as that of the resigning Member. When there is no more candidate on the same list who is eligible and willing to fill the vacancy, the vacancy will be filled by reference to the precedence list. If the vacancy still cannot be filled, a by-election will be held. Under this Option, a by-election will be held only after the replacement lists are exhausted. Therefore, the chance to hold a by-election will be very slim. As some political parties/groups consider that having by-elections is a right, the reduction in the number of by-elections will deprive electors of their right to stand for election and their right to vote. Under this Option, there is also a possibility that a vacancy will be filled by a candidate from another list which means that the candidate on the list which received a mandate from the electors will be replaced by a candidate from another list of candidates. The mandate therefore will be distorted.
- 4.07 There are also views that it may still cause a problem even if a vacancy is to be filled by a candidate from the same list. There will be a time gap between the LegCo general election and a by-election. As there are constant changes in the social and political situations, the views of the electors may change accordingly and so may their support for different political forces. If Option 2 is to be implemented to decide who will fill the vacancy, electors will not be able to elect their representative according to their latest preferences. Moreover, the political view of the candidate who fills the vacancy according to the replacement mechanism may have changed or he may have joined another political party. As a result, Option 2 will go against the will of the electors who voted for the list. Option 2 may also lead to a situation where no candidate will stand for election using a single-candidate list. This is in contravention of Article 25 of the International Covenant on Civil and Political Rights which provides that the right and opportunity of an elector should not be subject to unreasonable restrictions.
- 4.08 Some political parties/groups consider that Option 2 still retains elements that have been objected to by the public and challenged by the Hong Kong Bar Association as unconstitutional. The elements of Option 2 have been questioned as contravening the Basic Law and depriving the citizens' right to vote and the right

to stand for election. There are views that Option 2 involves the filling of a vacancy by a candidate of another list with the largest remainder votes. This distorts the original choice of the electors artificially and is against the original intent of “election” in the Basic Law.

- 4.09 Some political parties consider that the implementation of Option 2 might lead to the undesirable consequence of a mismatch between the results of a vacancy being filled by the replacement mechanism and the results of the initial election conducted under the proportional representation system. Moreover, these political parties consider that the Administration agrees that some unreasonable or “absurd” situation could not be ruled out, such as a vacancy being filled by a candidate from a list with a low number of votes.
- 4.10 The results of the questionnaire surveys, conducted by some professional organisations on Option 2 and other Options, could be found in Paragraph 4.04.

Option 3: a replacement mechanism which does not cover causal vacancies arising from death, serious illness or other involuntary circumstances

- 4.11 A political party opines that Option 3 is an appropriate option mainly because vacancies arising from voluntary resignation should be treated differently from those arising from death, serious illness and other involuntary circumstances. The latter should continue to be filled by by-elections, but the former should be filled by a specific replacement mechanism.
- 4.12 Some other political parties consider that Option 3 preserves the right of the public to stand and to vote in a by-election when the vacancy arises under involuntary circumstances while at the same time addresses the mischief of Members resigning unnecessarily to triggers by-elections. However, it is difficult to come up with a legally precise definition for involuntary circumstances and there might be some difficulties implementing the Option. Similar to Option 1, Option 3 proposes to fill vacancies by holding by-elections, which is inconsistent with the spirit of the proportional representation system. Besides, the Administration has not examined whether Option 3 is consistent

with the provisions of the Basic Law and whether the public would be deprived of the right to vote and the right to stand for election. Option 3 basically employs the same mechanism as Option 2. Although Option 3 does not cover the situations where vacancies arising from death, serious illness or other involuntary circumstances, it does involve the filling of a vacancy by a candidate on a list with the largest remainder votes. Hence, similar to Option 2, it still runs contrary to the original intent of the notion of “election” in the Basic Law.

- 4.13 The results of the questionnaire surveys, conducted by some professional organisations on Option 3 and other Options, could be found in Paragraph 4.04.

Option 4: a replacement mechanism using the same candidate list followed by leaving the seat vacant when the list is exhausted

- 4.14 A political party considers that Option 4 fully lives up to the spirit of the proportional representation system, as leaving a seat vacant can better reflect the will of the electorate than filling the vacancy by a candidate with the largest remainder votes proposed under Option 2. Option 4 favours the development of party politics as it fills a vacancy by a candidate from the same list. The political party believes that the likelihood of leaving a seat vacant is extremely low because those resigning to instigate a “referendum” would absolutely have no wish to lose their seats. Therefore, Members would not lightly resign under Option 4.
- 4.15 On the other hand, a political party argues that the proposal to leave a seat vacant under Option 4 clearly contravenes the requirement on the number of seats in the LegCo under the Basic Law. Leaving a seat vacant will adversely affect the operation of the LegCo and the will of the electorate could not be reflected. A political party considers that Option 4 is inadequate because vacancies arising from voluntary resignation and those arising from other involuntary circumstances are not treated differently. Some political parties/groups consider that as the Administration has not examined in detail whether Option 4 is constitutional, there is no need for the public to discuss the feasibility of Option 4.

4.16 The results of the questionnaire surveys, conducted by some professional organisations on Option 4 and other Options, could be found in Paragraph 4.04.

Summary

4.17 In conclusion, all those political parties which consider that the status quo should be maintained object to the four Options set out in the Consultation Paper. For the political parties which believe that the loophole should be plugged, they offer their comments on the Options proposed, with one party putting forward a new proposal as an alternative to the Options (e.g. a new option combining Options 3 and 4). Noting that the community has differences over the Options put forward by the Administration, one of the political parties hopes that the final proposal will be consistent with the Basic Law and the relevant legislative provisions.

Opinion polls

4.18 Opinion poll results indicate that the four Options have different levels of support.

Hong Kong Research Association

4.19 The results from the polls conducted in early and late September indicate that the respective percentage of respondents who express strong support and support to Option 1 is 55%. Those who express strong support and support to Option 3 account for 56% (early September) and 59% (late September) of the respondents respectively. As both Options 2 and 4 involve a replacement mechanism using the same candidate list, the polls also seek to gauge the views of the respondents with respect to the different proposals under the same candidate list arrangement. 59% (early September) and 61% (late September) of the respondents indicate strong support or support to a replacement mechanism using the same candidate list, while 18% (early September) and 19% (late September) indicate a neutral stance. In the late September round of poll, 54% of the “strongly support”, “support” and “neutral” subsets of the sample consider that in case that a vacancy cannot be filled by a candidate from the same list, the candidate who has not been elected with the

highest number of votes in the previous election should fill the vacancy. 28% consider that the vacancy should be filled by way of a by-election and 16% consider that the seat should be left vacant (i.e. Option 4 of the Consultation Paper).

The Kowloon Federation of Associations

4.20 Over half of the respondents welcome the four Options set out in the Consultation Paper, but there is no option that receives a majority support (16.4% of the respondents support Option 1, 18.9% support Option 2, 4.3% support Option 3 and 11.5% support Option 4).

The New Territories Association of Societies

4.21 In responding to the question of which Option is the most appropriate option to plug the loophole of the existing LegCo by-election system, 78% of the respondents support the conduct of by-elections, but resigning Members should be restricted from standing in the subsequent by-elections or any by-elections within the same legislative term.

The Liberal Party

4.22 The results of the poll conducted by the Liberal Party indicate that 46.3% of the respondents support the Administration's revised proposal (i.e. Option 2) and 42.7% are against the proposal. The main reasons for the respondents who object to the proposal, in the order of percentage share, are deprivation of the right to vote (58.4%); lack of consultation for the proposed arrangements introduced by the Administration (18.2%); that the Administration's proposed arrangements have many loopholes (13.2%) and that the existing by-election system should not be changed (7.4%). Finally, 62.8% of the respondents consider that the proposed replacement mechanism should only be used under the situation of voluntary resignation and vacancies arising from involuntary situations such as death, serious illness or relief of duties due to commission of serious offences should be filled by holding by-elections. 24.8% of the respondents do not support this.

Written submissions received from members of the public and organisations

- 4.23 The written submissions received indicate that the four Options have different levels of support.
- 4.24 Of the four Options proposed, Option 1 or proposals similar to Option 1 receive relatively more support (about 14% of the submissions which support plugging the loophole), Option 2 or proposals similar to Option 2 receive the second highest level of support (about 10%). Options 3 and 4 receive relatively less support (each about 3%). However, we note that, in general, a considerable number of submissions support a replacement mechanism which uses lists of candidates (including the same candidate list and the precedence list) to fill vacancies.
- 4.25 Reasons given in support of Option 1 or proposals similar to Option 1 are that Option 1 is a more focused approach and it involves fewer changes to the existing system. Reasons given in support of Option 2 or proposals similar to Option 2 are that Option 2 is consistent with the list proportional representation system and maintains the proportion of seats allocated among different political parties and groups represented by the lists of candidates in the previous general election. Moreover, by adopting Option 2, to a very large extent the mischief of Members resigning to trigger by-elections in which they seek to stand can be addressed.
- 4.26 The reasons for supporting Options 3 and 4 are that Option 3 is a more proportionate response to the public concern in question while Option 4 has the advantages of Option 2 and at same time avoids any concerns on the fallback arrangement in Option 2.

Chapter Five: Summary of the legal analysis of the four options in the consultation paper

- 5.01 The Hong Kong Bar Association issued a statement on 31 August 2011 expressing the view that unless strong, convincing and compelling reasons could be advanced by the Government, the status quo should be maintained and no amendments should be made to the current legislation to change the electoral system.
- 5.02 The Law Society of Hong Kong made a submission on 21 September 2011 stating that whether there was a loophole and whether the loophole should be plugged was a political question. The Law Society stated that on the basis of the materials and justifications provided by the Administration, it took the view that a convincing case had not been made out for any of the four options. In the absence of other justifications and options put forward by the Administration, the Law Society did not consider that the existing right of permanent residents to vote and to stand for election at by-elections should be abolished or varied.
- 5.03 15 members of the Election Committee Legal Subsector stated that the right to elect and to be elected was a constitutionally entrenched right and should not be deprived. They considered that the mischief identified in the Consultation Paper was not a problem that needed to be addressed and the four options were unconstitutional. They therefore objected to all the four options.
- 5.04 We have conducted a legal analysis of the four options. The following set out the Administration's views on the legality of the four options.

Option 1: restricting resigning Members from participating in any by-election in the same term

- 5.05 Under Option 1, a by-election would still be held to fill a mid-term vacancy except that the LCO would be amended to restrict a Member who resigns from office from being

nominated as a candidate in a by-election for the remainder of the term.

5.06 Article 26 of the Basic Law provides that permanent residents of the HKSAR shall have the right to stand for election in accordance with law. It is necessary to consider whether this option is a proportionate response to addressing the mischief of Members resigning at will. The Consultation Paper noted that the issues to be considered include:

- (a) whether the resigning Member should be restricted from standing in by-elections for the entire remainder of the term;
- (b) what would be the appropriate period of exclusion; and
- (c) whether exceptions should be allowed, and if so, under what circumstances.

5.07 The right of a person to stand for election under Article 26 of the Basic Law and Article 21 of the Bill of Rights is not absolute. Restrictions may be imposed on this right if they are rationally connected with a legitimate purpose and the means used to impair the right is no more than is necessary to accomplish the legitimate purpose. In applying the proportionality test, the Government and the Legislature are entitled to a discretionary area of judgment in the context of social and political choices by the State, for which there are no right answers.

5.08 We consider that the Government and the Legislature are entitled to regard it as an abuse of the power of a Member to resign for him to do so in order to trigger a by-election in which the Member intends to stand and seek re-election.

5.09 Given the mischief resulting from the resignation of a Member in these circumstances, it would also be reasonable to prevent the resigning Member from standing for election in his own or another constituency for a limited period of time. That is because the Member has a choice whether to resign. He knows the consequences when he considers resignation. As explained above, there are also strong grounds for seeking to

deter resignations by those who wish to stand in the consequent by-election.

- 5.10 However, bearing in mind that the term of the LegCo is four years and a Member may resign immediately or shortly after he has accepted office at the beginning of the term of the LegCo, it would be difficult to justify prohibiting a Member from standing for election for the entire remainder of the four-year term if the remainder is a relatively long period of time. Although there are strong grounds for deterring resignations staged to trigger by-elections in which the Member seeks to stand and be re-elected, there is a risk that the proposed prohibition in Option 1 is excessive and therefore more than is necessary to address the mischief even though it is rationally connected with a legitimate purpose. A shorter period of restriction would however be easier to justify in terms of proportionality. Generally speaking, the shorter the period of restriction, the more likely that the restriction is proportionate.

Option 2: a replacement mechanism using the same candidate list followed by a precedence list system

- 5.11 Under this option, the vacancy concerned will first be filled by the first candidate who has not been elected on the same list as that of the vacating Member. If that candidate is ineligible or unwilling to fill the seat, the vacancy will be filled by the next candidate on the same list, and so on (i.e. the same list arrangement). When there is no more candidate on the same list who is eligible and willing to fill the vacancy, the vacancy will be filled by reference to the precedence list, i.e. the list of the first candidates who have not been elected on each of the lists with remaining votes at the previous general election, ranked in descending order according to the number of remaining votes of their respective lists (i.e. the fallback arrangement). Finally, if the vacancy cannot be filled by the above methods, a by-election will be held.
- 5.12 The Administration considers that the option is constitutional and can provide a fair and reasonable means to fill a mid-term vacancy in a constituency for which the list proportional representation system has been adopted. Details of the Administration's views on the legality of this option were set

out in Annex V to the Consultation Paper and summarised in paragraph 4.14 of the paper.

5.13 As to the comments that Option 2 is unacceptable as a matter of principle because forced by-elections are not a mischief and the right to vote in a by-election cannot be removed, we would like to stress the following points:

- (a) there is a need to address the mischief caused by the resignation of Members who then proceed to stand in the by-elections occasioned: the Legislature and the constituents are deprived of the services of a Member from the time of the resignation until the by-election occurs; the cost to public funds; and if such resignations to trigger by-elections become a common occurrence, respect for the electoral process will be undermined;
- (b) the use of the remainder votes as a means of filling the vacancy is a permissible and proportionate response to the mischief. Indeed, without such a response, the mischief of by-elections would occur;
- (c) the use of the remainder votes is not to fill the vacancy other than by reference to the views of the electorate. On the contrary, it is to apply the votes cast in the previous general election to fill this vacancy, just as those results determine, until the next general election, who fills each of the other seats in the LegCo; and
- (d) the Administration and the LegCo enjoy a broad margin of discretion in relation to the detailed implementation of the electoral system, including how to address vacancies in the LegCo between general elections.

Option 3: a replacement mechanism which does not cover causal vacancies arising from death, serious illness or other involuntary circumstances

5.14 Under Option 3, a vacancy arising from a Member's death, serious illness or other involuntary circumstances would be treated differently from a vacancy arising from a Member resigning on his or her own initiative. The rationale is that the

circumstances giving rise to the vacancy in the former case do not arise out of the Member's own will and are not the mischief that needs to be addressed in this legislative exercise. Hence, any vacancy arising from death, serious illness or other involuntary circumstances would, under this option, continue to be filled by a by-election and the new replacement mechanism would not apply to this kind of vacancies.

- 5.15 The LegCo is entitled to regard the phenomenon of a Member resigning in order to trigger a by-election in which he seeks to stand and be re-elected, as a mischief which ought to be addressed. However, any restriction on the right to vote should be no more than is necessary to address the mischief. Given that the major loophole and mischief revealed in the 2010 resignations was that Members could trigger by-elections through voluntary resignations and then seek to stand and be re-elected, Option 3 has the merit of confining the exclusion of by-elections to cases dealing with the principal mischief and loophole, namely a by-election triggered by a Member's voluntary resignation. Seen in this light, Option 3 may be a more moderate response to the mischief caused by voluntary resignations. Any restriction on the right to vote and to stand for election would be no more than is necessary to address the mischief.
- 5.16 There would be two distinct methods for filling vacancies under Option 3: by-elections where the vacancy is due to death, serious illness or other involuntary circumstances, and by reference to the results of the previous general election under the list proportional representation voting system in other (voluntary) circumstances. The LegCo has a wide discretion in designing the electoral system. Article 68 and Annex II of the Basic Law also gives the LegCo a wide discretion in determining the contents of the legislation which governs the "specific method" for forming the LegCo. Hong Kong is entitled to develop its own electoral system within the framework of the Basic Law in light of its historical and political developments provided that the right to vote and to stand for election would not be unreasonably restricted.
- 5.17 If Option 3 is to be adopted, it is necessary to give further consideration to the criteria which would result in a by-election

and the circumstances under which a vacancy would be regarded as arising from voluntary circumstances and hence would be filled by means other than by-election. The constitutionality of Option 3 would ultimately depend on how such criteria and voluntary circumstances are determined, and whether the alternative to by-election is itself constitutional.

Option 4: a replacement mechanism using the same candidate list, followed by leaving the seat vacant when the list is exhausted

5.18 Under Option 4, a vacancy is first filled by a candidate from the same candidate list as that of the vacating Member and if there is no more candidate on the same list who is eligible and willing to fill the vacancy, the seat would be left vacant for the remainder of the term.

5.19 Although this option has the same merits as those of Option 2 in that the vacancy would first be filled by a candidate from the same list, the Consultation Paper cautioned (in Paragraph 4.20) that the desirability of leaving a LegCo seat vacant had to be considered in light of the fact that the number of seats in the LegCo is relatively small and there is a 50% to 50% balance between seats reserved for GCs and those for FCs. The Consultation Paper stated that the legal implications of leaving a LegCo seat vacant have to be further explored.

5.20 We have given detailed consideration to the legality of Option 4. Our view is that it is not advisable to pursue this option. The following are our considerations:

- (a) Annex II to the Basic Law provides that the LegCo shall be composed of 70 members in the fifth term of the LegCo and that the composition shall be 35 members returned by GCs through direct elections and 35 members returned by FCs. The ratio of members returned by GCs through direct elections and those returned by FCs is one of the specific and important requirements of the composition of LegCo members as stipulated in Annex II to the Basic Law. See Article II of Annex II to the Basic Law and the Decision of the Standing Committee of the National People's Congress on 29 December 2007, Article 1. Adoption of Option 4 may lead to a situation in which one

or more LegCo seats would remain vacant and the two groups of members would not be balanced;

- (b) the requirements concerning the number of LegCo members and the ratio of the two groups of members as specified in Annex II to the Basic Law are not absolute. There is room for implied limitation. The question is whether the limitation on the requirements can be justified;
- (c) although a seat would be left vacant only if the same candidate list has been exhausted, this fallback arrangement would be triggered immediately if the vacating Member was the only candidate on the list. It is not uncommon in Hong Kong for a list to have only one candidate;
- (d) leaving one or more LegCo seats vacant for a prolonged period of time will adversely affect the operation of the LegCo. Even if only one seat remains vacant, the impact is noticeable in view of the relatively small number of seats and the composition of the LegCo as provided for in Annex II to the Basic Law. The problem would be aggravated if there are more than one vacancies left unfilled;
- (e) Article 75 of the Basic Law provides that the quorum for LegCo meetings “shall be not less than one half of all its members”. The Administration takes the view that the expression “all the members of the Legislative Council” (“全體議員”) in the Basic Law should mean the entire authorised membership of the LegCo, rather than all LegCo members actually in office for the time being. Hence, the basis for computing the quorum requirement under Article 75 should be the entire authorised membership of the LegCo, even if some LegCo seats have become vacant at the time of the meeting. Having regard to this quorum requirement, the operation of the LegCo would be substantially inhibited if some of the seats remain vacant for the remainder of the term. It would be much more difficult to meet the quorum requirement if more seats are to remain vacant as a result of the application of Option 4. Further, if more than one-third of the 70 LegCo seats are left vacant, the special majority requirements

under Articles 49 and 73(9) of the Basic Law cannot be met during the remainder of the term; and

- (f) although there are precedents in other countries (such as Poland, the Czech Republic, Germany and New Zealand) of a parliamentary seat being left vacant for the remainder of the term in similar circumstances, their Constitutions are different from our Basic Law. For example, the Constitutions of Germany and New Zealand do not specify the number of seats in their parliaments. In the case of the parliaments in Poland and the Czech Republic, their membership is far larger than our LegCo, with Poland having 460 deputies and the Czech Republic having 200 deputies. The operational problem arising from a vacant seat in a parliament would be relatively minor in these countries. Most importantly, none of the Constitutions of these countries sets out any ratio between members returned by geographical constituencies and those returned by functional constituencies.

5.21 In light of the above, whether or not Option 4 is constitutional appears to be a fact sensitive issue. It depends on the number of vacancies arising as well as the stage of the term of a LegCo in which the seats are left vacant. There is a risk of Option 4 being found to be inconsistent with Annex II to the Basic Law and Article 21 of the Bill of Rights if the number of vacancies is not small and the seats are left vacant for the major part of the LegCo term.

Chapter Six: The proposal

- 6.01 In general, the views received during the public consultation period indicate that more people consider that the Administration should introduce legislative amendments to plug the loophole. However, at the same time, the community generally considers that by-election system should be retained so that when a mid-term vacancy arises, the electorate could exercise their right to vote. Out of the four options, Option 1 receives more support.
- 6.02 The Administration reiterates that it is an abuse of process for a Member to resign in order to trigger a by-election in which the Member intends to stand and seek re-election. This mischief needs to be addressed. In this regard, the Administration is concerned with the adverse impact on the credibility of the electoral system, which is caused by the resignation of a Member who seeks to be re-elected through by-election.
- 6.03 Apart from the manpower and financial resources involved, between a Member's resignation and the by-election, the LegCo will be deprived of the service of a Member, and the constituents will be deprived of the service of the Member as their representative. Moreover, if the phenomenon of a Member resigning in order to trigger a by-election in which he or she seeks to be re-elected becomes a common occurrence, not only will the operation of the LegCo be adversely affected, the integrity of the Legislature will also be undermined and respect for the electoral process lowered.
- 6.04 Having carefully considered the views received during the public consultation period, we understand that any changes to the arrangements for filling vacancies in the LegCo should be kept to the minimum. Moreover, these changes should only be made for the purpose of plugging the loophole whereby Members resign in order to trigger by-elections in which they intend to stand and seek to be re-elected.
- 6.05 Therefore, we propose to plug the loophole by prohibiting a LegCo Member returned by a GC, the DC (second) FC or other FCs who has resigned from office from standing in any

by-elections in all GCs, the DC (second) FC and other FCs in the same LegCo term within six months of his resignation.

6.06 The details of the proposal are as follows:

- (a) a vacancy arising mid-term in a GC, the DC (second) FC or any other FC under section 15 or section 72 of the LCO or Article 79 of the Basic Law would continue to be filled by a by-election;
- (b) a Member returned by a GC, the DC (second) FC or other FCs who has voluntarily resigned from office under section 13 or section 14 of the LCO would be prohibited from standing in any by-elections in all GCs, the DC (second) FC and other FCs in the same LegCo term within six months of his resignation; and
- (c) the restriction would not apply to general elections. If the six-month prohibition spans over a current LegCo term and the following LegCo term, the prohibition will not be applicable to the by-elections in the following LegCo term.

6.07 This is a more focused approach to address the mischief arising from Members resigning at will in order to trigger by-elections, as the only persons affected are the resigning Members. The proposal is a simple and direct response to plug the loophole of a Member resigning in order to trigger a by-election in which the Member intends to stand and seek re-election.

6.08 The proposal involves fewer changes to the existing electoral system, although the resigning Member's right to stand for election will be restricted. Article 26 of the Basic Law provides that permanent residents of the HKSAR shall have the right to stand for election in accordance with law. A six-month restriction is a proportionate response to the mischief of Members resigning at will and is therefore an appropriate restriction period. Past experience indicates that a by-election would normally be conducted around 4 months after a mid-term vacancy arises. Moreover, the six-month restriction will only apply to by-elections conducted within the same term. If the six-month prohibition spans over a current LegCo term and the following LegCo term, the prohibition will not be applicable to

the by-elections in the following LegCo term. As the existing by-election arrangement will be retained and electors could continue to cast a vote in by-elections, this could address the concern of the general public that the by-election arrangement should generally be retained so that electors can exercise their right to vote.

6.09 On the other hand, different jurisdictions are entitled to develop their own electoral systems in different ways to reflect the differences in their own historical background, culture and political development. There are different electoral systems in the world. The LegCo election in Hong Kong has adopted the list proportional representation system for the GC general elections since 1998 but the mid-term vacancies in the LegCo have been all along filled by by-elections. In designing the electoral system, the Government and the Legislature may seek changes in the electoral process to resolve or deal with problems. The HKSAR Government and the Legislature enjoy a wide margin of discretion in managing its electoral affairs. However, any changes in electoral arrangements should only be introduced after taking into account the local political development. For this reason, it is important to give due consideration to the relevant historical background even though the holding of by-elections will introduce a first-past-the-post element into what is otherwise a proportional representation system for electing Members for the relevant constituencies and will change the nature of the election whereby the seats are initially distributed according to the proportional representation system. In some jurisdictions adopting the proportional representation system for general elections, such as Ireland, mid-term vacancies are filled by means of by-elections.

6.10 Although under the proposal, a LegCo Member returned by a GC, the DC (second) FC or other FCs who has resigned from office would be prohibited from standing in any by-elections in all GCs, the DC (second) FC and other FCs in the same LegCo term within six months of his resignation, some Members could still resign at will to trigger by-elections. The EAC would still be required by law to arrange for a by-election to fill the vacancy arising from resignation of a Member. However, we consider that the proposal would transmit a strong signal indicating the community's disapproval of such kind of

resignation and could have considerable effect in preventing Members from abusing the system.

6.11 We have sought legal advice on the proposal from Lord Pannick QC who confirms that the proposal is constitutional for the following reasons:

- (a) the right to vote and to stand for election guaranteed by Article 26 of the Basic Law is not absolute. Restrictions may be imposed on this right so long as they are proportionate to a legitimate aim. Article 68 and Annex II of the Basic Law give the LegCo a broad discretion in determining the contents of the legislation which governs the “specific method” for forming the LegCo. In applying the proportionality test, the courts would accord considerable weight to the views of the LegCo;
- (b) the Administration and the LegCo are entitled to regard it as an abuse of the power of a Member to resign for him to do so in order to trigger a by-election in which the Member intends to stand and seek re-election. The Administration is entitled to regard this as an abuse because the constituents are deprived of a representative during the period between resignation and the by-election; the LegCo is deprived of a Member during that period; the by-election will involve costs to public funds; and if such resignations to trigger by-elections become a common occurrence, respect for the electoral process will be undermined, particular when such a device will lead to a low turnout rate in the by-election;
- (c) it is proportionate to the mischief for the LegCo to approve an Ordinance which adopts the proposal. There is no question of a Member being required to stand down before the end of his term. Any Member who is considering resigning and forcing a by-election would know of the consequences;
- (d) moreover, a six-month period is long enough to deter abusive conduct and not so long as would render the restriction more than is necessary to address the mischief; and

- (e) under the proposal, a by-election will continue to be held where a Member resigns. Although by-elections may shift the political balance in a multi-member proportional representation system, the current system involves by-election and the LegCo is entitled to conclude that by-elections are desirable to give the electorate the opportunity to replace a resigning Member.

Chapter Seven: Conclusion

- 7.01 In general, the views received during the public consultation period indicate that more people consider that the Administration should introduce legislative amendments to plug the loophole. However, at the same time, the community generally considers that the by-election system should be retained so that when a mid-term vacancy arises, the electorate could exercise their right to vote. Out of the four options, Option 1 receives more support.
- 7.02 Having given detailed consideration to the views received during the public consultation period and the relevant legal issues, the proposal put forward by the Administration would be able to strike the right balance between protecting the rights to vote and the right to stand for election on the one hand, and plugging the loophole to effectively prevent Members from resigning at will in order to trigger by-elections in which they intend to stand and seek re-election on the other.
- 7.03 After considering the community's responses to the proposal, we will brief the LegCo on the Administration's latest proposal within the 2011/12 legislative year. The LegCo will consider whether to accept the proposal. Our plan is to complete the legislative process within the 2011/12 legislative year.

Meeting with different sectors of the community

Date and Time	Activity	No. Present (about)
25 July (6:30 – 7:30 pm)	Seminar on Arrangements for Filling Vacancies in the Legislative Council organised by the Hong Kong Professionals and Senior Executives Association	50
26 July (7:30 – 9:00 pm)	Seminar on Arrangements for Filling Vacancies in the Legislative Council organised by the Hong Kong Federation of Trade Unions	400
23 August (6:00 – 8:00 pm)	First Open Forum on Arrangements for Filling Vacancies in the Legislative Council	350
24 August (6:30 – 8:30 pm)	Seminar on Arrangements for Filling Vacancies in the Legislative Council organised by the Kowloon Federation of Associations	70
26 August (From 11:00 am)	Meeting with the Chairmen and Vice-Chairmen of the District Councils	30
31 August (6:30 – 7:30 pm)	Meeting with the Architectural, Surveying and Planning Sectors	25
1 September (4:00 – 5:30 pm)	Seminar jointly organised by the Federation of Hong Kong Industries, the Hong Kong General Chamber of Commerce, the Chinese General Chamber of Commerce and the Chinese Manufacturers' Association of Hong Kong	100

Date and Time	Activity	No. Present (about)
1 September (6:00 – 8:00 pm)	Second Open Forum on Arrangements for Filling Vacancies in the Legislative Council	295
5 September (8:00 – 10:00 pm)	Meeting with the Hong Kong Medical Association	30
7 September (7:00 – 9:00 pm)	Seminar on Arrangements for Filling Vacancies in the Legislative Council organised by the Office of the Hon Paul CHAN	400
14 September (8:00 – 9:30 pm)	Seminar on Arrangements for Filling Vacancies in the Legislative Council organised by the Federation of Hong Kong and Kowloon Labour Unions	50
15 September (6:00 – 7:30 pm)	IT industry's view on Arrangements for Filling Vacancies in the Legislative Council Seminar	30
15 September (8:15 – 9:30 pm)	Meeting on Arrangements for Filling Vacancies in the Legislative Council organised by the New People's Party	40