

## **LEGISLATIVE COUNCIL BRIEF**

### **Chief Executive Election Ordinance (Chapter 569) Legislative Council Ordinance (Chapter 542)**

### **Chief Executive Election and Legislative Council Election (Miscellaneous Amendments) Bill 2006**

#### **INTRODUCTION**

At the meeting of the Executive Council on 28 February 2006, the Council **ADVISED** and the Chief Executive **ORDERED** that the Chief Executive Election and Legislative Council Election (Miscellaneous Amendments) Bill 2006, at Annex, should be introduced into the Legislative Council to ensure the smooth conduct of the 2007 CE election.

#### **BACKGROUND AND JUSTIFICATIONS**

2. The Chief Executive Election Ordinance (the Ordinance) is a piece of local legislation that provides the legal framework for conducting the Chief Executive (CE) election. It needs to be consistent with the relevant provisions of the Basic Law (BL), particularly Annex I of the BL that prescribes the specific method for the selection of the CE.

3. In January 2004, the CE set up the Constitutional Development Task Force (“the Task Force”) to address issues relating to the 2007/08 electoral arrangements. In the ensuing months, the Task Force carried out a series of wide and open public consultations, and issued a number of reports, culminating in the Fifth Report which set out a package of proposals for the methods for selecting the CE in 2007 and for forming the Legislative Council (LegCo) in 2008.

4. On 21 December 2005, the two motions on, respectively, amendment to Annexes I and II of the BL were put by the Government to LegCo for endorsement. Of the 60 Members, 34 voted for the two motions, 24 against, and there was one abstention. Although the two motions received the support of more than half of the LegCo Members, they fell short of the two-thirds majority support of all LegCo Members stipulated in Annexes I and II of the BL. Therefore, the two motions could not be processed further.

5. In accordance with the Interpretation made by the Standing Committee of the National People's Congress (NPCSC) on 6 April 2004, if no amendment is made to the methods for selecting the CE and for forming the LegCo as stipulated in Annexes I and II of the BL, the provisions relating to the two methods in Annexes I and II of the BL will still be applicable. In the circumstances, the 2007 CE election will be held on the basis of the existing arrangements, i.e. the electorate base will remain unchanged.

6. However, certain amendments still need to be made to the local legislation (i.e. the Ordinance) to address some legal issues relating to the CE elections identified in the Fifth Report of the Task Force, as well as the situation where only one candidate for a CE election is validly nominated. Further, legislative amendments are necessary:

- (a) to address the practical difficulties in implementing the "substantial connection" provision in relation to the District Council (DC), the Chinese People's Political Consultative Conference (CPPCC) and the Heung Yee Kuk (HYK) subsectors;
- (b) to address the issue relating to the compilation and publication of the final register (FR) of members of the Election Committee (EC) after a EC subsector ordinary election; and
- (c) to reflect changes in the names of organisations which are eligible to be the electorate of the EC, or the names of umbrella organizations the members of which are eligible to be the electorate of the EC, and to remove the names of those organisations or umbrella organizations which have ceased to exist.

7. Certain technical changes are also necessary:
- (a) to reflect changes to the licensing system under the Import and Export Ordinance (Cap. 60) and changes to the registration system under the Import and Export (General) Regulations (Cap. 60A) for the purpose of delineating the electorate of the Import and Export subsector and the Textiles and Garment subsector respectively; and
  - (b) to reflect the fact that the first EC, which was constituted on 14 July 2000, had already been dissolved.
8. At the LegCo Constitutional Affairs Panel (CA Panel) meeting on 16 January 2006, Members were informed of the main scope of legislative amendments to the Ordinance, and the rationale of the amendments vide LC Paper No. CB(2)870/05-06(02).

## **THE PROPOSAL**

9. We propose to introduce amendments to the Ordinance as outlined in paragraphs 10 - 32 below.

**(a) Legal Issues Identified in the Fifth Report of the Task Force**

**(i) Chief Executive by-election**

10. Paragraph 2 of Article 53 of the BL provides that, in the event that the office of the CE becomes vacant, a new CE shall be selected within six months in accordance with the provisions of Article 45 of the BL. Regarding how a situation whereby a vacancy arises close to the expiry of the term of a CE should be dealt with, we propose to adopt the following arrangement –

- (a) if an election for a new term (5-year) CE will be held within six months after a vacancy in the office of the CE has arisen, it will not be necessary to hold a by-election; and
- (b) before the new term CE takes up his office, the Acting CE will continue to assume the duties of the CE.

11. The existing section 6 requires that an election shall be held in accordance with the BL and the Ordinance to return a candidate to fill a vacancy in the office of the CE. We propose to amend the section by adding that if during the six months before an election for a new term (5-year) CE is to be held, a vacancy in the office of the CE has arisen, only the aforementioned election shall be held (**Clause 4**).

**(ii) Commencement date of the Election Committee**

12. We propose that the term of the EC should tie in with the 5-year term for the CE and with the electoral cycle. The existing section 9 of the Ordinance provides that the term of office of the EC shall be 5 years commencing on the date on which it is constituted. We propose to amend the section by adding that the term of office of the EC will commence on 1 February in the year during which the term of office of the CE expires (**Clause 5**).

**(iii) The number of consecutive terms that a new CE returned in a by-election may serve**

13. We propose to clarify in the Ordinance that a new CE returned in a by-election may only serve for one more term after expiry of the remainder term, and that the remaining term is counted as “a term”.

14. The existing section 3 of the Ordinance provides that a CE who is returned in a by-election shall serve the remainder of the term of his predecessor. We propose to amend th

- (b) The sole candidate shall be returned at the election if the number of “support votes” he obtains constitutes more than half of the total number of valid votes cast. The Returning Officer shall publicly declare that the candidate is elected.
- (c) If the number of “support votes” obtained by the candidate falls short of more than half of the total valid votes cast, the Returning Officer shall publicly declare that:
  - (i) the candidate is not elected at the election; and
  - (ii) the election is terminated.
- (d) Following termination of the election, there shall be a new round of nominations.
- (e) If, at the close of the new round of nominations, there is still only one candidate, election process shall continue by following the arrangements set out in (a)-(d) above. If necessary, the process will be repeated until a candidate is returned.

16. At the LegCo CA Panel meeting on 16 January 2006, it was suggested that arrangements should be made to ensure finality to the electoral arrangement, for example, if the same candidate was the only candidate at the close of the new round of nominations, he should be elected *ipso facto*.

17. Since then, we have further examined the issue. After detailed consideration, we consider that it will not be appropriate to provide for in the Ordinance arrangements to ensure finality to the electoral process. The Administration’s policy is that if only one candidate is validly nominated, election proceedings shall continue. A proposal to allow a sole candidate to be returned *ipso facto* after the first (or subsequent) round of election will not be consistent with the Administration’s policy.

18. A “finality” provision should, in any case, not be necessary. With Hong Kong’s open and transparent electoral system, if a sole candidate fails to obtain sufficient number of support votes in the first round of polling, it would be reasonable to expect that other aspiring candidates will come forward after the nomination process is re-opened. The chance that there is still only one candidate after the first round of election, or that a sole candidate fails to obtain the required support in the EC in the polling process on successive occasions,

should be slim. Hence, we should allow the election to run its course and return a CE through a voting process.

19. We propose to amend the existing section 23 of the Ordinance to provide for the new arrangement that where at the close of nominations only one candidate is validly nominated, a poll shall be conducted (**Clause 10**). A new section will be added to stipulate the system of voting for an election with only one CE candidate (paragraph 15(a)-(d) above) (**Clause 12**).

20. Moreover, we propose to amend the existing section 22 to cover the scenario where the sole candidate is not elected in an election, the Returning Officer shall terminate the election proceedings (**Clause 9**). Under the existing section 11(2) of the Ordinance, a new polling date shall be fixed on the 42<sup>nd</sup> day after termination of the election proceedings (if it is a Sunday)<sup>Note 1</sup>. Hence, a new round of nominations and election shall be held within 42 days after the sole candidate is declared not elected in the election. If necessary, the process will be repeated until a candidate is returned at the election.

21. At present, the Ordinance only provides for grounds of lodging election petitions and appeals in respect of complaints which might lead to a declaration by the Court that a CE-elect is not duly elected. We propose to amend section 32 of the Ordinance to provide for an additional ground for petition, i.e. the sole candidate, who is declared not elected in the election, shall be elected (**Clauses 15**). Consequential amendments will also be made to the Hong Kong Court of Final Appeal Ordinance (Cap. 484) (**Clause 19**).

**(c) Substantial connection with the DC, the CPPCC and the HYK subsectors**

22. In view of the practical difficulties in implementing the “substantial connection” provision and for the avoidance of doubt, we propose that only individuals who are members of DCs, Hong Kong members of the National Committee of the CPPCC, and the Chairman, a Vice-Chairman or a Councillor of HYK may be members of the relevant EC subsectors. Individuals who cease to be members of the DCs, or Hong Kong members of the National Committee of the CPPCC, or the Chairman, a Vice-Chairman or a Councillor of HYK will also cease to be EC members. A subsector by-election will be

Note 1 If that day is not a Sunday, the new polling date shall be fixed on the Sunday immediately following that day.

held, following existing statutory arrangements generally applicable for subsector by-elections, to fill any such vacancy.

23. We propose to amend section 3 of the Schedule to the Ordinance to provide that if a member of the EC representing the DC, CPPCC or HYK subsector ceases to be a member of the DCs, or a Hong Kong member of the National Committee of the CPPCC, or the Chairman, a Vice-Chairman or a Councillor of HYK, he is deemed to have resigned from the EC (**Clause 6**). In addition, we propose to add a new section in the Schedule to the Ordinance to provide that if a person is not a member of the DCs, or a Hong Kong member of the National Committee of the CPPCC, or the Chairman, a Vice-Chairman or a Councillor of HYK, he is not qualified to be nominated as a candidate at an election of the respective subsectors, or elected as a member of the EC representing the respective subsectors (**the new section 18A in Clause 6**).

**(d) Technical legislative amendments relating to EC Electorate**

24. The new EC will elect the new term CE in March 2007. Most of the EC members will be returned through election<sup>Note 2</sup>. The electorate to elect the EC is set out in the Ordinance which, in turn, contains cross references to the LegCo functional constituency electorate set out in the Legislative Council Ordinance (Cap. 542).

25. Although we will not make any changes to the EC electorate base, we propose to make some technical amendments to the Ordinance and the Legislative Council Ordinance to reflect changes in the names of the organisations which are eligible to be the electorate of the EC, or the names of umbrella organizations the members of which are eligible to be the electorate of the EC (**Clauses 32 to 45**). Organizations and umbrella organizations which have ceased to exist will also be removed (**Clauses 46 to 48**).

26. In addition, consequential amendments to the Legislative Council Ordinance (Cap. 542) are required to reflect changes to the licensing system under the Import and Export Ordinance (Cap. 60) and changes to the registration system under the Import and Export (General) Regulations (Cap. 60A) for the purpose of delineating the electorate of the Import and Export

Note 2 Amongst the 38 EC subsectors, members of 35 subsectors are returned through election. Hong Kong deputies to the National People's Congress and Members of the LegCo are ex-officio members of the EC. Members of the religious subsector are nominated to the EC by the six designated religious bodies of that subsector.

subsector <sup>Note 3</sup> **(Clause 27)** and the Textiles and Garment subsector respectively <sup>Note 4</sup> **(Clause 28)**.

**(e) Other technical amendments**

**(i) Final register of members of EC**

27. Currently, it is stipulated in the Schedule to the Ordinance that:

- (a) the FR of EC members shall be compiled and published within 7 days after the results of the EC subsector elections are published;
- (b) the FR shall cease to have effect on the publication of the next FR.

28. It is our intention to hold EC subsector elections in December, while the term of office of the EC will begin on 1 February next following the subsector elections. The combined effect of the provisions mentioned in paragraph 27 above will give rise to a situation that the FR of the existing EC will cease to have effect before the expiry of its term, while the FR of the new term EC will take effect before the commencement of its term.

29. To address the above problem, we propose to adopt the following arrangement.

- (a) An interim register of the members of the EC shall be compiled and



- (c) An FR shall also be compiled and published within 7 days after the results of a subsector by-election are published, or after a nominee is declared as an EC member following supplementary nomination of the religious subsector.

30. The proposal to compile and publish an interim register will provide a legal basis for appeals to be made against the results of EC subsector ordinary elections, and facilitate aspiring CE candidates to start planning their campaigning activities. The relevant sections in the Schedule to the Ordinance will be amended to provide for the compilation and publication of the interim register of EC members (**Clause 21**).

31. Moreover, consequential amendments will be made to the Election Committee (Appeals) Regulation to provide for appeals to be made against the registration of a person as a member of the EC in the interim register or the FR, as the case may be (**Clauses 22 - 25**).

**(ii) Expiry of term of office of the first EC**

32. The term of office of the first EC constituted on 14 July 2000 had already expired. We, therefore, propose to take out all relevant provisions making reference to the first EC (**Clauses 30 and 31**).

**THE BILL**

33. The main provisions of the Bill are as follows.

- (a) **Clause 3** adds a provision to provide that if a vacancy arises in the office of the Chief Executive otherwise than due to expiry of the term of office, a term of less than 5 years shall be regarded as one term for the purposes of applying the requirement that no person shall hold the office of the Chief Executive for more than 2 consecutive terms to the new Chief Executive.
- (b) **Clause 4** adds a provision to provide that if the office of the Chief Executive falls vacant during the period of 6 months before the polling date to be fixed for an election to be held in anticipation of the expiry of the term of office, sections 10(1), 11(3)(a) and 13(d)(i) of the Chief

Executive Election Ordinance (Cap. 569) apply to the election held for the purposes of the vacancy.

- (c) **Clause 5** adds a provision to provide that the Election Committee shall be constituted on 1 February in the year in which the term of office of the Chief Executive is to expire. Under the new provision, the second Election Committee shall be constituted on 1 February 2007.
- (d) **Clause 6** provides that only members of the following bodies are eligible to represent the relevant subsectors of the Election Committee –
- (i) the Hong Kong members of the National Committee of the CPPCC;
  - (ii) the HYK; or
  - (iii) the DCs.

Under certain circumstances, members of the Election Committee representing those subsectors will be deemed to have resigned as such members.

- (e) **Clauses 7 to 19** introduce amendments to the Chief Executive Election Ordinance (Cap. 569) and a consequential amendment to the Hong Kong Court of Final Appeal Ordinance (Cap. 484). The purpose is to provide for the conduct of a poll where at the close of nominations in a Chief Executive election only one candidate is validly nominated.

Under the existing provisions, the only candidate shall be declared as elected. Under the proposed provisions, a poll will be conducted (clause 10). In the poll, members of the Election Committee may cast either a support vote or a not support vote (clause 12). If the number of support votes obtained by the candidate exceeds half of the valid votes cast, he shall be returned at the election. If the number of support votes obtained by the candidate does not exceed half of the valid votes cast, he shall not be returned at the election. The Returning Officer has to terminate the proceedings for the election in such circumstances (clause 9). There will then be another round of nominations and elections. If necessary, the process will be repeated until a candidate is returned at the election.

If the only candidate in an election is determined to be not returned at the election, election petition may be made and judicial review applied for to challenge the determination (clauses 15 to 19).

- (f) **Clauses 20 to 26** introduce amendments to provide for the compilation and publication of an interim register of members of the Election Committee. The proposed interim register is to be compiled and published within 7 days after the results of the subsector ordinary elections are published. The final register of members of the Election Committee shall be prepared on the basis of the interim register and shall be published on the date on which the term of office of the Election Committee commences.
- (g) **Clauses 27 to 29** amend 3 provisions in the Legislative Council Ordinance (Cap. 542) to introduce minor amendments concerning eligibility for registration as elector for the import and export functional constituency and textiles and garment functional constituency.
- (h) Several provisions in the Chief Executive Election Ordinance (Cap. 569) make specific provision for the first Election Committee under that Ordinance. As the term of office of the first Election Committee has expired, **clauses 30 and 31** introduce amendments to repeal the provisions concerned.
- (i) **Clauses 32 to 48** introduce amendments to –
  - (i) update the names of certain bodies which are, or are qualified to be, electors or voters in functional constituency elections or subsector elections;
  - (ii) update the names of certain bodies the members of which are, or are qualified to be, such electors or voters;
  - (iii) remove the names of certain bodies which are not, or are not qualified to be, such electors or voters; and
  - (iv) remove the names of certain bodies the members of which are not, or are not qualified to be, such electors or voters.

## **LEGISLATIVE TIMETABLE**

34. The legislative timetable is as follow -

Publication in the Gazette	3 March 2006
First Reading and commencement of Second Reading debate	8 March 2006
Resumption of Second Reading debate, committee stage and Third Reading	to be notified

## **IMPLICATIONS OF THE PROPOSAL**

35. The proposal is in conformity with the BL, including the provisions concerning human rights and the political structure.

36. We have set aside financial provisions for the preparation and the conduct of the election. The proposal to conduct a poll in the event that upon a fresh round of nominations there is again only one validly nominated candidate, as described in paragraph 15 above, will have additional financial and staffing implications, although the quantum should be limited.

## **PUBLIC CONSULTATION**

37. The LegCo CA Panel was consulted on the main scope of amendments to the Ordinance on 16 January 2006.

## **PUBLICITY**

38. A press release will be issued today and a spokesman will be available to handle media enquiries.

## **Enquiry**

39. Enquiries in relation to the Bill should be directed to Ms Joyce Ho, Principal Assistant Secretary for Constitutional Affairs (Special Duties), at 2810 2123.

**Constitutional Affairs Bureau**  
**1 March 2006**

CHIEF EXECUTIVE ELECTION AND LEGISLATIVE COUNCIL  
ELECTION (MISCELLANEOUS AMENDMENTS)  
BILL 2006

CONTENTS

Clause Page

PART 1

PRELIMINARY

- |    |              |   |
|----|--------------|---|
| 1. | Short title  | 2 |
| 2. | Commencement | 3 |

PART 2

AMENDMENT CONCERNING TERM OF OFFICE OF  
CHIEF EXECUTIVE

- |    |                                   |   |
|----|-----------------------------------|---|
| 3. | Term of office of Chief Executive | 3 |
|----|-----------------------------------|---|

PART 3

AMENDMENTS CONCERNING APPLICATION  
OF CERTAIN PROVISIONS WHERE  
VACANCY IN OFFICE OF CHIEF  
EXECUTIVE ARISES

- |    |  |   |
|----|--|---|
| 4. | Election to return candidate for<br>appointment to fill vacancy<br>in office | 3 |
|----|--|---|

PART 4

AMENDMENTS CONCERNING TERM OF OFFICE  
OF ELECTION COMMITTEE

- |    |                                      |   |
|----|--------------------------------------|---|
| 5. | Term of office of Election Committee | 4 |
|----|--------------------------------------|---|

PART 5

AMENDMENTS CONCERNING ELECTION COMMITTEE  
MEMBERS REPRESENTING HONG KONG MEMBERS  
OF NATIONAL COMMITTEE OF CHINESE  
PEOPLE'S POLITICAL CONSULTATIVE  
CONFERENCE, HEUNG YEE KUK AND  
DISTRICT COUNCILS

6.	Election Committee	4
----	--------------------	---

PART 6

AMENDMENTS CONCERNING CONDUCT OF  
POLL WHERE ONLY ONE CANDIDATE  
IS VALIDLY NOMINATED

**Chief Executive Election Ordinance**

7.	Interpretation	8
8.	Fixing new polling date under certain circumstances	8
9.	Termination of election proceedings	9
10.	Section substituted	
	23. Polling arrangement where only one candidate is validly nominated	10
11.	A poll shall be conducted in contested election	10
12.	Section added	
	26A. System of voting: only one candidate	10
13.	System of voting	11
14.	Declaration and publication of result	11
15.	Election may be questioned only by election petition made on specified grounds	11

16.	Period within which election petition and appeal must be lodged	13
17.	Determination of election petition	13
18.	Time limit for legal challenges	13

**Hong Kong Court of Final Appeal  
Ordinance**

19.	Civil appeals	14
-----	---------------	----

PART 7

AMENDMENTS CONCERNING REGISTERS OF  
MEMBERS OF ELECTION COMMITTEE

**Chief Executive Election Ordinance**

20.	Interpretation	14
21.	Election Committee	15

**Election Committee (Appeals)  
Regulation**

22.	Interpretation	16
23.	Appeals in relation to registration of nominees declared by Returning Officer as members of Election Committee	17
24.	Fixing of hearing and notifying appellant thereof	17
25.	Electoral Registration Officer to be notified of ruling	17

**Election Committee (Registration)  
(Voters for Subsectors)(Members  
of Election Committee)  
(Appeals) Regulation**



26.	Interpretation	17
-----	----------------	----

PART 8

AMENDMENTS CONCERNING SECTIONS 20W(d)  
AND 20X(e) OF LEGISLATIVE  
COUNCIL ORDINANCE

27.	Composition of the import and export functional constituency	18
28.	Composition of the textiles and garment functional constituency	18
29.	Who is eligible to be registered as an elector: functional constituencies	18

PART 9

AMENDMENTS CONCERNING OBSOLETE  
PROVISIONS RELATING TO FIRST  
ELECTION COMMITTEE

30.	Constitution of Election Committee	19
31.	Election Committee	19

PART 10

AMENDMENTS CONCERNING NAMES OF  
CONSTITUENTS OF SUBSECTORS  
IN CHIEF EXECUTIVE  
ELECTION ORDINANCE

32.	Election Committee	20
-----	--------------------	----

PART 11

AMENDMENTS CONCERNING NAMES OF LISTED  
ORGANIZATIONS OR CONSTITUENTS OF  
CONSTITUENCIES IN LEGISLATIVE  
COUNCIL ORDINANCE

***Agriculture and fisheries functional constituency***

33. Composition of the agriculture and fisheries functional constituency 22
34. Composition of the Agriculture and Fisheries Functional Constituency 22

***Education functional constituency***

35. Composition of the education functional constituency 23

***Architectural, surveying and planning functional constituency***

36. Composition of the architectural, surveying and planning functional constituency 24

***Real estate and construction functional constituency***

37. Composition of the real estate and construction functional constituency 24

***Tourism functional constituency***

38. Composition of the tourism functional constituency 24

***Import and export functional constituency***

39. Composition of the import and export functional constituency 24

***Textiles and garment functional constituency***

40.	Composition of the textiles and garment functional constituency	25
-----	---	----

***Information technology functional constituency***

41.	Composition of the information technology functional constituency	26
-----	---	----

42.	Composition of the Information Technology Functional Constituency	27
-----	---	----

***Transport functional constituency***

43.	Composition of the Transport Functional Constituency	27
-----	--	----

***Sports, performing arts, culture and publication functional constituency***

44.	Composition of the Sports, Performing Arts, Culture and Publication Functional Constituency	28
-----	---	----

***Wholesale and retail functional constituency***

45.	Composition of the Wholesale and Retail Functional Constituency	30
-----	---	----

PART 12

AMENDMENTS CONCERNING REMOVAL  
OF LISTED ORGANIZATIONS OR  
CONSTITUENTS OF SEVERAL  
FUNCTIONAL CONSTITUENCIES

46.	Composition of the Agriculture and Fisheries Functional Constituency	32
-----	--	----

47.	Composition of the Transport Functional Constituency	32
-----	--	----

48.	Composition of the Wholesale and Retail Functional Constituency	33
-----	--	----

A BILL

To

Amend the Chief Executive Election Ordinance, the Legislative Council Ordinance, the Election Committee (Appeals) Regulation and the Election Committee (Registration)(Voters for Subsectors) (Members of Election Committee)(Appeals) Regulation to -

- (a) prescribe that a Chief Executive who is appointed to fill a vacancy that arises under section 4(b) or (c) of the Chief Executive Election Ordinance may hold the office of the Chief Executive for the following term but not the term next following;
- (b) provide for the fixing of a polling date in respect of such vacancy;
- (c) prescribe the date on which the Election Committee is constituted;
- (d) provide that only Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference, the Chairman or Vice-Chairmen of the Heung Yee Kuk or Councillors of the Full Council of the Heung Yee Kuk and members of District Councils may act as members of the Election Committee representing the relevant subsectors;
- (e) provide for polling at an election under the Chief Executive Election Ordinance in which only one candidate is validly nominated;
- (f) provide for the compilation and publication of an interim register of members of the Election Committee;

- (g) provide that the companies specified in section 20W(d) of the Legislative Council Ordinance cease to be eligible for registration as electors;
- (h) amend the description of the traders specified in section 20X(e) of the Legislative Council Ordinance;
- (i) remove provisions relating to the first Election Committee;
- (j) update the names of certain bodies which are, or are qualified to be, electors or voters and the names of certain bodies the members of which are, or are qualified to be, electors or voters;
- (k) remove the names of certain bodies which are not, or are not qualified to be, electors or voters and the names of certain bodies the members of which are not, or are not qualified to be, electors or voters, and to make consequential amendments to the Hong Kong Court of Final Appeal Ordinance.

Enacted by the Legislative Council.

## PART 1

### PRELIMINARY

#### **1. Short title**

This Ordinance may be cited as the Chief Executive Election and Legislative Council Election (Miscellaneous Amendments) Ordinance 2006.

**2. Commencement**

This Ordinance shall come into operation on a day to be appointed by the Secretary for Constitutional Affairs by notice published in the Gazette.

PART 2

AMENDMENT CONCERNING TERM OF OFFICE  
OF CHIEF EXECUTIVE

**3. Term of office of Chief Executive**

Section 3 of the Chief Executive Election Ordinance (Cap. 569) is amended by adding -

"(2A) Where the appointment of the Chief Executive falls within subsection (1A)(b), his term of office shall, for the purposes of subsection (2), be regarded as one term."

PART 3

AMENDMENTS CONCERNING APPLICATION OF CERTAIN  
PROVISIONS WHERE VACANCY IN OFFICE  
OF CHIEF EXECUTIVE ARISES

**4. Election to return candidate  
for appointment to fill  
vacancy in office**

(1) Section 6 of the Chief Executive Election Ordinance (Cap. 569) is amended by renumbering it as section 6(1).

(2) Section 6 is amended by adding -

"(2) If, during the period of 6 months before a polling date to be fixed under section 10(1), a vacancy in the office of the Chief Executive arises under section 4(b) or (c) -

- (a) sections 10(1) and 11(3)(a) apply to the fixing of the polling date in the election held as a result of the vacancy;
  - (b) section 13(d)(i) applies to the eligibility for candidature for the election; and
  - (c) sections 10(2) and 11(3)(b) do not apply to the election,
- notwithstanding any other provision of this Ordinance."

#### PART 4

##### AMENDMENTS CONCERNING TERM OF OFFICE OF ELECTION COMMITTEE

#### **5. Term of office of Election Committee**

(1) Section 9 of the Chief Executive Election Ordinance (Cap. 569) is amended by renumbering it as section 9(1).

(2) Section 9 is amended by adding -

"(2) The Election Committee shall be constituted on 1 February in the year in which the term of office of the Chief Executive is to expire."

#### PART 5

##### AMENDMENTS CONCERNING ELECTION COMMITTEE MEMBERS REPRESENTING HONG KONG MEMBERS OF NATIONAL COMMITTEE OF CHINESE PEOPLE'S POLITICAL CONSULTATIVE CONFERENCE, HEUNG YEE KUK AND DISTRICT COUNCILS

#### **6. Election Committee**

(1) Section 3(1) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) is repealed and the following substituted -



"(1) If a member of the Election Committee representing the subsector specified in item 3 of Table 4 in section 2 ceases to be a Hong Kong member of the National Committee of the Chinese People's Political Consultative Conference, he is deemed to have resigned from the membership of the Election Committee unless -

- (a) the cessation is due to the expiry of the term of office of the National Committee of the Chinese People's Political Consultative Conference; and
- (b) he is a Hong Kong member of the National Committee of the Chinese People's Political Consultative Conference when the immediately following term of office of that Committee commences.

(1A) If a member of the Election Committee representing the subsector specified in item 4 of Table 4 in section 2 ceases to be the Chairman or a Vice-Chairman of the Heung Yee Kuk or a Councillor of the Full Council of the Heung Yee Kuk, he is deemed to have resigned from the membership of the Election Committee unless -

- (a) the cessation is due to the expiry of his term of office as the Chairman or a Vice-Chairman of the Heung Yee Kuk or a Councillor of the Full Council of the Heung Yee Kuk (as the case may be); and
- (b) he is the Chairman or a Vice-Chairman of the Heung Yee Kuk or a Councillor of the

Full Council of the Heung Yee Kuk  
immediately after the cessation.

(1B) If a member of the Election Committee representing the subsector specified in item 5 of Table 4 in section 2 ceases to be a member of a District Council specified in item 1, 2, 3, 4, 5, 6, 7, 8 or 9 of Schedule 2 to the District Councils Ordinance (Cap. 547), he is deemed to have resigned from the membership of the Election Committee unless -

(a) the cessation is due to the expiry of his term of office as a member of such District Council; and

(b) he is a member of such District Council immediately after the cessation.

(1C) If a member of the Election Committee representing the subsector specified in item 6 of Table 4 in section 2 ceases to be a member of a District Council specified in item 10, 11, 12, 13, 14, 15, 16, 17 or 18 of Schedule 2 to the District Councils Ordinance (Cap. 547), he is deemed to have resigned from the membership of the Election Committee unless -

(a) the cessation is due to the expiry of his term of office as a member of such District Council; and

(b) he is a member of such District Council immediately after the cessation."

(2) The Schedule is amended by adding -

**"18A. When a person is disqualified from being a candidate for 4 subsectors in the Fourth Sector**

(1) This section is without prejudice to section 18.

(2) A person is disqualified from -

(a) being nominated as a candidate at a subsector election for the subsector specified in item 3 of Table 4 in section 2; or

(b) being elected as a member of the Election Committee representing that subsector, if he is not a Hong Kong member of the National Committee of the Chinese People's Political Consultative Conference.

(3) A person is disqualified from -

(a) being nominated as a candidate at a subsector election for the subsector specified in item 4 of Table 4 in section 2; or

(b) being elected as a member of the Election Committee representing that subsector, if he is not the Chairman or a Vice-Chairman of the Heung Yee Kuk or a Councillor of the Full Council of the Heung Yee Kuk.

(4) A person is disqualified from -

(a) being nominated as a candidate at a subsector election for the subsector specified in item 5 of Table 4 in section 2; or

(b) being elected as a member of the Election Committee representing that subsector, if he is not a member of a District Council specified in item 1, 2, 3, 4, 5, 6, 7, 8 or 9 of Schedule 2 to the District Councils Ordinance (Cap. 547).

(5) A person is disqualified from -

(a) being nominated as a candidate at a subsector election for the subsector specified in item 6 of Table 4 in section 2; or

(b) being elected as a member of the Election Committee representing that subsector, if he is not a member of a District Council specified in item 10, 11, 12, 13, 14, 15, 16, 17 or 18 of Schedule 2 to the District Councils Ordinance (Cap. 547).".

## PART 6

### AMENDMENTS CONCERNING CONDUCT OF POLL WHERE ONLY ONE CANDIDATE IS VALIDLY NOMINATED

#### **Chief Executive Election Ordinance**

#### **7. Interpretation**

Section 2(1) of the Chief Executive Election Ordinance (Cap. 569) is amended, in the definition of "poll", by adding "23 or" after "section".

#### **8. Fixing new polling date under certain circumstances**

Section 11(2)(b) is amended by repealing "section 22(1)" and substituting "section 22(1AA), (1AB) or (1)".

**9. Termination of election proceedings**

Section 22 is amended by adding before subsection (1) -

"(1AA) Where -

- (a) at the close of nominations only one candidate is validly nominated; and
- (b) proof is given to the satisfaction of the Returning Officer that the candidate dies or is disqualified under section 20(1) from being elected at any time after the close of nominations but before the declaration of the result of the election,

the Returning Officer shall, by a public declaration, terminate the proceedings for the election.

(1AB) Where -

- (a) at the close of nominations only one candidate is validly nominated; and
- (b) a poll is conducted under section 23 and the candidate is, under section 26A(4), not returned at the election,

the Returning Officer shall -

- (c) publicly declare that no candidate is returned at the election;
- (d) publish the declaration and the result of the poll in the Gazette; and
- (e) by a public declaration, terminate the proceedings for the election."

**10. Section substituted**

Section 23 is repealed and the following substituted -

**"23. Polling arrangement where  
only one candidate is  
validly nominated**

Where at the close of nominations only one candidate is validly nominated, a poll shall be conducted in accordance with section 26A and the EAC Regulations under the supervision of the Returning Officer."

**11. A poll shall be conducted in  
contested election**

(1) Section 24 is amended, in the heading, by repealing "A poll shall be conducted in" and substituting "Polling arrangement for".

(2) Section 24 is amended by adding "section 27 and" after "accordance with".

**12. Section added**

The following is added -

**"26A. System of voting: only one candidate**

(1) This section applies to an election in which at the close of nominations only one candidate is validly nominated.

(2) In the poll conducted in the election, the ballot papers shall be so designed as to allow members of the Election Committee to cast either a support vote or a not support vote.

(3) If the number of support votes obtained by the candidate exceeds half of the total number of valid votes cast in the poll, he shall be returned at the election.

(4) If the number of support votes obtained by the candidate does not exceed half of the total number of valid votes cast in the poll, he shall not be returned at the election and section 22(1AB) applies."

**13. System of voting**

Section 27 is amended, in the heading, by adding "**: contested election**" after "**voting**".

**14. Declaration and publication of result**

(1) Section 28 is amended by renumbering it as section 28(2).

(2) Section 28 is amended by adding -

"(1) Where the Returning Officer determines that the only candidate nominated at an election is, under section 26A(3), returned at the election, the Returning Officer shall, as soon as practicable after the determination -

(a) publicly declare that the candidate is elected; and

(b) publish the result of the election in the Gazette."

(3) Section 28(2) is amended by adding "in which there are 2 or more candidates" after "an election".

**15. Election may be questioned only by election petition made on specified grounds**

Section 32(1) is repealed and the following substituted -

"(1) An election may be questioned only by an election petition on the ground that -

(a) the person declared by the Returning Officer under section 28 as elected was not duly elected because -

- (i) he was not eligible to be nominated as a candidate under section 13;
- (ii) he was disqualified under section 14 from being nominated as a candidate;
- (iii) he should have been disqualified under section 20(1) from being elected but was not so disqualified;
- (iv) he engaged in corrupt conduct or illegal conduct at the election;
- (v) another person engaged in corrupt conduct or illegal conduct in respect of him at the election in connection with his candidature;
- (vi) corrupt conduct or illegal conduct was generally prevalent at the election; or
- (vii) material irregularity occurred in relation to -
  - (A) the election;
  - (B) the poll at the election; or
  - (C) the counting of votes in respect of the election; or

(b) the candidate declared by the Returning Officer under section 22(1AB)(c) as not returned at the election is not returned because material irregularity occurred in relation to -



- (i) the election;
- (ii) the poll at the election; or
- (iii) the counting of votes in respect of the election."

**16. Period within which election petition and appeal must be lodged**

Section 34(1) is amended by adding "22(1AB) or" before "28".

**17. Determination of election petition**

Section 37(1) is amended by adding -

"(aa) an election petition questioning an election in which it is declared under section 22(1AB) that no candidate is returned at the election by ruling that -

- (i) the candidate was duly elected because his being not returned was the result of a wrongful determination of the Returning Officer; or
- (ii) no candidate is returned at the election;"

**18. Time limit for legal challenges**

Section 39(1) is amended by repealing everything after "which put in" and substituting -

"issue -

- (c) whether a candidate is duly determined to be not returned at an election under section 26A(4); or
- (d) whether the candidate declared under section 28 as elected at an election can lawfully assume the office of the Chief Executive,

shall be made or commenced more than 30 days after the publication of the declaration under section 22(1AB)(d) or the publication of the result of the election under section 28 unless the leave of the Court has been obtained."

### **Hong Kong Court of Final Appeal Ordinance**

#### **19. Civil appeals**

Section 22(1)(c)(ii) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is amended by repealing "the candidate declared under section 28 of the Chief Executive Election Ordinance (Cap. 569)" and substituting "the candidate is duly determined to be not returned at an election under section 26A(4) of the Chief Executive Election Ordinance (Cap. 569) or whether the candidate declared under section 28 of that Ordinance".

### **PART 7**

#### **AMENDMENTS CONCERNING REGISTERS OF MEMBERS OF ELECTION COMMITTEE**

#### **Chief Executive Election Ordinance**

#### **20. Interpretation**

Section 2(1) of the Chief Executive Election Ordinance (Cap. 569) is amended, in the definition of "final register of members of the Election Committee", by repealing "compiled under section 40" and substituting "published under section 40(2), (3), (3A) or (4)".

## 21. Election Committee

(1) Section 1(1) of the Schedule is amended by adding -

““interim register of members of the Election Committee”  
(選舉委員會暫行委員登記冊) means a register published  
under section 40(1);”.

(2) Section 2(8) of the Schedule is amended by repealing “a final register” and substituting “an interim register”.

(3) The Schedule is amended, in the heading of Part 5, by adding “INTERIM REGISTER AND” before “FINAL”.

(4) Section 40 of the Schedule is amended, in the heading, by adding “**interim register and**” after “**publish**”.

(5) Section 40(1) of the Schedule is amended by repealing “a final” and substituting “an interim”.

(6) Section 40(2) of the Schedule is amended by repealing “also”.

(7) Section 40 of the Schedule is amended by adding -

“(3A) The Electoral Registration Officer shall -

- (a) compile in accordance with the EAC Regulations a final register of members of the Election Committee on the basis of the interim register of members of the Election Committee, incorporating any amendment made under section 41 or 42; and
- (b) publish the final register in accordance with the EAC Regulations on the date on which the Election Committee is constituted.”.

(8) Section 41 of the Schedule is amended, in the heading, by adding “**interim register or**” after “**amend**”.

(9) Section 41(1) of the Schedule is amended by adding "interim register of members of the Election Committee or" before "final register".

(10) Section 41(2)(a) and (b) of the Schedule is amended by adding "interim register of members of the Election Committee or" before "final register".

(11) Section 41(4) of the Schedule is amended by adding "interim register or" before "final register".

(12) Section 42(1) of the Schedule is amended by adding "register, interim register" after "provisional".

(13) Section 42(2) of the Schedule is amended by adding "interim register of members of the Election Committee or" after "into the".

(14) Section 42(3) of the Schedule is amended by adding "interim register of members of the Election Committee or" after "amends the".

### **Election Committee (Appeals) Regulation**

#### **22. Interpretation**

(1) Section 2(1) of the Election Committee (Appeals) Regulation (Cap. 569 sub. leg. A) is amended, in the definition of "final register", by repealing everything after "means a" and substituting "register published under section 40(2), (3) or (4) of the Schedule to the Ordinance;".

(2) Section 2(1) is amended by adding -

"interim register" (暫行委員登記冊) means a register published under section 40(1) of the Schedule to the Ordinance;".

**23. Appeals in relation to registration of nominees declared by Returning Officer as members of Election Committee**

(1) Section 4(1) is amended by adding "interim register or" before "final register".

(2) Section 4(2) is amended by adding "interim register or" before "final register".

**24. Fixing of hearing and notifying appellant thereof**

Section 5(4) is amended by adding "interim register or" before "final register".

**25. Electoral Registration Officer to be notified of ruling**

Section 8(2) is amended by adding "interim register or" before "final register".

**Election Committee (Registration)(Voters for Subsectors)(Members of Election Committee)(Appeals) Regulation**

**26. Interpretation**

Section 2 of the Election Committee (Registration)(Voters for Subsectors)(Members of Election Committee)(Appeals) Regulation (Cap. 569 sub. leg. B) is amended, in the definition of "Election Committee final register", by repealing "section 40" and substituting "section 40(2), (3), (3A) or (4)".

PART 8

AMENDMENTS CONCERNING SECTIONS 20W(d)  
AND 20X(e) OF LEGISLATIVE  
COUNCIL ORDINANCE

**27. Composition of the import and export functional constituency**

Section 20W(d) of the Legislative Council Ordinance (Cap. 542) is repealed.

**28. Composition of the textiles and garment functional constituency**

Section 20X(e) is repealed and the following substituted -

"(e) textiles traders who -

- (i) are registered as textiles traders pursuant to regulation 5A of the Import and Export (General) Regulations (Cap. 60 sub. leg. A);
- (ii) have been so registered for a period of 12 months immediately before making the application for registration as an elector; and
- (iii) are carrying on business as textiles traders specified in the Fourth Schedule to the Import and Export (General) Regulations (Cap. 60 sub. leg. A)."

**29. Who is eligible to be registered as an elector: functional constituencies**

Section 25(4) is amended by repealing "20W(a) to (d)" and substituting "20W(a) to (c)".

PART 9

AMENDMENTS CONCERNING OBSOLETE PROVISIONS  
RELATING TO FIRST ELECTION COMMITTEE

### **30. Constitution of Election Committee**

(1) Section 8(2) of the Chief Executive Election Ordinance (Cap. 569) is amended by repealing "Subject to subsection (3), the" and substituting "The".

(2) Section 8(3) and (4) is repealed.

### **31. Election Committee**

(1) Section 4(1) of the Schedule is amended by repealing everything after "the Election" and substituting "Committee within 14 days after the making of a vacancy declaration."

(2) Section 4(2) of the Schedule is amended by repealing "subsection (1)(b)" and substituting "subsection (1)".

(3) Section 4(2)(a) of the Schedule is amended by repealing "before 30 November 2002 or".

(4) Section 4(4)(a) of the Schedule is amended by repealing ", on the relevant date, as" and substituting "as, on the date of the making of the relevant vacancy declaration".

(5) Section 4(7) of the Schedule is amended by repealing the definition of "existing final register of members of the Election Committee" and substituting -

"existing final register of members of the Election Committee" (現有選舉委員會正式委員登記冊) means the final register of members of the Election Committee that is in effect under section 43 on the date of the making of the relevant vacancy declaration;"

(6) Section 4(7) of the Schedule is amended by repealing the definition of "relevant date".

(7) Section 14(3) of the Schedule is amended by repealing "Subject to section 49, a" and substituting "A".

(8) Section 49 of the Schedule is repealed.

PART 10

AMENDMENTS CONCERNING NAMES OF CONSTITUENTS  
OF SUBSECTORS IN CHIEF EXECUTIVE  
ELECTION ORDINANCE

**32. Election Committee**

(1) Item 2 of Table 5 in section 2 of the Schedule to the Chief Executive Election Ordinance (Cap. 569) is amended, in the English text, in paragraph (2) opposite to that item in column 3, by repealing "the Hong Kong Board of Airline Representatives" and substituting "The Board of Airline Representatives in Hong Kong".

(2) Item 3 of Table 5 in section 2 of the Schedule is amended, in the English text, in paragraph (2) opposite to that item in column 3, by repealing "Federation of Hong Kong Hotels Owners" and substituting "Federation of Hong Kong Hotel Owners Limited".

(3) Item 4 of Table 5 in section 2 of the Schedule is amended, in the English text, in paragraph (2) opposite to that item in column 3, by repealing "The International General Chinese Herbalists and Medicine Professional Association Limited" and substituting "International General Chinese Herbalists and Medicine Professionals Association Limited".

(4) Item 4 of Table 5 in section 2 of the Schedule is amended, in the English text, in paragraph (4) opposite to that item in column 3, by repealing "The Society of Practitioners of Chinese Herbal Medicine Limited" and substituting "Society of Practitioners of Chinese Herbal Medicine Limited".

(5) Item 4 of Table 5 in section 2 of the Schedule is amended, in paragraph (7) opposite to that item in column 3, by repealing



"The Hong Kong Acupuncturists Association" and substituting "Hong Kong Acupuncturists Association".

(6) Item 4 of Table 5 in section 2 of the Schedule is amended, in the English text, in paragraph (8) opposite to that item in column 3, by repealing "The Hong Kong Chinese Herbalists Association Limited" and substituting "Hong Kong Chinese Herbalists Association Limited".

(7) Item 4 of Table 5 in section 2 of the Schedule is amended, in the English text, in paragraph (9) opposite to that item in column 3, by repealing "The Association of Hong Kong and Kowloon Practitioners of Chinese Medicine Limited" and substituting "Association of Hong Kong & Kowloon Practitioners of Chinese Medicine, Limited".

(8) Item 4 of Table 5 in section 2 of the Schedule is amended, in the English text, in paragraph (10) opposite to that item in column 3, by repealing "The Hong Kong Chinese Overseas Physician Association" and substituting "Hong Kong Chinese Overseas Physician Association".

(9) Item 5 of Table 5 in section 2 of the Schedule is amended, in the English text, in paragraph (2)(h) opposite to that item in column 3, by repealing "the Council of the Vocational Training Council" and substituting "the Vocational Training Council".

(10) Item 6 of Table 5 in section 2 of the Schedule is amended, in paragraph (4)(e) opposite to that item in column 3, by repealing "Caritas Lok Mo Skills Centre" and substituting "Caritas Lok Mo Integrated Vocational Training Centre".

#### PART 11

AMENDMENTS CONCERNING NAMES OF LISTED  
ORGANIZATIONS OR CONSTITUENTS OF  
CONSTITUENCIES IN LEGISLATIVE  
COUNCIL ORDINANCE

***Agriculture and fisheries functional constituency***

**33. Composition of the agriculture and fisheries functional constituency**

(1) Section 20B(a)(i) of the Legislative Council Ordinance (Cap. 542) is amended, in the English text, by repealing "Federation of Vegetable Marketing Co-operative Societies, Limited" and substituting "The Federation of Vegetable Marketing Co-operative Societies, Limited".

(2) Section 20B(a)(ii) is amended, in the English text, by repealing "Federation of Pig Raising Co-operative Societies of Hong Kong, Kowloon and New Territories, Ltd." and substituting "The Federation of Pig Raising Co-operative Societies of Hong Kong, Kowloon and New Territories, Limited".

**34. Composition of the Agriculture and Fisheries Functional Constituency**

(1) Item 1 in Schedule 1 is amended, in the English text, by repealing "The Aberdeen Fishermen Friendship Association" and substituting "Aberdeen Fishermen Friendship Association".

(2) Item 16 in Schedule 1 is amended, in the English text, by repealing "The Hong Kong Fisheries Development Association" and substituting "Hong Kong Fisheries Development Association".

(3) Item 21 in Schedule 1 is amended, in the English text, by repealing "The Hong Kong Liner & Gillnetting Fisherman Association" and substituting "Hong Kong Liner & Gill Netting Fisherman Association".

(4) Item 24 in Schedule 1 is amended, in the English text, by repealing "Hong Kong N.T. Poultry - Culture (Geese & Ducks) Mutual Association" and substituting "Hong Kong N.T. Poultry (Geese & Ducks) Mutual Association".

(5) Item 50 in Schedule 1 is amended, in the English text, by repealing "Sha Tau Kok Marine Fish Culture Association" and substituting "The Sha Tau Kok Marine Fish Culture Association".

(6) Item 73 in Schedule 1 is amended, in the English text, by repealing "The Yuen Long Agriculture Productivity Association" and substituting "Yuen Long Agriculture Productivity Association".

(7) Item 74 in Schedule 1 is amended, in the Chinese text, by repealing "榕樹凹養魚業協會" and substituting "榕樹凹魚業協會".

(8) Item 76 in Schedule 1 is repealed and the following substituted -

"76. Tsing Yi Residents Association."

***Education functional constituency***

**35. Composition of the education functional constituency**

(1) Section 20E(b)(viii) is amended, in the English text, by repealing "Council of the Vocational Training Council" and substituting "the Vocational Training Council".

(2) Section 20E(f)(v) is amended by repealing "Caritas Lok Mo Skills Centre" and substituting "Caritas Lok Mo Integrated Vocational Training Centre".

***Architectural, surveying and planning functional constituency***

**36. Composition of the architectural,  
surveying and planning  
functional constituency**

Section 20K(d) is amended, in the Chinese text, by repealing “香港園境規劃師學會” and substituting “香港園境師學會”.

***Real estate and construction  
functional constituency***

**37. Composition of the real estate  
and construction functional  
constituency**

Section 20N(c) is amended, in the Chinese text, by repealing “香港機電工程承建商協會有限公司” and substituting “香港機電工程商協會有限公司”.

***Tourism functional constituency***

**38. Composition of the tourism  
functional constituency**

(1) Section 200(c) is amended, in the English text, by repealing “the Hong Kong Board of Airline Representatives” and substituting “The Board of Airline Representatives in Hong Kong”.

(2) Section 200(d) is amended, in the Chinese text, by repealing “香港酒店協會” and substituting “香港酒店業協會”.

(3) Section 200(e) is amended, in the English text, by repealing “Federation of Hong Kong Hotel Owners” and substituting “Federation of Hong Kong Hotel Owners Limited”.

***Import and export functional constituency***

**39. Composition of the import and export  
functional constituency**

(1) Section 20W(e)(i) is amended, in the English text, by repealing "Association of Hong Kong Photographic Equipment Importers Ltd." and substituting "The Association of Hong Kong Photographic Equipment Importers Limited".

(2) Section 20W(e)(iv) is amended, in the English text, by repealing "Hong Kong Chinese Importers' & Exporters' Association" and substituting "The Hong Kong Chinese Importers' and Exporters' Association".

(3) Section 20W(e)(xv) is amended, in the English text, by repealing "Industrial Chemical Merchants' Association Limited" and substituting "The Industrial Chemical Merchants' Association Limited".

(4) Section 20W(e)(xvii) is amended, in the English text, by repealing "Wah On Exporters & Importers Association" and substituting "The Wah On Exporters & Importers Association".

#### ***Textiles and garment functional constituency***

#### **40. Composition of the textiles and garment functional constituency**

(1) Section 20X(b)(i) is amended, in the English text, by repealing "Federation of Hong Kong Cotton Weavers" and substituting "The Federation of Hong Kong Cotton Weavers".

(2) Section 20X(b)(ii) is amended, in the English text, by repealing "Federation of Hong Kong Garment Manufacturers" and substituting "The Federation of Hong Kong Garment Manufacturers".

(3) Section 20X(b)(iv) is amended, in the English text, by repealing "Hong Kong Cotton Made-up Goods Manufacturers Association Ltd." and substituting "The Hong Kong Cotton Made-up Goods Manufacturers Association, Limited".

(4) Section 20X(b)(v) is amended, in the English text, by repealing "Hong Kong Cotton Spinners Association" and substituting "The Hongkong Cotton Spinners Association".

(5) Section 20X(b)(ix) is amended, in the English text, by repealing "Hong Kong Association of Textile Bleachers, Dyers, Printers & Finishers Ltd." and substituting "The Hong Kong Association of Textile Bleachers, Dyers, Printers and Finishers Limited".

(6) Section 20X(b)(x) is amended, in the English text, by repealing "Hong Kong Weaving Mills Association" and substituting "The Hong Kong Weaving Mills Association".

(7) Section 20X(b)(xi) is amended, in the English text, by repealing "Hongkong Wool & Synthetic Spinners Association Ltd." and substituting "The Hongkong Wool and Synthetic Spinners Association Limited".

(8) Section 20X(b)(xii) is amended, in the Chinese text, by repealing "香港紡織商會" and substituting "香港紡織商會有限公司".

(9) Section 20X(c) is amended by repealing "Hong Kong Institution of Textile and Apparel" and substituting "Hong Kong Institution of Textile and Apparel Limited".

#### ***Information technology functional constituency***

#### **41. Composition of the information technology functional constituency**

(1) Section 20Z(1)(g) is amended by repealing "the British Computer Society (Hong Kong Section)" and substituting "The British Computer Society (Hong Kong Section) Limited".

(2) Section 20Z(1)(ja)(iii) is amended by repealing "Internet Professionals Association Limited" and substituting "Internet Professional Association Limited".

**42. Composition of the Information  
Technology Functional  
Constituency**

(1) Item 1 in Part 1 of Schedule 1D is amended by repealing "APT Satellite Co. Ltd" and substituting "APT Satellite Company Limited".

(2) Item 2 in Part 1 of Schedule 1D is amended, in the Chinese text, by repealing "亞洲 星有限公司" and substituting "亞洲衛星有限公司".

(3) Item 3 in Part 2 of Schedule 1D is amended by repealing "Internet Professionals Association Limited" and substituting "Internet Professional Association Limited".

***Transport functional constituency***

**43. Composition of the Transport  
Functional Constituency**

(1) Item 1 in Schedule 1A is amended, in the Chinese text, by repealing "VINCI Park Services Hong Kong Limited" and substituting "豐企停車場服務(香港)有限公司".

(2) Item 59 in Schedule 1A is amended by repealing "The Hong Kong Sea Transport Association Ltd" and substituting "Hong Kong Sea Transport and Logistics Association Limited".

(3) Item 63 in Schedule 1A is amended by repealing "Hong Kong Shipping Staff Association" and substituting "Hong Kong Logistics Management Staff Association".

(4) Item 84 in Schedule 1A is amended by repealing "Lam Tin Wai Hoi Public Light Bus Merchants Association Ltd" and substituting "Lam Tin Wai Hoi Public Light Bus Association".

(5) Item 91 in Schedule 1A is amended by repealing "Marine Excursion Association" and substituting "Marine Excursion Association Limited".

(6) Item 122 in Schedule 1A is amended, in the English text, by repealing "Rambo Taxi Owners Association Ltd" and substituting "Abbo Taxi Owners' Association Limited".

(7) Item 143 in Schedule 1A is amended, in the English text, by repealing "Tuen Mun PLB Association" and substituting "Tuen Mun Public Light Bus Association".

(8) Item 160 in Schedule 1A is amended by repealing "Young Children School Mini-Buses Operators Association Ltd" and substituting "School Buses Operators Association Limited".

(9) Item 191 in Schedule 1A is amended by repealing "Helicopters Hong Kong Limited" and substituting "Hong Kong Express Airways Limited".

***Sports, performing arts, culture and  
publication functional constituency***

**44. Composition of the Sports, Performing  
Arts, Culture and Publication  
Functional Constituency**

(1) Item 13 in Part 1 of Schedule 1B is amended by repealing "Southern District Recreation & Sports Council" and substituting "Southern District Recreation and Sports Association Limited".

(2) Item 16 in Part 1 of Schedule 1B is amended, in the English text, by repealing "Wanchai District Arts Cultural Recreation &



Sports Association Ltd" and substituting "Wan Chai District Arts Cultural Recreational and Sports Association Limited".

(3) Item 6 in Part 2 of Schedule 1B is amended, in the Chinese text, by repealing "新界北區文藝協進會" and substituting "新界北區文藝協進會有限公司".

(4) Item 9 in Part 2 of Schedule 1B is amended by repealing "Shamshuipo Arts Association" and substituting "Sham Shui Po Arts Association Limited".

(5) Item 11 in Part 2 of Schedule 1B is amended, in the Chinese text, by repealing "新界大埔區文藝協進會" and substituting "大埔區文藝協進會".

(6) Item 2 in Part 3 of Schedule 1B is amended by repealing "The Amateur Lyric Writers' Association of Hong Kong" and substituting "The Song Writers' Association of Hong Kong".

(7) Item 14 in Part 3 of Schedule 1B is amended by repealing "Hong Kong Chinese Orchestra" and substituting "Hong Kong Chinese Orchestra Limited".

(8) Item 17 in Part 3 of Schedule 1B is amended by repealing "Hong Kong Cinematography and Television Lighting Association Limited" and substituting "Hong Kong Cinematography Lighting Association Limited".

(9) Item 53 in Part 3 of Schedule 1B is amended, in the English text, by repealing "Royal Asiatic Society Hong Kong Branch" and substituting "The Hong Kong Branch of the Royal Asiatic Society".

(10) Item 57 in Part 3 of Schedule 1B is amended, in the English text, by repealing "South China Film Industry Workers Union" and substituting "South China Film Industry Workers' Union".

(11) Item 63 in Part 3 of Schedule 1B is amended, in the English text, by repealing "Federation of Hong Kong Film Workers Limited" and substituting "Federation of Hong Kong Filmmakers Limited".

***Wholesale and retail functional constituency***

**45. Composition of the Wholesale and Retail Functional Constituency**

(1) Item 1 in Schedule 1C is amended, in the English text, by repealing "The Anglo-Chinese Vegetable Wholesale Merchants Association Limited" and substituting "Anglo-Chinese Vegetable Wholesale Merchants Association Limited".

(2) Item 9 in Schedule 1C is amended, in the English text, by repealing "Federation of Hong Kong, Kowloon and New Territories Hawkers Associations" and substituting "Federation of Hong Kong Kowloon New Territories Hawker Associations".

(3) Item 14 in Schedule 1C is amended by repealing "Hong Kong & Kowloon Electro-Plating Trade Merchants Association Ltd" and substituting "Hong Kong Electro-Plating Merchants Association Limited".

(4) Item 26 in Schedule 1C is amended by repealing "Hong Kong & Kowloon Rattan Ware Merchants Association (Wing-Hing-Tong)" and substituting "Hong Kong and Kowloon Rattan Ware Merchants Association (Wing-Hing-Tong)".

(5) Item 28 in Schedule 1C is amended, in the English text, by repealing "Hong Kong and Kowloon Salt Merchants' Association" and substituting "The Hong Kong and Kowloon Salt Merchants' Association".

(6) Item 31 in Schedule 1C is amended by repealing "Hong Kong & Kowloon Timber Merchants Association" and substituting "Hong Kong & Kowloon Timber Merchants Association Limited".

(7) Item 53 in Schedule 1C is amended, in the English text, by repealing "The Hong Kong Oil Merchants Association Ltd" and substituting "The Hong Kong Oil Merchants Association, Limited".

(8) Item 64 in Schedule 1C is amended by repealing "Hong Kong Retail Management Association Ltd" and substituting "Hong Kong Retail Management Association Limited".

(9) Item 66 in Schedule 1C is amended by repealing "Hong Kong Stamp and Coin Dealers Association Ltd" and substituting "Hong Kong Stamp and Coin Dealers Association".

(10) Item 68 in Schedule 1C is amended, in the English text, by repealing "The Hong Kong Video Industry Association Ltd" and substituting "Hong Kong Video Industry Association Limited".

(11) Item 70 in Schedule 1C is amended by repealing "The Hongkong & Kowloon General Merchandise Merchants' Association" and substituting "The Hong Kong & Kowloon General Merchandise Merchants' Association Limited".

(12) Item 73 in Schedule 1C is amended, in the English text, by repealing "Industrial Chemical Merchants' Association Ltd" and substituting "The Industrial Chemical Merchants' Association Limited".

(13) Item 74 in Schedule 1C is amended, in the English text, by repealing "The Kowloon Cheung Sha Wan Wholesale Vegetable Market (Importers) Recreation Club" and substituting "Kowloon Cheung Sha Wan Wholesale Vegetable Market (Importers) Recreation Club".

(14) Item 75 in Schedule 1C is amended by repealing "Kowloon Fresh Fish Merchants Association" and substituting "Kowloon Fresh Fish Merchants Association Limited".

(15) Item 81 in Schedule 1C is amended, in the English text, by repealing "The Mongkok Vegetable Wholesale Merchants Association Company Ltd" and substituting "Mongkok Vegetable Wholesale Merchants Association Company Limited".

(16) Item 87 in Schedule 1C is amended by repealing "Shau Kei Wan Fishery Merchants Association" and substituting "Shaukiwan Fishery Merchants Association".

## PART 12

### AMENDMENTS CONCERNING REMOVAL OF LISTED ORGANIZATIONS OR CONSTITUENTS OF SEVERAL FUNCTIONAL CONSTITUENCIES

#### **46. Composition of the Agriculture and Fisheries Functional Constituency**

(1) Schedule 1 to the Legislative Council Ordinance (Cap. 542) is amended by repealing -

"64. The Tai Po Ma Wo Village Pig Raising Co-operative Society, Ltd."

(2) Schedule 1 is amended by repealing -

"72. The Wu Kau Tang Village Agricultural Credit Co-operative Society, Limited."

#### **47. Composition of the Transport Functional Constituency**

(1) Schedule 1A is amended by repealing -

"29. HKS Parking Limited."

(2) Schedule 1A is amended by repealing -

"111. Ken On Concrete Co. Ltd. Concrete Lorry Owner-

Drivers Association.".

(3) Schedule 1A is amended by repealing -

"127. Salvage Association (Hong Kong Office).".

(4) Schedule 1A is amended by repealing -

"161. Yuen Long Tai Po PLB Merchants Association Ltd.".

**48. Composition of the Wholesale  
and Retail Functional  
Constituency**

(1) Schedule 1C is amended by repealing -

"27. The Hong Kong and Kowloon Rice Retailers' General  
Association Ltd.".

(2) Schedule 1C is amended by repealing -

"39. Hong Kong Flour Merchants' Association.".

(3) Schedule 1C is amended by repealing -

"88. Tobacco Institute of Hong Kong Ltd.".

(4) Schedule 1C is amended by repealing -

"89. Umbrella Dealers Association, Hong Kong and  
Kowloon.".

**Explanatory Memorandum**

The purpose of this Bill is to amend the Chief Executive Election Ordinance (Cap. 569), the Legislative Council Ordinance (Cap. 542), the Election Committee (Appeals) Regulation (Cap. 569 sub. leg. A) and the Election Committee (Registration)(Voters for Subsectors)(Members of Election Committee)(Appeals) Regulation (Cap. 569 sub. leg. B) for the purposes set out in the long title to the Bill. The Bill is divided into 12 parts.

Part 1

2. Part 1 (clauses 1 and 2) provides for the short title and commencement.

Part 2

3. Part 2 (clause 3) adds a provision to provide that if a vacancy arises in the office of the Chief Executive otherwise than due to expiry of the term of office, a term of less than 5 years shall be regarded as one term for the purposes of applying the requirement that no person shall hold the office of the Chief Executive for more than 2 consecutive terms to the new Chief Executive.

Part 3

4. Part 3 (clause 4) adds a provision to provide that if the office of the Chief Executive falls vacant during the period of 6 months before the polling date to be fixed for an election to be held in anticipation of the expiry of the term of office, sections 10(1), 11(3)(a) and 13(d)(i) of the Chief Executive Election Ordinance (Cap. 569) apply to the election held for the purposes of the vacancy.

Part 4

5. Part 4 (clause 5) adds a provision to provide that the Election Committee shall be constituted on 1 February in the year in which the term of office of the Chief Executive is to expire. Under the new provision, the second Election Committee shall be constituted on 1 February 2007.

Part 5

6. Part 5 (clause 6) provides that only members of the following bodies are eligible to represent the relevant subsectors of the Election Committee -

- (a) the Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference;
- (b) the Heung Yee Kuk;
- (c) the District Councils.

Under certain circumstances, members of the Election Committee representing those subsectors will be deemed to have resigned as such members.

#### Part 6

7. Part 6 (clauses 7 to 19) introduces amendments to the Chief Executive Election Ordinance (Cap. 569) and a consequential amendment to the Hong Kong Court of Final Appeal Ordinance (Cap. 484). The purpose is to provide for the conduct of a poll where at the close of nominations in a Chief Executive election only one candidate is validly nominated.

8. Under the existing provisions, the only candidate shall be declared as elected. Under the proposed provisions, a poll will be conducted (clause 10). In the poll, members of the Election Committee may cast either a support vote or a not support vote (clause 12). If the number of support votes obtained by the candidate exceeds half of the valid votes cast, he shall be returned at the election. If the number of support votes obtained by the candidate does not exceed half of the valid votes cast, he shall not be returned at the election. The Returning Officer has to terminate the proceedings for the election in such circumstances (clause 9). There will then be another round of nominations and poll. If necessary, the process will be repeated until a candidate is returned at the election.

9. If the only candidate in an election is determined to be not returned at the election, election petition may be made and judicial

review applied for to challenge the determination (clauses 15 to 19).

Part 7

10. Part 7 (clauses 20 to 26) introduces amendments to provide for the compilation and publication of an interim register of members of the Election Committee.

11. The proposed interim register is to be compiled and published within 7 days after the results of the subsector ordinary elections are published. The final register of members of the Election Committee shall be prepared on the basis of the interim register and shall be published on the date on which the term of office of the Election Committee commences.

Part 8

12. Part 8 (clauses 27 to 29) amends 3 provisions in the Legislative Council Ordinance (Cap. 542) to introduce minor amendments concerning eligibility for registration as elector for the import and export functional constituency and textiles and garment functional constituency.

Part 9

13. Several provisions in the Chief Executive Election Ordinance (Cap. 569) make specific provision for the first Election Committee under that Ordinance. As the term of office of the first Election Committee has expired, Part 9 (clauses 30 and 31) introduces amendments to repeal the provisions concerned.

Parts 10, 11 and 12

14. Parts 10 (clause 32), 11 (clauses 33 to 45) and 12 (clauses 46 to 48) introduce amendments to -



- (a) update the names of certain bodies which are, or are qualified to be, electors or voters in functional constituency elections or subsector elections;
- (b) update the names of certain bodies the members of which are, or are qualified to be, such electors or voters;
- (c) remove the names of certain bodies which are not, or are not qualified to be, such electors or voters;  
and
- (d) remove the names of certain bodies the members of which are not, or are not qualified to be, such electors or voters.