

Improving Hong Kong's Electoral System

The 13th National People's Congress (NPC) adopted a Decision on March 11, 2021 on improving the electoral system of the Hong Kong Special Administrative Region (HKSAR). Subsequently, pursuant to the NPC's authorisation, the Standing Committee of the NPC (NPCSC) adopted the amended Annex I to the Basic Law on Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region and Annex II to the Basic Law on Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and its Voting Procedures on March 30, 2021.

Pursuant to Article 7 of the Decision, the HKSAR Government shall, according to the Decision and the amended Annexes I and II to the Basic Law, amend the relevant local legislation and organise and regulate the relevant electoral activities in accordance with the law. The HKSAR Government has fulfilled its constitutional responsibility to implement the improved electoral system by way of local legislation. The Improving Electoral System (Consolidated Amendments) Ordinance 2021 was published in the Gazette and came into effect on May 31, 2021.

The HKSAR Government will properly organise and conduct the upcoming Election Committee Subsector Elections, the Legislative Council General Election and the Chief Executive Election in accordance with the relevant amended electoral legislation. The Government will work closely with the Electoral Affairs Commission and the Registration and Electoral Office to ensure that elections are conducted in a fair, just and open manner.

Background

In recent years, Hong Kong has faced unprecedented challenges that have risked undermining the "one country, two systems" principle and have revealed **loopholes and deficiencies** in Hong Kong's electoral system. Groups advocating "Hong Kong independence", organising resistance against the governance of the Central Authorities, and even colluding with external elements to stir up disorder in society have placed Hong Kong's stability and prosperity at risk.

If people who oppose the Central Authorities' overall jurisdiction over the HKSAR and disregard the law and order of Hong Kong enter the political system of the HKSAR through elections, **they may harm Hong Kong's prosperity and stability** and place "one country, two systems" in jeopardy. This may undermine the fundamental principle of safeguarding national sovereignty, security and development interests of the country. The Decision aims to preserve the prosperity and stability of Hong Kong under the "one country, two systems" principle.

Improve the Electoral System

- The political structure of the HKSAR, of which the electoral system is an essential component, is the prerogative of the Central Authorities. The Decision is **fully constitutional and legal**.
- The electoral system of the HKSAR, including the methods for selecting the Chief Executive and for forming the Legislative Council (LegCo), must strictly follow and fully reflect the principle and criterion of the **administration of Hong Kong by Hong Kong people with patriots as the main body**.
- The improvements to the electoral system are designed to ensure that **whoever is administering Hong Kong is patriotic**.

Patriots Administering Hong Kong

- The principle of "patriots administering Hong Kong" is fundamental to safeguarding national sovereignty, security, development interests, as well as maintaining the **long-term prosperity and stability** of Hong Kong.
- The electoral system shall serve to ensure that Hong Kong is **administered by people who love the country and love Hong Kong**.

- The criteria for a patriot are to **respect the Chinese nation**, sincerely **support the resumption of the exercise of sovereignty over Hong Kong by the Motherland**, and **not to impair Hong Kong's prosperity and stability**.
- In addition to the Chief Executive and officials working in the executive authorities, "**persons administering Hong Kong**" includes members of the legislature, judges in the Judiciary, members of district organisations which are not organs of political power, i.e. District Councils, as well as civil servants.

The Decision

The NPC adopted the Decision in accordance with **China's Constitution**, the **Basic Law** of the HKSAR and the **Law on Safeguarding National Security** in the HKSAR. The Decision comprises **nine articles**:

- Improving the electoral system of the HKSAR must fully and faithfully **implement the policy of "one country, two systems"** under which the **people of Hong Kong administer Hong Kong with a high degree of autonomy**, uphold the **constitutional order in the HKSAR** as established by the Constitution and the Basic Law, ensure the **administration of Hong Kong by Hong Kong people with patriots as the main body**, effectively **improve the governance efficacy** of the HKSAR, and **safeguard the right to vote and the right to stand for election** of permanent residents of the HKSAR.
- The HKSAR shall establish an **Election Committee** which is broadly representative, suited to the HKSAR's realities, and representative of the overall interests of its society. The Election Committee shall be **responsible for electing the Chief Executive designate** and part of the **members of the LegCo**. The Election Committee shall also be responsible for **nominating candidates** for the Chief Executive and LegCo members, as well as for other matters. The Election Committee shall be composed of **1,500 members from the following five sectors**: industrial, commercial and financial sectors; the professions; grassroots, labour, religious and other sectors; LegCo members and representatives of district organisations; Hong Kong deputies to the NPC, Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference and representatives of Hong Kong members of related national organisations.
- **The Chief Executive shall be elected by the Election Committee** and appointed by the Central People's Government. Candidates for the office of the Chief Executive shall be **nominated jointly by not less than 188 members of the Election Committee**, among whom the number of **members of each sector should be not less than 15**. The Election Committee shall elect the Chief Executive designate by secret ballot on a one-person-one-vote basis. The election of the Chief Executive designate shall require a simple majority vote of all the members of the Election Committee.
- The **LegCo of the HKSAR shall be composed of 90 members** in each term. Members of the LegCo shall include members returned by the **Election Committee**, those returned by **functional constituencies**, and those by **geographical constituencies through direct elections**.
- A **candidate qualification review committee of the HKSAR shall be established**. The committee shall be responsible for reviewing and confirming the qualifications of candidates for the Election Committee members, the Chief Executive, and the LegCo members. The HKSAR shall improve the system and mechanisms related to qualification review, to **ensure that the qualifications of candidates are in conformity with** the Basic Law, the Law on Safeguarding National Security in the HKSAR, the NPCSC's interpretation of Article 104 of the Basic Law, the NPCSC's Decision on the qualification of HKSAR LegCo members, and provisions of relevant local laws of the HKSAR.
- The NPCSC is authorised to, in accordance with the Decision on improving the electoral system of the HKSAR, amend Annex I: **Method for the Selection of the Chief Executive** of the HKSAR and Annex II: **Method for the Formation of the Legislative Council** of the HKSAR and Its Voting Procedures, to the Basic Law.
- In accordance with the Decision and the Basic Law's Annex I and Annex II amended by the NPCSC, **the HKSAR shall amend relevant local laws**, and organise and regulate election activities accordingly.
- The Chief Executive of the HKSAR shall submit in a timely manner **reports to the Central People's Government** on relevant important situations including the institutional arrangements for elections of the HKSAR and the organisation of the elections.
- The Decision shall **go into effect as of the date of promulgation**.

Amendments to Annex I and Annex II to the Basic Law

Pursuant to the NPC's authorisation, the NPCSC adopted the amended Annex I and Annex II to the Basic Law at a session on March 30, 2021. Main content is as follows:

Reconstitution of the Election Committee

- The Election Committee shall be composed of **1,500 members from five sectors, each with 300 members**. The Election Committee shall be constituted in the following manner: ex-officio member for which no election is required; nomination by eligible bodies of specific subsectors; and election by eligible corporate or individual voters of the subsectors.
- A candidate shall be nominated by five corporate or individual voters for the subsector. Voters for a subsector shall elect Election Committee members of that subsector **by secret ballot**.
- There shall be **a system of convenors** for the Election Committee for convening Election Committee meetings as necessary and handling relevant matters.

Chief Executive Election

- A candidate shall be **nominated by not less than 188 members of the Election Committee**, with at least 15 members from each of the five sectors. The Election Committee shall elect the Chief Executive designate **by secret ballot on a one-person-one-vote basis**. The Chief Executive designate **must obtain more than 750 votes**.

Composition and Method for Formation of the LegCo

The LegCo shall be composed of **90 members for each term** and the composition shall be as follows:

Members returned by the Election Committee (40 seats)

- Any eligible elector in a LegCo election may be nominated as a candidate.
- A candidate shall be nominated by at least 10 but no more than 20 members of the Election Committee, with at least 2 but no more than 4 members from each sector.
- The Election Committee shall elect members of the LegCo by secret ballot. A ballot paper is valid only if the number of candidates voted for is equal to the number of LegCo members to be returned. The 40 candidates who obtain the highest numbers of votes shall be elected.

Members returned by functional constituencies (30 seats)

- There shall be **28 functional constituencies**: Three members shall be returned by the labour functional constituency, and one member shall be returned by each of the other functional constituencies.
- A candidate shall be nominated by at least 10 but no more than 20 voters for the functional constituency as well as at least 2 but no more than 4 members from each sector of the Election Committee.
- Electors for a functional constituency shall elect LegCo member of that functional constituency by secret ballot.

Members returned by geographical constituencies through direct elections (20 seats)

- There shall be **10 geographical constituencies**. **Two members** shall be returned by each constituency.
- A candidate shall be nominated by at least 100 but no more than 200 voters for the geographical constituency as well as at least 2 but no more than 4 members from each sector of the Election Committee.
- An elector may vote for one candidate by secret ballot. The two candidates who obtain the highest numbers of votes shall be elected.

Procedures for voting in the LegCo

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

Establishment of the Candidate Eligibility Review Committee

- The **Candidate Eligibility Review Committee** of the HKSAR shall be responsible for reviewing and confirming the eligibility of candidates in the Election Committee, Chief Executive and LegCo elections.
- **The Committee for Safeguarding National Security of the HKSAR** (Committee on National Security) shall, on the basis of the review by the National Security Department of the Police of the HKSAR Government, **make findings** as to whether a candidate meets the legal requirements and conditions of upholding the Basic Law and swearing allegiance to the HKSAR, and issue an opinion to the Candidate Eligibility Review Committee in respect of a candidate who fails to meet such legal requirements and conditions.
- **No legal proceedings may be instituted** in respect of a decision made by the Candidate Eligibility Review Committee on a candidate's eligibility pursuant to the opinion of the Committee on National Security.

Other Issues

- The delimitation of organisations and eligible corporate electors involved in the Election Committee Subsectors and the functional constituencies of the LegCo, the delineation of geographical constituencies through direct elections, nomination procedures for candidates, the voting method, the composition of the Candidate Eligibility Review Committee, etc., shall be specified by electoral laws introduced by the HKSAR.
- The HKSAR shall, in accordance with the law, take measures against acts of manipulating or undermining an election.

Constitutional Development

- Article 45 and Article 68 of the Basic Law, which refer to the election of the Chief Executive and LegCo members respectively, have not been changed.
- Taking into account Hong Kong's actual situation, in a gradual and orderly manner, the HKSAR can move forward and achieve the ultimate aim of universal suffrage in the selection of the Chief Executive and in forming the LegCo in future.

Useful links

[Full text](#) of the Decision of the NPC on Improving the Electoral System of the HKSAR

[Full text](#) of Annex I to the Basic Law: Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region

[Full text](#) of Annex II of the Basic Law: Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures

[Booklet](#) "Improve Electoral System Ensure Patriots Administering Hong Kong"

[Website](#) "Improve Electoral System Ensure Patriots Administering Hong Kong"

The Improving Electoral System (Consolidated Amendments) [Ordinance](#) 2021

(Revision date: May 31, 2021)

MAY 2021