

Speech by SJ at press conference on constitutional reform package (with photo/video)

Following is the speech by the Secretary for Justice, Mr Wong Yan Lung, SC, on the new District Council Functional Constituency Election Method at the press conference on the constitutional reform package at Central Government Offices New Annexe today (June 21):

I will now further explain why, after giving the matter in-depth consideration, the Government takes the view that the new District Council Functional Constituency Election Method for the additional five seats (the new DCFC election method), i.e. the so-called adjusted method mentioned by the Chief Executive just now, is consistent with the Basic Law and the decision of the Standing Committee of the National People's Congress (NPCSC) in 2007.

NPCSC Decision in 2007

According to the NPCSC Decision in 2007, for the 2012 Legislative Council elections, the half-and-half ratio between members returned by functional constituencies and members returned by geographical constituencies through direct elections shall remain unchanged. However, subject to this and other conditions, appropriate amendments conforming to the principle of gradual and orderly progress may be made to the specific method for forming the fifth term Legislative Council of the Hong Kong Special Administrative Region in the year 2012 in accordance with the provisions of Article 68 and Article III of Annex II to the Basic Law.

The NPCSC Decision of 2007 did not prescribe any method as to how the functional constituency seats should be returned. Therefore the details relating to the specific methods for returning functional constituencies are left to local legislation in accordance with Article 68 and Annex II to the Basic Law.

All along and according to Annex II to the Basic Law, the delimitation of functional sectors, their seat allocation and election methods are matters which can be specified by an electoral law introduced by the Government of the Hong Kong Special Administrative Region and passed by the Legislative Council.

The new DCFC election method

The Chief Executive has just outlined the new DCFC election method. I would like to emphasise what the Government considers to be some salient features:

(1) First, candidates must themselves be elected District Council members.

(2) Second, candidates must be nominated by elected District Council members.

(3) Third, candidates will be elected, through one-person-one-vote, by the registered electors in Hong Kong less those electors who currently have the right to vote in other functional constituencies. (In other words, the electorate base will be about 3.2 million, being the total 3.43 million registered electors less 230,000 electors for the other functional constituencies.)

The new DCFC election is not Geographical Constituency direct elections

Firstly, I would like to point out that the new DCFC election is not direct election. The candidates are limited to elected District Council members nominated by elected District Council members, not any of the Chinese nationals among the 3.43 million registered electors in the geographical constituency electoral registers.

Secondly, the new DCFC election is not geographical constituency direct elections. The new DCFC members are not returned by geographical constituencies through direct elections. This is because not all the 3.43 million registered electors in the geographical constituency electoral registers are entitled to vote, but the right to vote is confined to the registered electors other than those already entitled to vote in the other functional constituencies.

District Council: a functional constituency

District Council has always been a "functional constituency" for the purpose of the Legislative Council election. For the existing Legislative Council, one out of the 30 functional constituency seats comes from the District Council.

District Council is a functional constituency under section 20(1)(zb) of the Legislative Council Ordinance Cap.542.

The District Council has the functions of giving

advice to the Government regarding district administration and promoting district development. A specific function can be readily identified, which is different from the case of members returned by geographical constituency direct elections.

The expansion of the electorate base for the District Council functional constituency members does not alter the functional nature of the District Council.

The five LegCo members returned by this new District Council FC election still represent the District Council

Each of the five LegCo members returned through the new DCFC election method is a Legislative Council member returned by a functional constituency. He or she will still be the representative of the District Council in LegCo.

Further, if one were to further analyse the new DCFC election method by reference to the three aspects of candidature, nomination and electorate base, that it becomes even clearer that the new DCFC election remains a functional constituency election as opposed to geographical constituency direct election.

Candidature

First of all on candidature, unlike geographical constituency direct elections where any of the Chinese nationals among the registered electors can be nominated as a candidate, the new DCFC candidates must be an elected member of the District Council.

Nomination

Secondly, nomination. Unlike geographical constituency direct elections where any registered elector can be a subscriber to a nomination for a candidate, in the new DCFC election, only elected District Council members can be a subscriber to a nomination for a new DCFC candidate.

Electorate base

Thirdly, electorate base. Unlike geographical constituency direct elections where all registered electors with the geographical constituency electoral registers can vote, in the new DCFC election, only those registered electors who do not have the right to vote in the other functional constituencies can vote.

All can be effected by local legislation

The necessary changes to implement the new DCFC election are matters relating to the delimitation of functional sectors, their seat allocation and election methods, which can be achieved by way of local legislation.

Progress towards universal suffrage

Further, the new DCFC election is consistent with the principle of gradual and orderly progress. The electoral system is not static. We are moving towards the ultimate aim of universal suffrage. Plainly, the enlargement of the electorate base is an important facet of this progress.

The new DCFC election is consistent with the Basic Law and the 2007 NPCSC decision. It provides a useful means to effect gradual and orderly progress towards universal suffrage. I appeal to all LegCo members to support it and to give Hong Kong the opportunity to move forward on constitutional development. Thank you.

Ends/Monday, June 21, 2010