



BASIC LAW BULLETIN



Editor's Note



In the “Focus” section of this issue, we review the main legal issues in the context of constitutional development and reforms in the HKSAR as it moves closer towards the ultimate aim of selecting the CE and electing all members of the LegCo by universal suffrage as provided in the Basic Law. In particular, we see some important milestones in constitutional development in the light of the relevant NPCSC Interpretations and Decisions and the amendments to Annexes I and II to the Basic Law, relating to both the method for selecting the CE and that for forming the LegCo. There have also been developments in our electoral law through recent decisions of the HKSAR courts. Such cases mainly focus on the consistency of our electoral provisions with the right to vote and the right to stand for election under BL 26 and Article 21 of the BoR.

We have our usual columns “Judgment Update” and “LegCo President’s Decision on Members’ Bill”. In the “Judgment Update” column, there are summaries of four recent judgments of the CFA concerning the following matters:

- The nature and scope of state immunity which the courts of the HKSAR should recognize, as a matter of law, as applying to foreign States being sued in the HKSAR.

- Whether the amendments to the Education Ordinance (Cap. 279), which changed the composition and power of the incorporated management committee in schools sponsored by the Catholic Diocese of Hong Kong, were inconsistent with BL 136(1), BL 137(1) and BL 141(3). These articles concern education policies, schools run by religious organizations and the affairs of religious organizations.
- The constitutionality of corporate voting in functional constituencies for elections to the LegCo, in particular whether ss. 25 and 26 of the Legislative Council Ordinance (Cap. 542) were in breach of BL 25 and BL 26.
- Whether the Hospital Authority’s decisions effecting a rise in the fees non-Hong Kong residents have to pay for obstetric services in public hospitals were in breach of the right to equal treatment guaranteed under BL 25 and Article 22 of the BoR.

The column “LegCo President’s Decision on Members’ Bill” covers two recent decisions on members’ bills, one concerning the Professional Accountants (Amendment) Bill 2011 and the other the Immigration (No. 2) (Amendment) Bill 2012.

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