



Selection of New Chief Executive

1. Article 53 of the Basic Law provides as follows :

If the Chief Executive of the Hong Kong Special Administrative Region is not able to discharge his or her duties for a short period, such duties shall temporarily be assumed by the Administrative Secretary, Financial Secretary or Secretary for Justice in this order of precedence.

In the event that the office of Chief Executive becomes vacant, a new Chief Executive shall be selected within six months in accordance with the provisions of Article 45 of this Law. During the period of vacancy, his or her duties shall be assumed according to the provisions of the preceding paragraph.

2. Following the resignation of Mr. Tung Chee Hwa, the office of the Chief Executive became vacant and the second paragraph of Article 53 applies.
3. The new Chief Executive will be selected under Article 45.

Article 45 The Chief Executive of the Hong Kong Special Administrative Region shall be selected by election or through consultations held locally and be appointed by the Central People's Government.

The method for selecting the Chief Executive shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures.

The specific method for selecting the Chief executive is prescribed in the Annex I: "Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region".

4. Article 46 provides that the term of office of the Chief Executive shall be five years.

Article 46 The term of office of the Chief Executive of the Hong Kong Special Administrative Region shall be five years. He or she may serve for not more than two consecutive terms.

5. The Law Society has considered the arguments put forward by the Administration but finds these unconvincing. Under the common law rules of statutory interpretation provisions are to be interpreted according to their literal meaning. It is only when the provisions are unclear or ambiguous that the rules relating to legislative intention need to be considered.
6. The provisions of Article 46 are unambiguous and their meaning clear. Accordingly it is incorrect to apply any meaning to its provisions other than that which is readily apparent, namely that the term of office of the Chief Executive shall be five years.

The Law Society of Hong Kong
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