

Legislative Council Panel on Constitutional Affairs

2004 Legislative Council Elections : Geographical Constituencies and Election Expense Limits

This paper sets out the Administration's recommendations in respect of arrangements for the geographical constituencies (GCs) elections and election expense limits for the 2004 Legislative Council (LegCo) elections.

Background

2. The third term LegCo elections will be held in 2004. We need to review the existing electoral arrangements, so as to introduce a bill to amend the Legislative Council Ordinance (LCO) (Cap. 542). At the special meeting of the Legislative Council Panel on Constitutional Affairs on 10 December 2002, the Administration briefed Members on the following electoral arrangements –

- (a) those concerning delineation of the electorate of functional constituencies (FCs);
- (b) the provision of partial financial support to LegCo candidates; and
- (c) the printing of names and emblems of political parties or organizations or candidates' photographs on ballot papers.

We undertook to report our recommendations in respect of the number of GCs and the number of Members to be returned by each GC upon completion of our relevant examination.

Electoral Arrangements for the GCs

3. For the second term LegCo, the LCO specifies five GCs with four to six seats in each GC. Under the Basic Law, the number of GC seats to be returned through direct elections for the third term LegCo will be increased from 24 to 30. The LCO will need to be amended to increase the number of GC seats to 30 and to specify the number of GCs and the number of seats in each GC for the third term LegCo.

4. Subject to the provisions of the LCO and the criteria laid down in the Electoral Affairs Commission Ordinance, the Electoral Affairs Commission (EAC) is empowered to make recommendations to the Chief Executive in respect of the demarcation of GC boundaries for LegCo elections.

5. The EAC will demarcate the GC boundaries in accordance with the following statutory criteria as prescribed in the EAC Ordinance.

- (a) The population in each GC must be as near as is practicable to the resulting number when the population quota is multiplied by the number of Members in that GC^(Note 1); and where it is not practicable to comply with this requirement, the resulting number must not deviate from the population in the GC by more than 15%.
- (b) The EAC shall have regard to community identities, preservation of local ties and physical features such as size, shape, accessibility and development of the relevant area.
- (c) The EAC shall have regard to the existing boundaries of District Councils. Each proposed GC shall be constituted by no less than two contiguous whole District Council constituencies.
- (d) The EAC may depart from the strict application of (a) above only where it appears that a consideration referred to in (b) above renders such a departure necessary or desirable.

6. In respect of the third term LegCo, we recommend that there should still be five GCs with the number of seats ranging from four to eight. This option has the following merits.

- (a) The demarcation of constituency boundaries for LegCo elections is conducted by the EAC in accordance with the law. However, this option leaves sufficient room for the EAC to decide whether the demarcation of the existing five GCs should remain intact or not. The current demarcation of the GC boundaries and their

^(Note 1) In accordance with the law, the "population quota" is derived by dividing the total Hong Kong population in 2004 by 30 GC seats, i.e. $6,957,700 \div 30 = 232,000$.

designated names (**Annex I**) have been in use since the first HKSAR LegCo elections in 1998. After two general elections in 1998 and 2000, voters are well aware of the GCs they belong to and their respective names. Candidates, political parties and political groups have been cultivating community support on the basis of the current GC boundaries. In a nutshell, minimizing changes to the existing demarcation of GC boundaries is advantageous and convenient to voters, candidates, political parties and political groups alike.

- (b) Stable constituency boundaries enable serving LegCo Members and prospective candidates to cultivate amicable and sustainable relationship with voters.

7. We propose that the maximum number of seats in a given GC should be eight. This is because, if the current boundaries remain unchanged, the smallest GC (Kowloon West) would have a population of around one million by 2004; the largest GC (New Territories West) would have a population of about two million. The minimum of four seats as compared to the maximum of eight per GC would be proportional to the spread of population. The population distribution forecast of the 18 districts by 2004 is set out at **Annex II**.

8. Upon passage of the relevant amendment bill for the 2004 LegCo elections, the EAC will consult the public on its recommendations on the demarcation of GC boundaries, and submit its final recommendations to the Chief Executive on or before 9 September this year. Thereafter, the Chief Executive in Council will declare areas to be designated as GCs by order published in the gazette. Such order, being a piece of subsidiary legislation, will be subject to negative vetting by LegCo.

9. With regard to the voting system, since voters have already accepted and are accustomed to the list voting system which were used in the past two LegCo elections, we recommend that the same voting system be adopted for the 2004 LegCo elections.

Election expense limits

10. Under section 45 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), the Chief Executive in Council is empowered to prescribe the maximum amount of election expenses which may be incurred in respect of a candidate or a list of candidates running for LegCo elections.

11. Setting election expense limits allows candidates to compete on a level playing field in an election. The limits do not restrict the form of election activities of candidates. As long as the expenses are within the prescribed limits, candidates are free to decide their actual election expenses. In setting the election expense limits, our principle has always been that the limits must be set at appropriate levels. Limits which are too low will place unreasonable restrictions on candidates' election activities, whereas high limits will deter less well-off candidates from standing in the elections.

12. Assuming that the recommendation in respect of the number of GCs and the number of seats in each GC, as set out in paragraph 6 above, is adopted, we recommend that the election expense limits for the five GCs should be derived on the basis of \$1.5 per head of population in a given GC, rounded to the nearest \$500,000. The same formula was used in the 2000 LegCo elections. Details are set out at **Annex III**.

13. In respect of the 2004 FC elections, given that there has only been a slight cumulative change in the composite Consumer Price Index since September 2000 (i.e. only a downward adjustment of 4.7%), we consider that there is no need to adjust the current election expense limits. We propose that the same four-tier election expense limits in 2000 FC elections should continue to apply^(Note 2).

Way Forward

14. We need to amend the Legislative Council Ordinance (Cap. 542) and other election laws in order to implement various proposals in relation to the 2004 LegCo elections. We plan to introduce the relevant bill into the LegCo in the first season of 2003.

^(Note 2) A four-tier structure of election expense limits, namely \$100,000 for constituencies with a relatively small number of voters (Heung Yee Kuk, agriculture and fisheries, insurance and transport FCs), \$160,000 for constituencies with not more than 5 000 voters, \$320,000 for constituencies with 5 001 to 10 000 voters, and \$480,000 for constituencies with over 10 000 voters.

Conclusion

15. Members are invited to comment on the proposals as set out in this paper.

Constitutional Affairs Bureau
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2000 Legislative Council Elections
Five Geographical Constituencies

| Geographical Constituencies | Population | Number of Seats |
|---|-------------------|------------------------|
| Hong Kong Island (Central & Western, Wan Chai, Eastern, Southern) | 1,343,400 | 5 |
| Kowloon East (Kwun Tong, Wong Tai Sin) | 1,016,100 | 4 |
| Kowloon West (Sham Shui Po, Kowloon City, Yau Tsim Mong) | 1,029,000 | 4 |
| New Territories East (North, Tai Po, Shatin, Sai Kung) | 1,543,500 | 5 |
| New Territories West (Islands, Kwai Tsing, Tsuen Wan, Tuen Mun, Yuen Long) | 1,804,900 | 6 |
| Total | 6,736,900 | 24 |

Population Distribution in 2004

| District | Population |
|--------------------------------|-------------------|
| <i>Hong Kong Island</i> | |
| Central & Western | 249,000 |
| Wan Chai | 150,300 |
| Eastern | 592,800 |
| Southern | 282,500 |
| <i>Kowloon</i> | |
| Wong Tai Sin | 449,100 |
| Kwun Tong | 585,100 |
| Kowloon City | 370,800 |
| Sham Shui Po | 356,700 |
| Yau Tsim Mong | 272,100 |
| <i>New Territories</i> | |
| Kwai Tsing | 518,600 |
| Tsuen Wan | 271,700 |
| Tuen Mun | 527,400 |
| Yuen Long | 557,000 |
| Islands | 129,600 |
| North | 296,500 |
| Tai Po | 306,200 |
| Shatin | 639,300 |
| Sai Kung | 402,900 |
| Total Population | 6,957,700 |

2000 LegCo Geographical Constituency Elections
Election Expense Limits

| Geographical Constituency | Population | Election Expense Limits (\$) | Per Person (\$) |
|--|-------------------|-------------------------------------|------------------------|
| Hong Kong Island (Central & Western, Wan Chai, Eastern, Southern) | 1,343,400 | 2,000,000 | 1.49 |
| Kowloon East (Kwun Tong, Wong Tai Sin) | 1,016,100 | 1,500,000 | 1.48 |
| Kowloon West (Sham Shui Po, Kowloon City, Yau Tsim Mong) | 1,029,000 | 1,500,000 | 1.46 |
| New Territories East (North, Tai Po, Shatin, Sai Kung) | 1,543,500 | 2,500,000 | 1.62 |
| New Territories West (Islands, Kwai Tsing, Tsuen Wan, Tuen Mun, Yuen Long) | 1,804,900 | 2,500,000 | 1.39 |
| Total | 6,736,900 | | |