

Legislative Council Panel on Constitutional Affairs

Automatic Voter Registration

This paper sets out the Administration's latest views on the implementation of automatic voter registration.

Pitfalls in an Automatic Voter Registration System

2. The Administration has considered the matter in detail. We are concerned that implementation of automatic voter registration may bring about technical problems that could affect the integrity of the voter register. If the Administration were to put in place legal and administrative measures to overcome such technical problems, it is likely that such measures might be perceived as unduly invasive in terms of the privacy of our residents. Automatically registering permanent residents as electors may also be perceived as depriving them of their right of personal choice.

Technical Problems

3. The major technical problems associated with the implementation of an automatic voter registration system are –

- (a) inherent difficulties in excluding disqualified voters from an automatically generated register; and
- (b) practical questions of effective maintenance of an accurate and up-to-date automatic voter register.

A. Excluding Disqualified Voters

4. The Legislative Council Ordinance (Cap. 542) stipulates that a person must be a permanent resident of Hong Kong, holds an identity document, has reached 18 years of age at the time of publishing the final register of electors and ordinarily resides in Hong Kong in order to be eligible for registration as an elector and to vote in elections. Furthermore, he is disqualified from registration if he falls under the

circumstances set out in section 31 of the Ordinance (see **Annex**). A person applying for registration as a voter must acquaint himself with these legal requirements and declare his eligibility at the time of application.

5. We have considered whether or not an automatic voter register can be compiled by using the up-to-date personal data which will be captured in the Registration of Persons (RoP) database of the Immigration Department in the next identity card replacement exercise. However, the database cannot discern disqualified electors –

- (a) who meet the permanent residence and age requirements, but fall within the disqualification provisions under section 31 of the Legislative Council Ordinance; or
- (b) who do not ordinarily reside in Hong Kong.

6. It is technically possible for the Administration to obtain updates on the first group described above by regular enquiry with various government departments. But this would require considerable efforts, and the general public may question the proportionality of such measures particularly as seen from the perspective of protection of the privacy of personal data.

7. The most intractable difficulty lies in excluding the second group, i.e. those who do not ordinarily reside in Hong Kong. Hong Kong residents are guaranteed freedom of movement under the Basic Law and they are not required to inform the authorities if they are no longer ordinary residents of Hong Kong. The Administration has no intention of tracking the movement of permanent and other residents in and out of Hong Kong.

8. By automatically registering permanent residents aged 18 or above who have permanent identity cards based on records in the RoP database, we may end up including a significant number of permanent residents who do not ordinarily reside in Hong Kong. For example, it is estimated that a total of 683 400 persons have emigrated overseas in the past 20 years. However, many of them will be automatically included in

the voter register under an automatic voter registration regime. But many among this group may no longer be ordinarily residing in Hong Kong. This would be inconsistent with the existing statutory requirement.

B. Effective Maintenance of an Accurate and Update Automatic Voter Register

9. Implementation of an automatic voter registration system would greatly increase the difficulty of keeping the voter register up-to-date. At present, there are around three million registered electors as at the end of 2002. We estimate that there are 1.6 million Hong Kong permanent residents who are over 18 years of age but have not come forward to register. An automatically generated register would draw in these 1.6 million permanent residents who would otherwise not be registered. It is believed that this group of persons, who have not registered on their own volition, would have a lower propensity to update their voter registration records.

10. To maintain an up-to-date register, we have considered implementation of a number of administrative and legislative measures as remedy. Some of the administrative measures considered include using data collected through the Post Office's Redirection of Correspondence service, devising a government-wide change of address form and simplifying the on-line change of address process. However, these could address only part of the problem as they are voluntary. We have also considered conducting regular large-scale household visits to update address changes, but this is non-focussed and extremely resource intensive. As regards legislative means, the Administration could resort to strict enforcement of the statutory requirement to report change of address. However, this may be perceived as unduly draconian and uncalled for by the community.

11. We have also considered amending the law to give the Registration and Electoral Office the power to access information kept by major sources of personal data, such as banks, public utility companies, or other government departments in addition to Immigration Department and Housing Department. Even so, it is still not possible to have all

address information matched and updated, because no firm/government department has complete information.

Infringement of Privacy

12. As explained in the foregoing paragraphs, to maintain the integrity of the automatic voter register, the Administration would have to cross-match a large amount of personal information of Hong Kong permanent residents from various sources, and strictly enforce the requirement on its residents to report change of address. This could lead to the question of infringement of privacy which is much valued by the community at large. The Administration is mindful of the repercussions.

Personal Choice

13. A voluntary voter registration system allows the public to exercise the right to choose. The Administration believes that we should continue to give eligible persons the personal choice of whether to register as an elector. The Administration would endeavour to facilitate registration through more focussed and efficient voter registration campaigns and facilitation of updating of residential addresses.

Way Forward

14. Having regard to the problems set out above, the Administration does not intend to implement automatic voter registration for the time being.

Conclusion

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

Constitutional Affairs Bureau

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Annex

Section 31 provides that a person is disqualified from being registered as an elector if –

- (a) he has been sentenced to death or imprisonment in Hong Kong or any other place and has not served the sentence or received a free pardon;
- (b) he is serving a sentence of imprisonment on the date of application to be registered;
- (c) he has been convicted of an offence which is a corrupt or illegal practice under the Elections (Corrupt and Illegal Conduct) Ordinance or an election-related offence under other named Ordinances within the past three years,
- (d) he is of unsound mind and incapable of managing himself and his affairs; or
- (e) he is a member of an armed force.