

## Legislative Council Panel on Constitutional Affairs

### **2004 Legislative Council Elections : Functional Constituencies & Other Electoral Arrangements**

This paper sets out the Administration's recommendations on the electoral arrangements for the functional constituencies (FCs) and other electoral arrangements at the 2004 Legislative Council (LegCo) elections.

#### **Background**

2. The third term LegCo elections will be held in 2004. To prepare for the elections, we need to review the existing electoral arrangements. We also need to introduce a bill to amend the Legislative Council Ordinance (LCO) (Cap. 542) to provide the legal basis for the conduct of the third term LegCo elections.

3. Under the Basic Law, 30 seats of the third term LegCo will be returned by geographical constituencies (GCs) through direct elections, and the remaining 30 by FCs. With respect to the GC direct elections, the Government is currently conducting an examination in respect of the number of GCs and the number of Members to be returned by each GC at the 2004 LegCo elections. Upon completion of the examination, we will report our recommendations to the LegCo Panel on Constitutional Affairs as soon as possible.

4. This paper sets out the Administration's recommendations on the arrangements for the FC elections and other electoral arrangements for the third term LegCo elections. We have adopted the following principles in formulating these arrangements.

- (a) With regard to FC elections, we will adjust suitably the electorate of the relevant FCs, in order to ensure that their composition fully reflects the latest situation of the relevant sectors.
- (b) By putting in place other electoral arrangements, we aim at providing an environment that will encourage more public-spirited candidates to participate in the LegCo elections, in order to facilitate the development of local political parties and political groups.

## **Delineation of Electorate of Functional Constituencies**

5. The Basic Law provides that 30 seats in the third term LegCo should continue to be returned by FCs. The existing 28 FCs provide a representative voice for the territory's economic, financial, professional, labour and other sectors. These constituencies – and the system of election to them – have been quite well established and are generally accepted by the public. We, therefore, recommend for the 2004 LegCo elections the existing 28 FCs should continue to return 30 Members to the third term LegCo. The composition of these FCs should remain broadly unchanged. However, we will make necessary adjustments to tie in with the developments and situation of the relevant FCs.

6. We will propose making technical amendments to some FCs to take into account new developments in these sectors. In the main, these amendments will involve -

- (a) correcting the names of relevant corporate electors, and updating certain eligibility criteria due to changes in statutory registration/licensing regime;
- (b) deleting corporate bodies which have ceased operation or are no longer holding a particular type of licence/franchise; and
- (c) adding new corporate bodies with a status comparable to that of existing corporate electors such as new licensees/franchisees, representative bodies in the relevant trade and bodies registered under new statutory schemes.

We will explain in detail these technical amendments when the relevant bill is introduced into LegCo. Among the various FCs, the more significant proposal concerns the Medical FC.

### ***Medical FC***

7. The Medical FC is currently made up of about 7 700 registered doctors and dentists (as against a potential electorate of 13 100). In the context of the 2000 LegCo elections, the Administration did consider the inclusion of registered Chinese medicine practitioners in the Medical FC. The proposal was subsequently withdrawn, as the statutory

framework for registering Chinese medicine practitioners was not yet fully ready in early 2000. However, the Administration undertook to revisit the proposal for the third term LegCo elections.

8. We understand that the Chinese Medicine Council of Hong Kong has vetted the academic qualification and practice experience of some 7 700 “listed” Chinese medicine practitioners and has announced that about 2 400 of them have been registered as Chinese medicine practitioners. As for the remaining 5 300 “listed” practitioners and graduates completing recognized undergraduate degree courses, they may apply for registration as registered Chinese medicine practitioners only after they have passed the registration assessment or licensing examination to be held from 2003 onward.

9. Given that a statutory registration scheme has been put in place and several thousand Chinese medicine practitioners will have been properly registered by mid-2004, for the third term LegCo elections, in principle we agree to consider including registered Chinese medicine practitioners in the Medical FC. We will consult the relevant professions and interested parties on our proposal. Having regard to their views, we will take a decision on the issue in finalizing the amendment bill for submission to LegCo.

### **Provision of partial financial support to LegCo Candidates**

10. It has been previously suggested that the feasibility of introducing a political party law should be examined, and that the Government has been requested to give consideration to this matter. According to our understanding, political parties or political groups mainly wish to obtain statutory recognition and financial support. After careful consideration, we have decided that now is not the time to introduce a political party law to regulate the operation of political parties. We believe that political parties should be allowed sufficient room to develop so as to facilitate effectively the development of political parties in Hong Kong. Imposing additional statutory controls on the operation of political parties might in fact hinder the development of political parties. Therefore, we suggest introducing additional provisions within the existing legal framework so as to implement the following measures –

- (a) providing partial financial support to candidates standing in LegCo elections; and

- (b) inviting the EAC to revisit the proposal to allow the printing of the names and emblems of candidates' parties (or organizations) or the candidates' photographs on the ballot paper.

11. Currently, LegCo candidates are entitled to two rounds of free mailing service so that they can communicate with their electorate. Besides, candidates may make use of the free TV and radio air time on RTHK to promote their election platforms. We understand that the free mailing service may not meet entirely the needs of candidates. Thus, to provide candidates with more flexibility to conduct their election activities, we recommend that candidates be provided with financial support. Details of the proposal are as follows.

- (a) Government will provide financial support to a candidate in accordance with the number of votes he has received, to meet part of his election expenses. The rate will be set at \$10 per vote but capped at 50% of the actual election expenses of the candidate concerned<sup>(Note 1)</sup>. Under the proposed scheme, only candidates who get elected, or those have received 5% of valid votes or more, will be given financial support. The proposed arrangements will be applicable to candidates in both the GC and FC elections.
- (b) In response to suggestions made previously that the support provided by the Government should be made more flexible, we recommend that the free mailing for candidates be reduced from two rounds to one. Every candidate will still be entitled to one round of free mailing.
- (c) As a corollary of our intention to enhance our financial support to election candidates, we propose to lower the existing threshold (5%)<sup>(Note 2)</sup> for the return of election deposit to 3%.

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<sup>(Note 1)</sup> We are currently studying the issue of election expense limits in conjunction with that of the GC elections. Upon completion of the study, we will report to the Constitutional Affairs Panel as soon as possible.

<sup>(Note 2)</sup> Under section 4 of the Legislative Council (Subscribers and Election Deposit for Nomination) Regulation, the election deposit of unsuccessful candidates or lists will be forfeited unless the candidate/list has secured 5% or more valid votes of all those received for the constituency concerned.

- (d) The free TV and radio air time on RTHK will be maintained to allow candidates to promote their election platforms.

12. From our perspective, the proposed scheme will not only provide financial support to candidates and their respective political parties or political group, but also provide them with more flexibility in planning their election activities. Under the proposed scheme, independent candidates will be eligible for the same support, in order to allow them adequate room to participate in elections. Candidates who receive broader public support in the elections will receive additional financial support to meet their election expenses, whereas those who receive moderate support (i.e. 3%) will also have their election deposit returned. We believe that, as a result of the proposal, more public-spirited candidates will be encouraged to stand in the elections.

#### **Printing of Names and Emblems of Political Parties or organizations or Candidates' Photographs on Ballot Papers**

13. The EAC made relevant regulations in December 1999 to allow a candidate to have his own emblem or the name and emblem of his party (or organization) printed on a ballot paper. Although many LegCo Members expressed their support in principle for the proposal, the regulations were eventually repealed since there was insufficient time to resolve all the technical issues arising from the regulations.

14. From our perspective, allowing the candidates to have the names and emblems of their parties (or organizations) or the candidates' photographs printed on the ballot papers would help voters recognize candidates and their parties (or organizations). In the long run, this would also facilitate the development of political parties and political groups in Hong Kong. Therefore, we propose that the EAC should be invited to revisit this proposal for introduction in the 2004 LegCo elections. As we have a longer lead time on this occasion, the EAC should be able to streamline the procedures and refine the regulations, taking account of the concerns expressed previously.

### **The Way Forward**

15. We need to amend the Legislative Council Ordinance (Cap.542) and other electoral laws in order to implement the above proposals and those relating to the GC elections. We plan to introduce the amendment bill into the LegCo in the first season of 2003.

### **Conclusion**

16. Members are invited to comment on the proposals as contained in this paper.

**Constitutional Affairs Bureau  
10 December 2002**