

An extract from the Report of the Bills Committee on Voting by Imprisoned Persons Bill regarding practical arrangements for voting by prisoners

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Practical arrangements for voting by prisoners

36. At the Bills Committee's request, the Administration has provided information about the administrative and security arrangements for prisoners and remanded unconvicted persons to be registered as an elector and to vote on the polling day. The Bills Committee notes that the practical electoral arrangements are provided for in the subsidiary legislation made by the Electoral Affairs Commission (EAC) under the Electoral Affairs Commission Ordinance (EACO) (Cap. 541). Necessary amendments are being prepared by EAC in respect of the relevant electoral regulations to implement the proposed arrangements.

37. In response to members' concern about whether prisoners and unconvicted remanded persons would have adequate access to election-related materials, the Administration has explained that as provided under the electoral regulations and under the established practice, the Registration and Electoral Office (REO) sends poll cards together with the candidates' introductory leaflet to electors before the polling day. To ensure that electors who are serving prison sentences receive the poll cards and introductory leaflet as early as possible, REO would send such materials to their addresses in the penal institutions of CSD as far as practicable. As for persons held in custody who are registered electors, the poll cards and candidates' introductory leaflet would be sent to their registered address or correspondence address (if any). Additional copies of the candidates' introductory leaflets would also be made available at CSD and other law enforcement agencies (LEAs) for such persons' reference.

38. Representatives of the Society for Community Organization and the Civic Party presenting views to the Bills Committee have also stressed the importance of ensuring effective communication between candidates and prisoners-electors and their adequate access to election-related materials published by candidates. They stress that in order to afford adequate protection of the voting right of prisoners, the arrangement should be clearly set out by way of subsidiary legislation. It is further suggested that prisoners should be allowed to use internet for access to election-related materials during the electoral period as it should not give rise to any security concerns.

39. The Administration has informed the Bills Committee that candidates would be provided with gum labels containing the registered address or the correspondence address (if any) of the registered electors following the existing practice for mailing election advertisements. For privacy reasons, prisoners might choose to use their

prison addresses or other addresses as their correspondence addresses when they registered as electors. Prisoners and persons held in custody who are registered electors could access election-related information through the mass media such as newspapers and radio in accordance with the existing policies of LEA on access to mass media. CSD has also been considering the feasibility of allowing the use of internet in penal institutions.

40. Members note that due to security considerations, arrangements would not be made to facilitate in-person canvassing activities inside a penal institution of CSD or a premise of a LEA where persons are imprisoned or held in custody. For fairness purpose, no canvassing activities would be allowed by visitors during visits made in their official capacities to prisoners and persons held in custody.

41. Mr WONG Yung-kan opines that no visit during the electoral period should be allowed for any person who has participated in the relevant election, in order to avoid any unfairness. Mr IP Kwok-him and Dr Priscilla LEUNG, however, consider that visits made in official capacities should not be disallowed, provided that they are conducted in accordance with the electoral law and in compliance with the principle of fairness. The Administration has explained that there may be a practical need for a person in his official capacity such as justices of peace, lawyers and social workers to visit prisoners and persons held in custody. CSD would inform the Police of any breach of the electoral laws for the purpose of taking law enforcement action accordingly. The Administration assures the Bills Committee that the issue would be further considered in the context of drafting the relevant subsidiary legislation.

42. Members note that due to security reasons, only candidates may enter dedicated polling stations set up inside maximum security prisons to observe the poll. Dr Margaret NG has expressed concern that given the fact that an election agent should legally be able to do all the things on the candidate's behalf, the arrangement would depart from the existing legal principle and would have the effect of limiting the rights of a candidate. The Administration has explained that it is necessary for security reasons to limit the number of visitors in a maximum security prison. However, the Administration would consider members' view when drafting the relevant subsidiary legislation.

43. In response to members' concerns about the practical arrangement for voting by prisoners, the Administration assures the Bills Committee that to ensure that all parties involved in the election would be well aware of the electoral arrangements, EAC would make necessary amendments to the relevant election guidelines. Adequate briefing would also be provided to the staff of CSD and LEAs involved. In addition, reviews would be conducted after every election so as to improve the practical arrangements for prisoners and other persons in custody to exercise their voting right.

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