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Panel on Constitutional Affairs

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 18 March 2011**

2011 Voter registration campaign

Purpose

This paper summarizes the major issues previously raised by members of the Panel on Constitutional Affairs ("the Panel") on the voter registration ("VR") campaign for the Legislative Council ("LegCo") and District Council ("DC") elections. This paper also gives a brief account of the concerns recently raised by members of the Bills Committee on Chief Executive Election (Amendment) Bill 2010 and LegCo (Amendment) Bill 2010 ("the Bills Committee") in respect of VR as set out in paragraphs 10 to 16.

Background

2. The Government has been organizing VR campaigns during LegCo and DC election years since the First LegCo. Under current legislation, Hong Kong permanent residents holding an identity document who have reached 18 years of age, and ordinarily reside in Hong Kong, are eligible to be registered as electors. Eligible persons should apply to the Registration and Electoral Office ("REO") for registration. Registration can be made any time in a year, but only those who have made their application by the annual deadline can be included in the registers of electors published in that year and vote in elections conducted thereafter. Once registered, there is no need for the electors to register again. However, if there is any change in their registration particulars, they will have to report to REO by the annual deadline.

3. According to the 2010 final register, there were about 3.4 million registered electors for geographical constituencies, and about 225 000 registered electors for functional constituencies.

4. According to the Administration, the main activities of the last two VR campaigns organized for the 2007 DC election and the 2008 LegCo election included –

- (a) setting up roving registration counters at popular locations to help people make applications for VR or update registration particulars;
- (b) setting up registration counters at all Registration of Persons Offices to help young people turning 18 years of age to register when they turn up at these offices to apply for or to collect their adult identity cards;
- (c) conducting household visits to new residential developments with intake in recent years to target at those registered electors who have changed addresses; and
- (d) writing to all households which have moved into new private developments to remind them to report changes in address and, if they are not already registered electors, to register early.

Major issues raised by the Panel

Registration rate of young people

5. The low registration rates of young people at the 18 to 20 and the 21 to 25 age groups had all along been a concern to members. Some members suggested that REO should seek assistance from secondary schools and tertiary institutions to promote registration, and consider doing registration on-line. The Administration advised that REO had established contacts with the tertiary institutions and also visited secondary schools to promote VR. To encourage more young people to register, visits would be paid to higher education institutions to facilitate eligible students to register. A dedicated website would be set up which would hyperlink with certain websites which young people frequently visited, so as to enhance the appeal to them to make applications for VR.

Removal of registered electors' names from the final register

6. Members expressed concern about the removal of registered electors' names from the final register. They pointed out that some electors were only aware that their names had been removed from the final register on the polling day. Even by the time an elector realized that he had not received a polling card and reported to REO, it would be too late to reinstate his voting right in the

upcoming election because the deadline for registration had already lapsed. Members suggested that the Administration should devise user-friendly measures for electors to update their particulars with REO and to check their status in the electoral register such as enabling an elector to check on-line his status in the electoral register.

7. The Administration advised that REO would contact the electors by various means, and only if the person could not be contacted after many attempts would REO have reason to believe that the person was no longer residing in the address recorded in the existing register. The person's name would be put on an omissions list. As required by law, the omissions list would be published for public inspection together with the provisional register. Any person whose name was included in the omissions list but considered that he was entitled to be registered in the final register might make a claim. If such claim was accepted, the name would be reinstated in the final register.

Automatic voter registration

8. The Panel had discussed the subject of the implementation of automatic VR on various occasions. According to the Administration, it would not rule out the possibility of implementing an automatic VR system, but the problems which have been identified, including inherent difficulties in excluding disqualified voters from an automatically generated register, and difficulties in updating effectively the particulars of registered electors, should be addressed before consideration could be given to introducing the system. The Administration had elaborated on the technical problems identified and its view on the implementation of automatic VR in its paper provided to the Panel in 2003 (**Appendix I**). It was the Administration's view that eligible persons should continue to be given the personal choice of whether to register as an elector.

9. While some members were of the view that implementation of an automatic VR system should be the long-term solution to the issues arising from VR, some other members held the view that it was not necessary to implement such a system, taking into account the technical problems identified and the right of eligible persons to decide whether or not to register as an elector.

Relevant deliberations of the Bills Committee

10. During the scrutiny of the Chief Executive Election (Amendment) Bill 2010 and the LegCo (Amendment) Bill 2010, members of the relevant Bills

Committee expressed concern about issues in relation to VR at its meetings on 18 and 25 January 2011.

11. Information on the statutory deadlines concerning VR in 2011 provided by the Administration to the Bills Committee is in **Appendix II**. Members noted that the deadline for VR for inclusion in the 2011 provisional register was 16 July 2011. The deadline for the Electoral Registration Officer ("ERO") to publish and make available the 2011 provisional register and omission list for public inspection was 15 August 2011. The public could make an objection to or make a claim on the registration on the provisional register, or apply for updating the registration particulars in the 2011 final register before 29 August 2011. The date of publication of the 2011 final register was 25 September 2011. The voter registration drive for the DC election to be held in November 2011 would be conducted in around June to August 2011.

12. Some members considered that there was room for postponing the deadline for registration of electors to allow more time for eligible persons to register as electors for the 2011 DC election. The Administration advised that in response to the views raised by LegCo Members a few years ago, the Administration had already postponed the deadline for registration of electors in a DC election year for two months to allow more time for VR. The Administration stressed that it was important to allow sufficient time for REO to process the registration particulars of some 3.2 million electors to ensure the accuracy of the information.

13. Noting that the date of publication of the 2011 provisional register (15 August 2011) came before the deadline for updating of electors' records (29 August 2011), some members considered the arrangement unsatisfactory. In their view, to ensure fairness of election, no more updating of records should be allowed after the provisional register had been published for public inspection because the public would not have any opportunity to lodge objections to those changes made after the publication of the provisional register. These members considered that there should not be any overlap in the period for the public to make an objection to or to make a claim on the registration on the provisional register or to apply for updating registration particulars and that for the Revising Officer to make determination on the objections and claims.

14. The Administration explained that there was a practical need for setting the deadline for updating electors' records after the date of publication of the provisional register to allow time for electors to update their records after inspection of the provisional register. ERO would bring to the attention of the Revising Officer any changes in registration particulars of electors relating to

cases of objections/claims being handled by the Revising Officer. Objections/claims made by the public on the registration of the final register would be handled in the next VR cycle. The numbers of claims/objections received and reviews made by the Revising Officer during the VR cycle for the compilation of final register from 2006 to 2010 are in **Appendix III**.

15. Some members expressed concern about the compilation of the omissions list. These members said that they had received many complaints from members of the public that they were not aware that their names had been removed from the final register until they were declined for voting at polling stations.

16. The Administration advised that according to the relevant statutory provisions, if ERO had reasons to believe that the address recorded in the existing final register against a person's name was no longer that person's principal residential address, it would make a written inquiry which would be sent by registered post addressed to the person who was the subject of the inquiry. For VR in 2011, such inquiries should be made on or before 30 June 2011. If the person with whom an inquiry was made did not reply to ERO by the statutory deadline of 16 July 2011, his name would be entered onto the omissions list. Any person whose name was included in an omissions list could make a claim that he was entitled to be registered in the final register by the statutory deadline of 29 August 2011. The Revising Officer would fix a hearing for each notice of claim and might review the ruling. With the approval of the Revising Officer, ERO would correct an entry, make an additional entry or remove an entry as appropriate when compiling the final register. According to the Administration, no record of unregistered electors declined for voting at polling stations has been kept.

Relevant papers

17. A list of relevant papers which are available on the LegCo website is in **Appendix IV**.

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.

Statutory Deadlines Concerning Voter Registration (VR) in 2011

Date	Major Event	Relevant Legislation
16 July	The statutory deadline for an applicant to apply to the Electoral Registration Officer (ERO) for registration in the 2011 provisional register (PR) is 16 July.	According to section 4 of Cap 541A and section 19 of Cap 541B.
25 July	<p>If the ERO requires an applicant to provide further particulars relating to the application, the statutory deadline for an applicant to provide such particulars is 25 July.</p> <p>After finishing all the registration procedures, the ERO has to compile the registration particulars, and to arrange for printing, checking and binding of the PR and omission list, for subsequent sorting and distribution to the District Offices.</p>	According to section 5 of Cap 541A and section 21 of Cap 541B.
15 August	The statutory deadline for the ERO to publish and make available the PR and omission list for public inspection is 15 August.	According to section 10 and 13 of Cap 541A and section 25 and 29 of Cap 541B.
29 August	After inspecting the PR and omission list, the statutory deadline for the public to make an objection to or make a claim on the registration on the PR, or to apply for updating the registration particulars in the 2011 final register (FR), is 29 August.	According to section 10, 13, 14, 15 and 17 of Cap 541A, and section 25, 29, 30, 31 and 33 of Cap 541B.

Date	Major Event	Relevant Legislation
15 August to 11 September	<p>According to the relevant legislation, the ERO must deliver to the Revising Officer (RO) a copy of each notice of objection or notice of claim received. The RO will fix a hearing for each notice of objection or notice of claim concerning VR, and may review the ruling. With the approval of the RO, the ERO will correct an entry, make an additional entry or remove an entry as may be appropriate when compiling the FR.</p> <p>Meanwhile, the ERO will determine the applications for updating registration particulars, and with the approval of the RO, correct an entry, make an additional entry or remove an entry as may be appropriate.</p>	According to section 16 and 18 of Cap 541A and section 32 and 34 of Cap 541B.
11 to 25 September	After updating the entries, the ERO has to compile the registration particulars, and to arrange for printing, checking and binding of the FR, for subsequent sorting and distribution to the District Offices.	
25 September	The statutory deadline for the ERO to publish and make available the FR for public inspection is 25 September.	According to section 20 of Cap 541A and section 38 of Cap 541B.
November	District Council election	
December	Election Committee Subsectors election	

Source : Annex I to the Administration's follow-up paper on "Voter Registration and the Delineation of Legislative Council Geographical Constituencies" for the Bills Committee on Chief Executive (Amendment) Bill 2010 and Legislative Council (Amendment) Bill 2010 meeting on 18 January 2011
[LC Paper No. CB(2)894/10-11(02)]

Appendix III

The number of claims/objections received and reviews made by the Revising Officer during the voter registration ("VR") cycle¹ for the compilation of the final register from 2006 to 2010 is as follows :

VR Cycle	No. of Claims	No. of Objections	No. of Reviews
2006	0	0	0
2007	1	0	0
2008	0	0	0
2009	0	0	0
2010	0	0	0
Total	1	0	0

Note: The claim in 2007 concerned an applicant whose application for registration as a geographical constituency elector was not received by the Electoral Registration Officer by 16 July 2007, i.e. the VR deadline for that year, as required under section 4(1)(a) of Cap. 541A. The claim was dismissed in the end.

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Source : Administration's follow-up paper on "Matters Concerning Voter Registration" for the Bills Committee on Chief Executive (Amendment) Bill 2010 and Legislative Council (Amendment) Bill 2010 meeting on 25 January 2011
[LC Paper No. CB(2)936/10-11(03)]

¹ The cut-off date is the date of publication of final register for that year.

2011 Voter registration campaign

Relevant documents

Minutes

- (a) minutes of the meeting of the Panel on 7 November 1997
[PLC Paper No. CB(2)746];
- (b) minutes of the meeting of the Panel on 9 January 1998
[PLC Paper No. CB(2)950];
- (c) minutes of the meeting of the Panel on 20 December 1999
[LC Paper No. CB(2)1394/99-00];
- (d) minutes of the meeting of the Panel on 17 April 2000
[LC Paper No. CB(2)2484/99-00];
- (e) minutes of the meeting of the Panel on 17 March 2003
[LC Paper No. CB(2)1819/02-03];
- (f) minutes of the meeting of the Panel on 19 May 2003
[LC Paper No. CB(2)2464/02-03];
- (g) minutes of the meeting of the Panel on 15 March 2004
[LC Paper No. CB(2)2329/03-04];
- (h) minutes of the meeting of the Panel on 16 April 2007
[LC Paper No. CB(2)2468/06-07];
- (i) minutes of the meeting of the Panel on 17 March 2008
[LC Paper No. CB(2)2248/07-08];
- (j) minutes of the meeting of the Panel on 19 May 2008
[LC Paper No. CB(2)2841/07-08];

Papers

- (k) Administration's paper entitled "Voter Registration Drive for the 1998 Legislative Council Election"
[PLC Paper No. CB(2)537(01)];

- (l) Administration's paper entitled "Progress of the Voter Registration Campaign"
[PLC Paper No. CB(2)812(01)];
- (m) Administration's paper entitled "2000 Voter Registration Campaign"
[LC Paper No. CB(2)623/99-00(04)];
- (n) Administration's paper entitled "2000 Voter Registration Campaign"
[LC Paper No. CB(2)1680/99-00(04)];
- (o) Administration's paper entitled "Automatic Voter Registration"
[LC Paper No. CB(2)1180/02-03(02)];
- (p) Administration's paper entitled "2003 Voter Registration Campaign"
[LC Paper No. CB(2)2088/02-03(03)];
- (q) Administration's paper entitled "2004 Voter Registration Campaign"
[LC Paper No. CB(2)1686/03-04(04)];
- (r) Administration's paper entitled "2007 Voter Registration Campaign"
[LC Paper No. CB(2)1569/06-07(02)];
- (s) Administration's paper entitled "2008 Voter Registration Campaign"
[LC Paper No. CB(2)1336/07-08(03)];
- (t) Administration's paper entitled "Voter Turnout Publicity Campaign for the 2008 Legislative Council Election"
[LC Paper No. CB(2)1910/07-08(03)];
- (u) Administration's paper on "Voter Registration and the Delineation of Legislative Council Geographical Constituencies" for the Bills Committee on Chief Executive (Amendment) Bill 2010 and Legislative Council (Amendment) Bill 2010
[LC Paper No. CB(2)894/10-11(02)];
- (v) Administration's paper on "Matters Concerning Voter Registration" for the Bills Committee on Chief Executive (Amendment) Bill 2010 and Legislative Council (Amendment) Bill 2010
[LC Paper No. CB(2)936/10-11(03)];

Question

- (w) Written question raised by Hon LEE Wing-tat on "Updating of the Voter Register" at the Council meeting on 1 March 2000; and
- (x) Written question raised by Hon LAU Chin-shek on "Voter registration" at the Council meeting on 14 May 2008.

Council Business Division 2
Legislative Council Secretariat
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