

立法會

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Panel on Constitutional Affairs **Background brief prepared by the Legislative Council Secretariat** **for the meeting on 20 February 2012**

Abolition of the District Council Appointment System

Purpose

This paper summarizes the major developments of the District Council ("DC") appointment system and the discussions held by Legislative Council ("LegCo") Members on the subject.

Background

Composition of DCs

2. The District Councils Ordinance ("DCO") (Cap. 547) provides for the number, composition and functions of DCs. Section 9(1) of DCO stipulates that a DC is to consist of (a) elected members; (b) appointed members; and (c) ex-officio members, if it is a DC established for a District in which there is one or more Rural Committees ("RC"), with the Chairman of each RC serving as ex-officio member(s) of the DC while holding office as Chairman of RC.

3. The numbers of elected, appointed and ex-officio members on each DC are specified in Schedule 3 to DCO. Section 11 of DCO provides that the Chief Executive ("CE") may appoint as members of a DC "a number of persons not exceeding the number specified in column 4 of Part I of Schedule 3". Subject to section 13, an appointed member holds office from the date specified in the letter of appointment and vacates office on 31 December of the year in which an ordinary election is next held after the appointment. Section 12 of DCO further stipulates that a person is eligible for appointment as a member of a DC only if the person –

- (a) has reached 21 years of age; and

- (b) is an elector; and
- (c) is not disqualified from voting at an election; and
- (d) is not disqualified from being an appointed member by virtue of section 14 or any other law; and
- (e) has ordinarily resided in Hong Kong for the three years immediately preceding the appointment.

Historical development of the DC composition

4. The composition of DCs had reflected the development of district organizations over the years. In 1982, 18 District Boards ("DBs") were established with the introduction of the District Administration Scheme. The 18 DBs elected during the British administration were later replaced by Provisional DBs from 1 July 1997 to 31 December 1999. Following the review of district organizations conducted in 1998, it was decided that the former 18 Provisional DBs should be replaced by 18 DCs with effect from 1 January 2000. A table summarizing the composition of DBs/DCs since 1982 and some of the main developments are in **Appendix I** for members' reference.

Past developments and discussions on DC appointment system

Abolition of appointed seats in 1994

5. In 1994, all appointed seats in the former DBs were abolished. The proposal to abolish all appointed DB seats was given legislative effect by way of the Electoral Provisions (Miscellaneous Amendments) (No. 2) Bill 1993. In moving the Second Reading of the Bill at the Council meeting of 15 December 1993, the then Secretary for Constitutional Affairs ("SCA") said that –

".....the Bill provides for the abolition of appointed seats in both the district boards and municipal councils as from the next round of elections. This will be a logical step in the gradual evolution of the municipal councils and the district boards over many years. The appointed seats in these bodies have stayed at about one-third of their membership since the latter half of the 1980s. As the Legislative Council will become fully elected in 1995, it will be the appropriate time for the municipal councils and district boards to become fully elected bodies as well. With a fully elected membership, they will be able to reflect better the views of the community which they serve."

6. During the resumption of the Second Reading debate on the Bill at the Council meeting on 23 February 1994, SCA said that –

"There are concerns that after the appointed members have gone, their expertise cannot be readily replaced. It is recognized, and one can hardly overemphasize this, that over the years appointed members have made significant contributions. But at the same time one must equally recognize the need for our system of representative institutions evolving to meet the aspirations of the community. In any case, there are already legal provisions for the municipal councils and the district boards to co-opt experts onto their committees if such a need arises."

Restoration of appointed seats

7. The appointed DC seats were restored on 1 July 1997 when the 18 Provisional DBs replaced the corresponding DBs as an interim arrangement, pending elections to be held. The Provisional DBs included all those members serving before 1 July 1997 as well as additional appointees.

8. During the resumption of the Second Reading debate on the District Councils Bill, which proposed that each DC should be composed of three categories of members, namely, elected members, ex-officio members and appointed members, at the Council meeting of 10 March 1999, Members expressed divergent views on the appointed and ex-officio membership of DCs. Some Members were strongly opposed to the restoration of appointed and ex-officio membership, and considered it a retrograde step in democratic development as all members of DBs, except the ex-officio members, were already returned by direct election in 1994. They also considered that the provision for appointed seats in the Bill was in contravention of Article 25 of the International Covenant on Civil and Political Rights. Some other Members did not have strong views regarding appointed membership. They agreed with the Administration that appointed members could enhance the representativeness of DCs as advisory bodies. Mr LEE Wing-tat moved amendments to abolish all appointed and ex-officio seats from the Bill but the amendments were negatived. The Bill was passed by LegCo.

Appointment of DC members after the 2003 DC elections

9. During the review of the Roles and Functions of DCs conducted in 2001, there were calls for the Administration to abolish appointed DC seats. When the Panel on Constitutional Affairs ("the CA Panel") and the Panel on Home Affairs ("the HA Panel") discussed the composition of the second term DCs at

the joint meetings held on 4 June and 27 September 2002 respectively, some members expressed dissatisfaction that the Administration had ignored the request to remove all the appointed seats and increase the number of elected seats of DCs. Some members, on the other hand, supported the continuation of appointed membership for DCs. They suggested that the number of appointed members should be reduced gradually. The Administration considered that there was a general consensus among the 18 DCs that the number of appointed and ex-officio seats for the second term DCs should remain unchanged. It undertook to conduct a comprehensive review of the composition of DCs after the DC elections in 2003.

10. Following the DC elections on 23 November 2003, the CA Panel and the HA Panel held another joint meeting on 8 December 2003 to discuss the appointed membership of DCs. Some members considered that CE should appoint the least number of DC members in accordance with the law and respect the choices made by more than one million voters who cast their votes in the DC elections, as the appointment of DC members by CE would be tantamount to changing the results of voting by the public. Some other members supported retaining the DC appointed membership having regard to the contribution of appointed members to the work of DC.

11. The Administration advised that the appointed membership of DCs was intended to provide a channel for individuals with the ability and interest to serve the community. The proportion of appointed membership was decided by the Government after thorough consultation and deliberation in 1998. In addition to the criteria for appointment provided in section 12 of DCO, the Government would take into account the individuals' ability, experience, professional qualifications and background, commitment to serve the public, integrity and public service record. Appointed members could help reflect the views of different sectors in the districts. All DC members, irrespective of whether they were appointed or elected, had roles to play in making contributions to the diversified nature of the work of DCs.

12. Some members further queried whether there was any requirement in law for CE to have to appoint a certain minimum number of members to DCs. The Administration advised that DCO provided that CE could appoint a maximum of 102 members but did not specify a minimum number. It was, however, the clear policy intention of the Ordinance for DCs to be composed of the three types of membership of elected, appointed and ex-officio members.

13. Dr YEUNG Sum moved a motion without legislative effect on "Appointing least number of DC members" at the Council meeting of 3 December 2003. The motion was negatived.

The Administration's proposal on phased abolition of appointed DC seats in 2005

14. The Administration put forward in 2005 a package of proposals for the methods of selecting CE in 2007 and for forming LegCo in 2008 ("the 2005 proposed package") which was proposed to be effected by way of two motions to amend Annexes I and II to the Basic Law ("BL"). Some members of the Subcommittee formed to study the 2005 proposed package did not support the inclusion of appointed DC members in the proposed package.

15. The Administration subsequently briefed the CA Panel at its meeting on 19 December 2005 on the following adjustments which would be made to the 2005 proposed package on the condition that the two motions were endorsed by LegCo -

- (a) the maximum number of appointed DC seats be reduced from the then existing 102 to 68 when the new term of DC commenced in January 2008; and
- (b) the Government would decide before the end of 2011 whether the maximum number of appointed DC seats should be further reduced to zero in January 2012, or to 34 in January 2012 and then to zero in January 2016.

16. Some members considered the proposed adjustments retrogressive and unacceptable, and requested the Administration to put forth a revised proposal to include the abolition of all appointed DC seats. Some other members supported the proposal to abolish appointed DC seats by phases.

17. As the two motions to amend Annexes I and II to BL were negated at the Council meeting of 21 December 2005, the Administration's proposal on phased abolition of DC appointed seats had not been proceeded with.

Review on the Role, Functions and Composition of DCs in 2006

18. In the 2004 Policy Address, CE undertook to further strengthen the cooperation between the Administration and DCs and to review the functions and composition of DCs at a suitable time. A working group was set up jointly by the Home Affairs Bureau and the then Constitutional Affairs Bureau in January 2005 to make preparations for the review. In the Consultation Document on "Review on the Role, Functions and Composition of DCs" ("the Consultation Document") released on 27 April 2006 by the working group, it was the Administration's position that appointed DC members had made important

contribution to the work of DCs and it was desirable to retain appointed seats for the third term DCs to ensure smooth delivery of district services.

19. When the CA Panel discussed the Consultation Document at its meetings on 27 April, 15 May and 11 July 2006 respectively, some members expressed the view that the appointed membership of DCs should be abolished. They considered that a system should be put in place to ensure that DC members had the mandate of the people. However, the general public did not have the power under the appointment system to remove a DC member from office for his or her failure to perform related public duties. They urged the Administration to reconsider its position on retaining the appointed membership of DCs. Some other members maintained the view that the appointment system would not affect democratic development.

20. The Administration advised that in considering the enhancement of the role of DCs, it was necessary to ensure that the composition of DCs would continue to represent the views of different sectors. Appointed DC members over the years had made useful and constructive contribution to the work of DCs. The Administration proposed in the Consultation Document to allow DCs to have greater involvement in the management of certain district facilities. To ensure the continuation of smooth delivery of district services, the Administration considered it prudent to retain appointed seats for the third term DCs in 2008 when the roles and functions of DCs would be enhanced.

The Administration's proposal of abolishing the DC appointment system in 2010

21. When releasing the package of proposals for the methods for selecting CE and for forming LegCo in 2012, the Administration had undertaken to put forth as soon as possible, after the proposed package had been passed by LegCo, the proposal of abolishing the DC appointment system at the local legislation level for consideration by the public and LegCo.

22. At the Council meeting of 24 June 2010, LegCo passed by a two-thirds majority the two motions put forth by the Government to amend Annexes I and II to BL concerning the methods for selecting CE and for forming LegCo in 2012.

23. When the CA Panel discussed the main issues to be considered under the local legislation of the two electoral methods for 2012 and the review of the number of elected seats for the fourth term DCs at its meeting held on 19 July 2010, the issue of DC appointment system was raised. Some members reiterated their strong view that the DC appointment system should be abolished in one go in 2011. Some other members considered that the DC appointed

membership should be abolished in phases. Given the contribution of appointed DC members to the work of DCs, the Administration should be cautious in its plan to abolish the DC appointment system.

24. In anticipation of the reduction in the number of appointed DC seats, Mr IP Kwok-him expressed concern that DCs with a small elected membership such as the Wan Chai DC might face operational problem when the number of appointed seats was reduced. He enquired whether the Administration would consider increasing the number of elected seats correspondingly for these DCs when the number of their appointed seats was reduced. Ms Emily LAU suggested that the Administration should devise appropriate post-office arrangement for appointed DC members so that they could continue to contribute at district level.

25. The Administration advised that while there were views that appointed DC members should be abolished in one go, there were also views that they should be abolished in phases. The Administration was working on the proposal on the abolition of the DC appointment system and would put forth proposals for members' consideration in the autumn of 2010. However, the issues of appointed DC seats and elected DC seats had to be dealt with separately. The number of elected seats for each DC was largely determined by the population size of the District concerned. The Administration would welcome suggestions from Members on the post-office arrangements for DC appointed members.

26. At the Panel meeting held on 18 October 2010, some members further urged the Administration to expedite the abolition of the DC appointment system. The Administration advised that it would submit the proposal concerning the abolition of the DC appointment system after legislating on the two electoral methods for 2012 and the DC elected seats for the fourth-term DCs.

Recent development

27. In his speech delivered at the luncheon for the Chairmen and Vice-Chairmen of DCs on 14 September 2011, the former Secretary for Constitutional and Mainland Affairs ("SCMA") advised that the Administration considered that the DC appointment system could be abolished in phases by going through a transitional period. The Administration intended to reduce by one-third of the number of members to be appointed in the fourth term DCs in 2012, i.e. appointing only 68 members instead of 102. After the DC election in November 2011, the Administration would embark on further public discussions as to how the issue should be dealt with, including the duration of the transitional period, how the relevant legal provisions should be dealt with, etc. Regarding

the duration of the transitional period, the Administration advised that it was prepared to consider abolishing the remaining 68 appointed seats over one term or two terms. The speech delivered by the former SCMA is in **Appendix II**.

28. Mr Alan LEONG raised an oral question on "Government's proposal to abolish the District Council appointed seats" at the Council meeting of 19 October 2011. An extract from the Official Record of the Proceedings of the Council on the question is in **Appendix III**.

29. On 22 December 2011, the Government announced that 68 persons were appointed as members of the fourth-term DCs starting from 1 January 2012. The press release about the appointment is in **Appendix IV**.

Relevant documents

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

Council Business Division 2
Legislative Council Secretariat
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Appendix I

Composition of District Boards/District Councils since 1982

	<u>1982 - 31.3.1985</u>	<u>1985 - 1988</u>	<u>1988 - 1991</u>	<u>1991 - 30.9.1994</u>	<u>1.10.1994 - 30.6.1997</u>	<u>1.7.1997 - 31.12.1999</u>	<u>1.1.2000 - 31.12.2003</u>	<u>1.1.2004 - 31.12.2007</u>	<u>1.1.2008 - 31.12.2011</u>	<u>1.1.2012 - 31.12.2015</u>
Official members	166	--	--	--	--	--	--	--	--	--
Appointed members	135	132	141	140	--	468	102	102	102	68
Elected members	132	237	264	274	346	--	390	400	405	412
Ex-officio members	57	57	27*	27	27	--	27	27	27	27
Total	490	426	432	441	373	468	519	529	534	507

* excluding the 30 Urban Councillors who ceased to be members of the urban DBs after April 1989.

Some of the main developments are –

- (a) the first DB elections were held in 1982. Of the 490 seats, about one-third were official members, one-third were appointed unofficials, and the remainder were elected unofficials;
- (b) in 1985, all official members on DBs were withdrawn. The Chairman of each DB was elected from among its members. The overall ratio of elected to appointed members was approximately 2:1;
- (c) for the term 1988-91, the total seats were 432, comprising 141 appointed members, 264 elected members and 27 ex-officio members who were Rural Committee Chairmen. With the introduction of representation of DBs on Urban Councils, the 30 ex-officio members who were Urban Councillors ceased to be urban DB members after April 1989;
- (d) in 1994, all appointed seats in DBs were abolished. Of 373 DB members, 346 were elected by geographical constituencies, and 27 were Rural Committee Chairmen who retained their ex-officio seats in the New Territories;
- (e) on 1 July 1997, the 18 Provisional DBs replaced the corresponding DBs, with a total of 468 members appointed by CE. They included all those members serving before 1 July 1997 and their term of office ended on 31 December 1999;
- (f) for the first term DCs i.e. 2000-03, there were a total of 519 members, consisting of 102 appointed members, 390 elected members, and 27 ex-officio members;
- (g) for the second term DCs i.e.2004-07, the number of elected seats has been increased by 10 from 390 to 400. The number of appointed and ex-officio seats remain unchanged;
- (h) for the third term DCs i.e.2008-11, the number of elected seats has been increased by 5 from 400 to 405. The number of appointed and ex-officio seats remain unchanged; and
- (i) for the fourth term DCs i.e.2012-15, the number of elected seats has been increased by 7 from 405 to 412. The number of appointed seats has reduced to 68 and the number of ex-officio seats remain unchanged.

Appendix II

Press Releases

Speech by SCMA

The Secretary for Constitutional and Mainland Affairs, Mr Stephen Lam, hosted a luncheon for the Chairmen and Vice-Chairmen of District Councils this afternoon (September 14) to brief them on the District Council appointment system. Following is the translation of the speech delivered by Mr Lam on the District Councils and Appointment System:

Chairmen and Vice-Chairmen of the District Councils (DCs),

Good afternoon! First of all, I would like to thank you for taking time from your busy schedules to join our occasion today. It is a distinct pleasure for me to have the opportunity to host this luncheon for you.

The third term of the DCs will come to a close by the end of the year. The third term of the DCs has been a very special one. Since 2008, the 18 DCs have started to take part in managing district facilities such as swimming pools, community halls and libraries. To facilitate the DCs in delivering better services and to enhance our provision of facilities to the local community, the Administration has set aside a total of \$600 million each year for the use of the DCs. An amount of \$300 million is earmarked for carrying out minor works projects, while another amount of \$300 million is allocated for the conduct of various activities for promoting community participation.

I am very pleased to see that the DCs have made good use of the funds and provided the public with quality services. I am also very grateful to all of you for making such an invaluable contribution to the DCs in the last few years.

On another note, all of you have followed closely the constitutional development in Hong Kong. You appreciate that following the passage of the 2012 constitutional package last year, and the subsequent enactment of the local legislation by the Legislative Council (LegCo) in March this year to implement the constitutional package, members who are elected in the upcoming DC election will have a crucial role to play in our electoral system. The newly elected DC members may stand for the Election Committee (EC) subsector elections in December this year, and thereafter vote in the Chief Executive election.

Elected DC members may also join the fifth term of the LegCo through the five newly created DC functional constituency seats. These arrangements will greatly enhance the participation of elected DC members in these elections of constitutional significance.

You are also concerned about the "DC Appointment System". The HKSAR Government has indicated that it would address the issue and put forth proposals in this regard.

Over the years, appointed DC members have made a significant contribution to various areas of work in the community. Appointed DC members comprise people from various sectors, including professional sectors, community services, management personnel and other occupations. They apply

themselves very fully in serving the community. In many cases, their attendance rate of DC meetings exceeds than 90 per cent.

Aside from the above, the public would like to see an enhancement in representativeness and electoral elements of DCs. To complement the growth in population, we have increased the number of elected seats for three consecutive terms of DCs; in 2003, the number of elected seats was increased from 390 seats to 400; in 2007, this was further increased to 405; in the coming term, the number of elected seats will be increased to 412. To some extent, this has addressed the community's expectation for increasing the representativeness of DCs.

There are two views in the community regarding how we should address the issue of DC appointed seats. Certain political parties consider that the appointed seats should be abolished in one go, while other political parties and organisations support abolition in phases. After considering views from all sectors, the HKSAR Government can put forth our position today in three respects:

*Firstly, the HKSAR Government considers that the "DC Appointment System" could be abolished in phases by going through a transitional period;

*Secondly, as a start, we intend to reduce by one-third of the number of members to be appointed in the fourth term of the DCs in 2012, i.e. appointing only 68 members instead of 102; and

*Thirdly, after the DC election in November, we can embark on further public discussions as to how this issue should be dealt with, including the duration of the transitional period, how the relevant legal provisions should be dealt with, etc. As to the duration of the transitional period, after 2012 we are prepared to consider abolishing the remaining 68 appointed seats over one term or two terms. On this, the HKSAR Government has an open mind.

According to the District Councils Ordinance, the Chief Executive is not required to appoint the full slate of the 102 DC appointed members. The number of appointed members can first be reduced by one-third.

Our current policy stance is set out above. Views from different political parties and the community on this issue are welcome.

Finally, Chairmen and Vice-Chairmen, I wish to emphasise once again that during your current term of office and that of the District Councillors, both the services and resources allocated to the 18 Districts have been enhanced. At the same time, on the constitutional development front, we have established the timetable for universal suffrage and secured the passage of the "one-person-two-votes" proposal which will greatly enhance the democratic elements of the 2012 LegCo election. Indeed, the DCs have played a very important role for advancing democracy for Hong Kong society. I would like to express my appreciation again to the Chairmen and Vice-Chairmen of DCs for your contribution to the community and to Hong Kong society.

Thank you.

~~SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY~~ (in Cantonese): President, as Mr CHAN has said earlier, the HKMA will review the distribution of investment from time to time under the guidance of the Exchange Fund Advisory Committee. The review may cover the suitability of the allocation and distribution of certain SWFs and the possibility of a default of the relevant countries. It may even set some quotas for risk control. Mr CHAN just now mentioned the slow recovery of the economy of the United States, which is also facing budget deficit. We will certainly closely monitor the situation. However, under the present circumstance, the default risk of United States Treasuries is still lower than other investment instruments, and the US dollar is considered an investment instrument with the highest degree of safety and liquidity. Therefore, after considering various factors, no change will be made as a result of the downgrading of the United States credit rating. Nonetheless, we will review from time to time the overall trend, including the European SWFs currently held by us.

~~PRESIDENT~~ (in Cantonese): This Council has spent more than 19 minutes and 30 seconds on this question. Third question.

Government's Proposal to Abolish District Council Appointed Seats

3. **MR ALAN LEONG** (in Cantonese): *President, the former Secretary for Constitutional and Mainland Affairs indicated earlier that the Government intended to reduce one third of the number of appointed seats in the fourth term of the District Councils (DCs) in 2012, that is, reducing the existing 102 seats to 68 seats; he also indicated that after the DC election, public discussions may commence on whether, inter alia, the remaining 68 appointed seats would be completely abolished in 2016 or in 2020 the latest. In this connection, will the Government inform this Council:*

- (a) *of the justifications for the Government's decision to reduce one third of the number of appointed seats without consulting the public and the Legislative Council; whether it had considered consulting the public on this issue which concerns a major public policy before making the decision, and of the reasons for ultimately deciding not to consult the public;*

- (b) *of the distribution of the 34 appointed seats to be reduced in 2012 among the various DCs (list in table form); of the justifications for deciding that these 34 appointed seats be reduced; and*
- (c) *given that the former Secretary for Constitutional and Mainland Affairs indicated that the Government would "specify all of the arrangements as much as possible" within its current term, what such "arrangements" are and how it will "specify" each of the "arrangements"; whether the authorities will amend the District Councils Ordinance to remove the power of the Chief Executive to appoint DC members; if they will, of the legislative timetable; if not, the justifications for that?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President,

- (a) Over the past few years, there have been discussions in the community regarding how the issue of DC appointed seats should be dealt with. The views expressed are diverse. Some support the abolition of appointed seats in one go while others believe that appointed seats should be abolished in phases in recognition of the important contributions made by appointed members to the community work.

After considering views from different sectors, we announced on 14 September that the DC Appointment System could be abolished in phases by going through a transitional period. As a start, we intend to reduce by one third of the number of members to be appointed in the fourth term of the DCs in 2012, that is, appointing only 68 members instead of 102. We also indicated that after the DC election in November, we could embark on further public discussions as to how the DC Appointment System should be dealt with, including the duration of the transitional period and how the relevant legal provisions should be dealt with, and so on. Regarding whether the 68 appointed seats which remain after 2012 should be abolished over one term or two terms, the Government has an open mind.

- (b) We have already indicated that only 68 members would be appointed in the fourth term of the DCs in 2012. As for the allocation of these 68 seats, the number of appointed seats in each DC basically will be reduced by one third. If the number obtained after the reduction by one third is not an integer, minor adjustment will be made, for instance by rounding off the number. To give an example, for a DC with three appointed seats, the number will be reduced to two. For a DC with four appointed seats, the number will be reduced to three after rounding off. For a DC with five appointed seats, the number will be reduced to three after rounding off. The resultant total number of appointed seats in the 18 DCs will be 68.
- (c) Section 11 of the District Councils Ordinance stipulates that the Chief Executive may appoint as members of a DC a number of persons not exceeding the specified number. The specified numbers for the 18 DCs are set out in Schedule 3 to that Ordinance. According to the Ordinance, the Chief Executive is not required to appoint the full slate of the 102 DC members.

We have already announced that we are prepared to consider abolishing the 68 appointed seats which remain after 2012 over one term or two terms and that the Government has an open mind on this matter. Whether the remaining appointed seats will eventually be abolished over one term or two terms and how the relevant legislative amendments should be dealt with is a matter for public discussion. After considering the public views, we will put forth proposals for the next stage of work.

MR ALAN LEONG (in Cantonese): *President, the Secretary has pointed out in part (a) of the main reply that after the election, public consultation and public discussions would be held as to whether the 68 appointed seats which remain after 2012 should be abolished over one term or two terms. I ask in part (a) of the question why no public consultation was held before 14 September because the number of DC appointed seats concerns a major public policy. It is evident from the Secretary's reply that there was indeed no public consultation. Nonetheless, it seems that he has not answered my question about the reasons for*

not doing so. I want to give the Secretary an opportunity to answer part (a) of the main question.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, at various times over the past few years, there were indeed discussions in different sectors of the community regarding how the issue of DC appointed seats should be dealt with. The SAR Government notes the consensus arrived in all these discussions, that is, the DC Appointment System should be abolished from a policy perspective. The point of contention is the pace of implementation, that is, whether these seats should be abolished in one go, in phases or over a longer time frame. The community indeed has diverse views on this issue. Having considered and balanced these different views, we made the policy decision to initially reduce one third of the number of appointed seats in the ensuing term of the DCs. After the DC election, we will embark on a further round of public discussions as to how the remaining two thirds of the appointed seats should be dealt with.

MR FREDERICK FUNG (in Cantonese): *President, the Secretary's reply has seemingly ignored some hard historical facts, that is, on 21 June last year — two days before the 2012 constitutional reform package was passed in this Council on 23 June last year — the Chief Executive announced in a press conference that he would accept the Democratic Party's proposal and he also stated clearly that a consultation document would be issued by the end of the year (that is, the end of last year) to solicit public views on the abolition of the DC Appointment System.*

On 24 June last year, the Chief Executive held another press conference reiterating the above stance while stating that a consultation document would be issued by the end of last year to initiate discussions on the abolition of the DC Appointment System. In the beginning of this year, when Members raised the same question on different occasions, such as at meetings of the Council and the Panel on Constitutional Affairs, the former Secretary replied time and again that the consultation document would be issued in the middle of the year to initiate discussions on the abolition of the DC Appointment System. Has it become a habit of the Chief Executive and the Secretary to breach their undertakings such that they are free to do whatever they want?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, in answering the main question and the supplementary question raised by Mr Alan LEONG, I have already said that the authorities have been keeping track of the discussions by various sectors of the community on this issue and the views raised. We also agree with the views expressed by members of the public who want to see plans and actions from the authorities to abolish the appointed DC seats. However, there are indeed diverse views in the community as to the pace of abolishing these seats. Having heard these views, the authorities announced in September this year via the former Secretary that one third of the appointed seats in the ensuing term of the DCs would be abolished. Thereafter, further discussions would be held. In this regard, I think the authorities have already responded to the discussions held by various sectors of the community lately.

MR FREDERICK FUNG (in Cantonese): *President, the Secretary has not answered my question.*

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

MR FREDERICK FUNG (in Cantonese): *My question is not about the contents of its plan to abolish the appointed seats, but the two undertakings made by the Chief Executive as well as the former Secretary. On one occasion, an undertaking was made that a consultation document would be issued in autumn last year to initiate discussion on abolishing the DC Appointment System. This year, the former Secretary has indicated at meetings of the Council as well as the Panel on Constitutional Affairs that the consultation document would be issued by the middle of the year. My question is whether the authorities have already made a decision to breach these two undertakings?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, as I said just now, we will initially reduce one third of the number of appointed seats. Regarding the remaining two thirds of the appointed

seats, we will hold further discussions at length with the public, including the Legislative Council Members, after the election.

MR FREDERICK FUNG (in Cantonese): *The Secretary has still not answered my question. I am referring to the consultation document, not the number of appointed seats.*

PRESIDENT (in Cantonese): Mr FUNG, your question is very clear. Secretary, do you have anything to add?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I have nothing to add.

PRESIDENT (in Cantonese): If Members are not satisfied with the Secretary's replies, I am afraid they would have to follow up the matter on other occasions.

MR ANDREW CHENG (in Cantonese): *President, it seems that the new Secretary is also a "human flesh recorder", just like the former Secretary Stephen LAM. I am gravely disappointed about this. Both the Secretary's written and oral replies give us the impression that the Government goes back on its word. When it was enlisting Members' support for the passage of the constitutional reform package, it would accede to any requests. But once its goal was achieved, Members who had supported the Government, particularly those of the pro-democratic camp, my former fellow party members, were kicked out once their services were no longer needed. This saddens me very much.*

President, the written reply is even more disappointing. On what grounds can the Government dare to say that the DC Appointment System might not be completely abolished by 2020

PRESIDENT (in Cantonese): Mr CHENG, please ask your supplementary question.

MR ANDREW CHENG (in Cantonese): *My question is that, well, I hope the present Secretary will stop being a "human flesh recorder"; as it is possible that the Chief Executive will be elected by universal suffrage in 2017 — although I do not believe this will come true, at least, this undertaking is written down in black and white — how can the Government convince us that Hong Kong will achieve genuine democratic development if the appointment system remains in force for the next two terms of the DCs?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, first of all, as I mentioned on another occasion yesterday, Members using certain epithets to describe me was uncalled for. Secondly, regarding the discussions held before and after the passage of the constitutional reform package last year, I had also taken part in my previous position. I do not concur with the expressions such as "removing the bridge after crossing the river" and "kicking someone out after his services are no longer needed" as used by Mr Andrew CHENG to describe the situation. In fact, we have honoured the undertakings made previously by taking a first step today to abolish one third of the appointed seats in the next term of the DCs to be commenced in January. Therefore, in this regard, I do not concur with his views.

Thirdly, whether the remaining two thirds of the appointed seats should be abolished in one go in 2016 or whether other arrangements be made, I have stated in the main reply just now that the matter can be further discussed by the public at length after the DC election. At that time, we will of course make a decision after listening to the mainstream opinion in the community as well as the views of the Council. I invite Mr CHENG to give us his views when the matter is further discussed. We will of course listen to his views carefully.

MR ANDREW CHENG (in Cantonese): *President, the Secretary has not answered my supplementary question. The crux of my question is not about*

PRESIDENT (in Cantonese): Please repeat your supplementary question.

MR ANDREW CHENG (in Cantonese): *is he a "human flesh recorder". If the Government does not abolish the appointed seats instantly, how can it convince the people that there will be bona fide democracy in Hong Kong, and that the Chief Executive as well as the Legislative Council will be elected by universal suffrage? If the Government is so reluctant to abolish the appointment system for the DCs which lack real power, how can it convince the international society as well as the people of Hong Kong that there will be bona fide democracy in Hong Kong? That is the crux of the question.*

PRESIDENT (in Cantonese): Members are reminded that according to Rule 25(1)(c) of the Rules of Procedure, questions raised by Members should not contain arguments, imputations or epithets, or ironical or offensive expressions. I hope Members will pay attention to this point.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, last year when we discussed the proposals to further democratize the electoral system for 2012, we had already stated specifically that appointed and ex-officio DC members could not take part in selecting among themselves DC members of the DC subsector of the Election Committee; also they could not nominate DC members to run in the election for the "super seats" (as commonly known) in the Legislative Council election next year. In other words, only elected DC members can take part in the relevant election and nomination. In this respect, I think we have already paved the way for implementing universal suffrage elections on the road towards universal suffrage by the above arrangements which are in accordance with the spirit of universal suffrage.

MS AUDREY EU (in Cantonese): *President, what we have said are neither offensive nor ironic; they are not adjectives, but facts. My supplementary question to the Secretary is quite simple; likewise, the supplementary questions put to the Government today by Mr Frederick FUNG and Mr Andrew CHENG, a former member of the Democratic Party, are quite simple. The question is, when the Government lobbied for Members' support of the constitutional reform package back then, the Government had clearly stated that public consultation would be held on the abolition of the DC Appointment System; if the Government*

fails to honour even such a simple undertaking, is that not acting in bad faith, is that not "removing the bridge after crossing the river", is that not breaking its promise? How can we trust or support the Government again next time?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, likewise, I do not agree with the views expressed by Ms Audrey EU just now. As I said when answering Mr Frederick FUNG's question, I am aware that it is the hope of Mr FUNG as well as many Members present to see actions taken by the Government to abolish the DC Appointment System. As I also pointed out in my main reply just now, the authorities will initially reduce by one third of the number of members to be appointed in the ensuing term of the DCs. That is the concrete actions we have taken to honour the undertaking made last year because there were views back then that actions should be taken to abolish the appointment system.

However, there are indeed diverse views among various sectors of the community. Regarding the pace of abolishing these seats, while some may wish to see the matter be dealt with urgently, some wish to abolish all appointed seats in one go and some others wish to abolish these seats over two or even three terms. In this regard, I think we will have many opportunities for discussion after the conclusion of the DC election.

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

MS AUDREY EU (in Cantonese): *He has not answered my supplementary question. He said that my supplementary question was a view*

PRESIDENT (in Cantonese): Please repeat your supplementary question.

MS AUDREY EU (in Cantonese): *..... President, just now, I have not expressed any views, I have asked a question*

PRESIDENT (in Cantonese): Please repeat your question.

MS AUDREY EU (in Cantonese): *My question is, how can we trust the Government if it has failed to do such a simple thing as conducting consultation as previously undertaken? That is my supplementary question, it is not a view.*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I have answered this question many times just now. I do not think there is anything further to add. However, I believe that the concrete actions taken by the authorities have already reflected and suitably balanced the views of the community.

MR WONG YUK-MAN (in Cantonese): *President, just like me, you suffer from eye disease, but to my surprise, your ears are not functioning well, you also have hearing problems*

PRESIDENT (in Cantonese): Mr WONG, please ask your supplementary question.

MR WONG YUK-MAN (in Cantonese): *no, I am just voicing out my personal feelings while cashing in on you a bit*

PRESIDENT (in Cantonese): Please ask your supplementary question.

MR WONG YUK-MAN (in Cantonese): *because you have also cashed in on me at the beginning of this meeting, right? Members like me should not be regarded as violent, but powerful, that is, full of power. President, the performance of the present Secretary is passable because his predecessor was just too lousy, yet that lousy former Secretary has now become the Chief Secretary*

PRESIDENT (in Cantonese): Mr WONG, please refrain from making comments and ask your supplementary question.

MR WONG YUK-MAN (in Cantonese): *As the saying goes, "a superior man may be imposed on by what seems to be as it ought to be". I do not know whether it is because people of the pro-democratic camp are "superior men" that they have been "imposed on by what seems to be as it ought to be" after the Government had successfully lobbied for their support, or is that a case of them throwing senseless tantrums now after they had unwisely "boarded the pirate's ship"? What had they said when they discussed and gave support for the constitutional reform package? What had Mr Frederick FUNG said in 2005? He said he would not support the constitutional reform package if the appointment system was not abolished. In the end, the authorities did not abolish the system, and he did not support the then constitutional reform package. The same thing is going to happen again in 2012. Thus, nobody should put the blame on others.*

Nonetheless, I have a question for the Secretary. As he just said, the appointed seats would be abolished in phases, consideration is still needed as to whether the remaining 68 appointed seats would be abolished over one term or two terms, and the authorities have an open mind in this regard. Why does he not state clearly when the remaining 68 appointed seats will be completely abolished? Why can he not do so? Why is it necessary to deal with the remaining 68 appointed seats in phases? Moreover, he has made a very ridiculous remark just now and I seek his clarification. He said that some people requested that the matter should be dealt with urgently, while others said that the matter should be handled slowly Why does he not simply say that some people requested that the appointed seats should be retained forever?

PRESIDENT (in Cantonese): Mr WONG, please sit down. The question time is not meant for debates. You have already asked your supplementary question. Your question to the Secretary is: Why can he not declare the timing for the abolition of those 68 appointed seats? Secretary, please answer.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, regarding the supplementary question put by Mr WONG Yuk-man, as I said just now, the discussions on how the 68 appointed seats should be dealt with would commence shortly after the conclusion of the DC election. I believe we do not need to wait too long and we can quickly come to a decision on how to abolish those 68 appointed seats. During the process, we will of course discuss the matter with Members in the Council. Moreover, we will listen to the views of Members carefully.

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

MR WONG YUK-MAN (in Cantonese): *But the Government already has a definite view. Can he tell me that the Government already has a definite view and that the present consultation by the Government is phoney?*

PRESIDENT (in Cantonese): Mr WONG, I have just said that this is not a debate session. The Secretary has already answered the question.

MR WONG YUK-MAN (in Cantonese): *The Government already has a definite view, how can this be a debate? That is a question.*

PRESIDENT (in Cantonese): The Secretary has already answered the supplementary question you raised just now. You can only ask one supplementary question at one time. If you still have other questions, please wait for a second turn.

MR PAUL TSE (in Cantonese): *President, I have also helped in the district election campaign and I understand how hard it is for elected DC members to take part in elections. From this experience, I can understand why members of the public and Members consider the appointment system inappropriate. Just now, the Secretary has given an account on the number of seats. The current assumption is that the appointed seats would be dealt with over three terms. In*

fact, the so-called "one third" of the number of appointed seats is not an assumption. In the end, there may be drastic changes. However, apart from the numbers, I would like to ask the Secretary whether measures would be taken in respect of quality? For example, when considering appointments to the new term of the DCs, whether the Government will require appointed DC members to undertake that they will not accept nominations as Chairman or Vice Chairman, so that changes can be made in terms of quality and that elected DC Members will feel more at ease and worth the efforts?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, under the District Councils Ordinance, the Chairman and the Vice Chairman of a DC would be elected from amongst members of that DC. I believe each DC will continue to abide by the laws. As to whether members appointed by the Government will give such an undertaking on their own accord, I believe they will have to decide for themselves when the time comes.

PRESIDENT (in Cantonese): This Council has spent more than 20 minutes on this question. Fourth question.

~~Study on Development of a Retirement Protection Scheme~~

4. **MR CHEUNG KWOK-CHE** (in Cantonese): *President, the Central Policy Unit (CPU) has so far completed five studies on retirement protection systems. Yet, the authorities have refused to make public certain parts of the study findings for reasons such as some data require updating in the light of changes in the social and economic environments as well as the latest development of the relevant policies, and further examination and analysis are needed, and so on. In this connection, will the Government inform this Council:*

- (a) whether it will reconsider honestly making public the full reports of the aforesaid studies for discussion and analysis by the public;*
- (b) as I have learnt that CPU has recently collaborated with a university to study the feasibility of implementing a comprehensive retirement protection scheme, of the details of the study results; and*

Appendix IV

Press Releases**繁體版 | 简体版 | Email this article | www.gov.hk**

68 members appointed to District Councils

The Government announced today (December 22) that the Chief Executive has, in accordance with the District Councils Ordinance, appointed 68 persons as members of the fourth-term District Councils (2012-15) starting from January 1, 2012.

A Government spokesman said, "All the 68 members are appointed in their personal capacity. They all have a good knowledge of district affairs and are dedicated to serving the community.

"We believe that all elected and appointed members of the new District Councils will work closely together to serve the community. They will be working as close partners with the 18 District Officers to build a better community."

All appointees have accepted their appointment by the Chief Executive. The appointments will be published in the Gazette on December 23.

The list of members appointed to the fourth-term District Councils is as follows:

Central and Western

Mr Yip Wing-shing
Mr Man Chi-wah
Mr Thomas Ng Siu-keung

Eastern

Ms Fong Choi-peng
Mr Yeung Wai-sing
Mr Michael Li Hon-shing
Mr Leung Chi-kong
Ms Chan Hang
Mr Cheng Shing-fung

Kowloon City

Ms Wong Wai-ching
Mr Peter Pang Hiu-Ming
Mr Siu Miu-man

Kwun Tong

Mr Jimmy Chan Yiu-hung
Mr Lam Fung
Mr Lim Henry
Mr Henry Poon Shiu-man
Mr Jackson Wong Fan-foung

Sham Shui Po

Mr Lo Wing-man
Mr Ng Kwai-hung
Mr Wong Chung-leung

Southern

Mr Yang Mo
Mr Yeung Wai-foon
Mr Liu Hong-fai

Wan Chai

Mr Suen Kai-cheong
Mr Pong Chiu-fai

Wong Tai Sin

Mr Rex Mok Chung-fai
Mr Wong Kam-chiu
Mr Wong Kwok-yan
Mr Peter Wong Kit-hin

Yau Tsim Mong

Ms Ko Po-ling
Mr Barry Wong Man-sing
Mr Hau Wing-cheong

Islands

Mr Yu Hon-kwan
Mr Lai Tsz-man
Mr Holden Chow Ho-ding

Kwai Tsing

Mr Fong Ping
Mr Ho Siu-ping
Ms Nancy Lam Chui-ling
Ms Winnie Tang Shuk-ming
Ms Marina Tsang Tze-kwan

North

Mr Chan Yung
Mr Terry Tam Kin-keung
Ms Fanny Lam Lai-fong

Sai Kung

Mr Chan Kuen-kwan
Mr Chan Pok-chi
Mr Ho Koon-shun

Sha Tin

Mr Jacko Lee Yau-chuen
Mr George Ho Kwok-wah
Ms Wong Kit-lin
Mr Sherman Chong Yiu-kan
Mr Wong Kwai-yau
Mr Kwok Kam-hung

Tai Po

Mr Cheung Hok-ming
Mr Henry Chan Chi-chiu
Mr Yau Wing-kwong

Tsuen Wan

Mr Chan Iu-seng
Ms To Kwai-ying
Mr Chiu Kung-ting

Tuen Mun

Mr Lau Wong-fat
Mr Chow Kam-cheung
Mr Lam Tak-leung
Mr Lo Wong-fung
Mr Wan Tin-chong


Yuen Long

Mr Robert Tai Yiu-wah
Mr Wong Wai-shun
Mr Tang Kwong-shing
Mr Chong Kin-shing
Mr Chui Kwan-siu

Ends/Thursday, December 22, 2011

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Appendix V

Relevant documents on Abolition of the District Council Appointment System

Committee	Date of meeting	Paper
Legislative Council	15 December 1993	Official Record of Proceedings Pages 59 – 61 (Second Reading of Electoral Provisions (Miscellaneous Amendments) (No. 2) Bill 1993)
	23 February 1994	Official Record of Proceedings Pages 44 – 134 (Resumption of Second Reading debate on Electoral Provisions (Miscellaneous Amendments) (No. 2) Bill 1993)
	16 December 1998	Official Record of Proceedings Second Reading of District Councils Bill
House Committee	26 February 1999	Report of the Bills Committee on District Councils Bill
Legislative Council	10 March 1999	Official Record of Proceedings Resumption of Second Reading debate on the District Councils Bill
	1 and 2 December 1999	Official Record of Proceedings Pages 112 – 217 Pages 6 - 20 (Resumption of Second Reading debate and Third Reading of Provision of Municipal Services (Reorganization) Bill)
Panel on Constitutional Affairs ("CA Panel")	15 January 2001 (Item V)	Agenda Minutes
Panel on Home Affairs ("HA Panel")	16 July 2001 (Item I)	Agenda Minutes

Committee	Date of meeting	Paper
Joint Panels on CA and HA	4 October 2001 (Item II)	Agenda Minutes
Legislative Council	31 October 2001	Official Record of Proceedings Pages 183 - 236 (Motion)
HA Panel	27 November 2001 (Item I)	Agenda Minutes
Joint Panels on CA and HA	4 June 2002 (Item II)	Agenda Minutes
	27 September 2002 (Item II)	Agenda Minutes
Legislative Council	3 December 2003	Official Record of Proceedings Pages 184 - 266 (Motion)
Joint Panels on CA and HA	8 December 2003 (Item II)	Agenda Minutes [LC Paper No. CB(2)694/03-04(01)]
Legislative Council	7 January 2004	Official Record of Proceedings Pages 25 – 26 (Policy Address)
	12 January 2005	Official Record of Proceedings Page 15 (Policy Address)
Legislative Council	12 October 2005	Official Record of Proceedings Page 17 (Policy Address)
House Committee	9 December 2005	Report of the Subcommittee to Study the Administration's Proposals for the Methods of Selecting the Chief Executive in 2007 and for Forming the Legislative Council in 2008
CA Panel	19 December 2005 (Item IV)	Agenda Minutes

Committee	Date of meeting	Paper
Legislative Council	21 December 2005	Official Record of Proceedings Pages 91 – 337 (Motion)
CA Panel	18 February 2006 (Item I)	Agenda Minutes
	20 February 2006 (Item V)	Agenda Minutes
	27 April 2006 (Item I)	Agenda Minutes
	15 May 2006 (Item IV)	Agenda Minutes
	11 July 2006 (Item I)	Agenda Minutes
Legislative Council	22 February 2006	Official Record of Proceedings Pages 48 - 50 (Written question)
	21 May 2008	Official Record of Proceedings Pages 102 – 103 (Written question)
	11 February 2009	Official Record of Proceedings Pages 27 – 38 (Oral question)
	14 July 2010	Official Record of Proceedings Pages 79 - 90 (Oral question)
CA Panel	19 July 2010 (Item III)	Agenda Minutes
	18 October 2010 (Item II)	Agenda Minutes
Legislative Council	13 April 2011	Official Record of Proceedings Pages 33 - 34 (Written question)

Committee	Date of meeting	Paper
	15 June 2011	Official Record of Proceedings Pages 37 - 46 (Oral question)
	19 October 2011	Official Record of Proceedings Pages 28 - 40 (Oral question)

Council Business Division 2
Legislative Council Secretariat
16 February 2012