

## Legislative Council Panel on Constitutional Affairs

### Review of the Voter Registration System

#### Purpose

This paper explains the existing voter registration (VR) system and discusses possible improvement measures to the existing system.

#### Voting Rights

2. According to Article 26 of the Basic Law, permanent residents of the Hong Kong Special Administrative Region (HKSAR) shall have the right to vote and the right to stand for election in accordance with law.

3. Article 21 of the Hong Kong Bill of Rights (HKBOR) under the Hong Kong Bill of Rights Ordinance (HKBORO) recognizes and protects the right and opportunity of every permanent resident to take part in the conduct of public affairs, the right to vote and to be elected, and the right to have access to public service, without discrimination and unreasonable restrictions.

#### Eligibility for VR

4. Under section 48(1) of the Legislative Council Ordinance (Cap. 542) (LCO), a person is entitled to vote at an election to return a Member for a constituency only if the person is registered as an elector for the constituency. To qualify for registration as an elector for the geographical constituencies (GCs), the applicant has to fulfill the eligibility criteria set out in sections 27 to 31 and of the LCO at Annex A. In brief, a person is eligible if he fulfills the following conditions that he:

- (a) is aged 18 or above;
- (b) is a permanent resident of Hong Kong;
- (c) at the time of applying for registration, ordinarily resides in Hong Kong and the residential address in his application for registration is his only or principal residence in Hong Kong;
- (d) holds an identity document; and
- (e) is not subject to any disqualification from registration.

5. VR in Hong Kong is voluntary. Persons fulfilling the above criteria may apply for registration as electors for the GCs according to their residential addresses. The application procedures are stipulated under the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541A).

## **Procedures for VR**

6. Cap. 541A stipulates a statutory timeframe for receiving applications for registration as electors for GCs, publication of the provisional register (PR), omissions list<sup>1</sup> (OL) and final register (FR), and determination of claims and objections in an annual registration cycle.

7. The Electoral Registration Officer (ERO) will process the application forms after they have been received. If the information provided is incomplete or incorrect, the ERO will send written inquiries to the applicants to seek further information or proof. If the applicant fails to provide the required information or the ERO is not satisfied with the information provided, the ERO may decide not to consider the application further. An applicant who qualifies for registration will be allocated to the relevant GC and District Council Constituency Area (DCCA) on the basis of his residential address.

8. Based on the current FR and the applications received on or before the VR deadline for the year, the ERO is required to publish a PR and an OL for public inspection. The public may lodge claims and objections regarding the entries in the PR or the OL during a two-week inspection period. Cases of claims and objections will be referred to the Revising Officer (RO) for consideration. After settling all the claims and objections, the ERO will publish an FR for the year. This FR remains valid until the publication of the next FR. Only electors recorded in the last published FR for a constituency are entitled to vote in an election for that constituency. The deadline for receiving VR applications and the publication of the FR are approximately two months apart in a VR cycle. The statutory timetables for the VR cycle in a DC election year and a non-DC election year are at **Annex B** and **Annex C** respectively.

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<sup>1</sup> The OL will include persons who, to the ERO's satisfaction, are dead, no longer eligible to be registered, have been disqualified and whose address recorded in the existing final register against a person's name is no longer the person's principal residential address.

## Existing VR System

9. As electors will be allocated to the respective GCs or DCCAs in accordance with their residential addresses, measures are in place to ensure that the residential address of an elector is his only or principal residence in Hong Kong. In view of HKSAR permanent residents' right to vote without unreasonable restrictions, the need to facilitate eligible persons to register, and to maintain the accuracy and integrity of the voter registers, the existing VR system consists of three components, namely applicants' declaration, transparent public inspection and checking by the ERO.

### *Applicants' declaration*

10. The existing VR system has a declaration requirement. The applicant is required to make a declaration of his registration particulars when he applies for registration as an elector and when a registered elector applies for change of his residential address. The applicant has to declare in the application form that the particulars he provided are true and accurate, including the residential address provided is his only or principal residence in Hong Kong.

11. At present, a person commits an offence under section 22 of Cap. 541A if he makes any statement which the person knows to be false in a material particular or recklessly makes any statement which is incorrect in a material particular or knowingly omits any material particular when furnishing the ERO with information regarding his application for registration. The maximum penalty is a fine of \$5,000 and imprisonment of 6 months. If the person subsequently votes in an election, he may be taken to have engaged in corrupt conduct under section 16 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), and is liable to a maximum penalty of a fine of \$500,000 and imprisonment of 7 years.

12. There is a clear warning message on the front page of the VR application form to remind applicants of the relevant offence provisions. When sending poll cards to registered electors before an election, a leaflet published by the Independent Commission Against Corruption (ICAC) is included to remind electors of the importance of abiding by the rules and supporting clean elections, including the message that an elector must not vote at an election after having knowingly given false or misleading information (e.g. false residential address) to the ERO.

### *Transparent public inspection*

13. The existing VR system is transparent for the public to monitor. Every year, the ERO will make available the PR and the OL for public inspection. Before the publication of the FR, the public is given the opportunity to lodge claims and objections against the entries in the PR or the OL. The cases will be referred to the RO for consideration and ruling. The FR, after publication, is also available for public inspection at the Registration and Electoral Office (REO) and the District Offices.

### *Checking*

14. In addition to public inspection, the ERO has also put in place different forms of checking to ensure the accuracy of the declared addresses in the voter registers. Where necessary, the ERO will report irregularities to the relevant law enforcement agencies for investigation. At present, the following checks are performed:

- (a) the ERO will send written enquiries to the applicant to seek further information or proof if he has doubt when processing an application. If the applicant fails to provide the required information or the ERO is not satisfied with the information provided, the ERO may decide not to consider the application further;
- (b) the ERO will send by mail a registration notice to inform the applicant of his registration result after the ERO has approved an application. Where the registration notice cannot be delivered because of problems associated with the accuracy or completeness of the registered address, the ERO will take follow-up actions such as seeking clarification from the electors concerned;
- (c) the use of postal address is not allowed when an applicant applies for registration or when an elector reports change of his residential address, unless there is no postal service available for his residential address. To ascertain whether an address has postal service, the ERO will seek confirmation from the Hongkong Post if necessary;

- (d) if a poll card for an election is not successfully delivered to an elector and is returned to the ERO, the ERO will take follow-up actions such as making telephone calls to the elector concerned to seek clarification and to remind the elector to report change of his residential address before the statutory deadline for reporting change of particulars. If the elector cannot be contacted or does not update his residential address despite the telephone appeal, the ERO will send an inquiry letter to the elector by registered post to ascertain whether he still resides in the address recorded in the existing FR. If the elector fails to provide such written confirmation or update his residential address before the deadline specified in the inquiry letter, his name will be put on the OL to be published in the VR cycle;
- (e) the ERO examines the FR every year and identifies all the registered addresses with 7 or more electors. Except for justified and verified cases such as elderly homes, the ERO will make telephone or written enquiries to the electors concerned requesting them to confirm their address records. If an elector confirms that he has already moved out of the address or the letter issued to him cannot be delivered, the ERO will include the elector in the inquiry process in the VR cycle;
- (f) as a standing arrangement with the Immigration Department, the ERO matches the addresses of registered electors with addresses of the applicants for the smart identity cards, with the consent of the individuals concerned;
- (g) the ERO conducts a cross-matching exercise with the Housing Department, Housing Society and Home Affairs Department every year concerning addresses of registered electors, with the approval of the Privacy Commissioner for Personal Data;
- (h) for newly established private estates, the ERO will send letters together with VR forms to the new tenants reminding them to update their residential addresses before the statutory deadline; and
- (i) the ERO will take appropriate follow-up actions with relevant registered electors after receiving reports from the Rating and Valuation Department on instances of addresses no longer in existence (such as demolished buildings). If the relevant electors do not reply by the specified deadline, their names will be included in the OL to be published in the VR cycle.

## **Guiding Principles**

15. In the light of the recent public concerns that some electors may have made false declaration of their residential addresses and subsequently voted in the election, the Administration has conducted a review of the existing VR system. In considering possible improvement measures to the existing system, we are guided by the following principles:

- (a) the Administration attaches great importance to the integrity, fairness and openness of elections;
- (b) voting right is a fundamental right and VR is voluntary. The proposed improvement measures, which aim at preventing voter mistakes or fraud in order to protect the integrity of the vote and maintain public confidence in the integrity of the electoral system, should not unreasonably deprive Hong Kong permanent residents of the voting right and opportunity enjoyed under the Basic Law and the HKBOR;
- (c) the proposed improvement measures should be feasible while not creating undue nuisance and disturbance to the public; and
- (d) in view of the volume of new applications/applications on change of particulars every year and the tight timeframe of the annual VR cycle, there is a need to strike a proper balance in the scope and intensity of checking, the period of public inspection and resource implications on the REO.

## **Possible Improvement Measures**

16. Having regard to the guiding principles mentioned above, the Administration has identified a number of possible measures to improve the existing VR system. They are set out in the following paragraphs.

### *Address proofs*

17. We propose to introduce a requirement that address proofs should be provided as standard supporting evidence at the same time when a person applies for registration as a GC elector or when a registered elector applies for change in his residential address. The accuracy of an elector's residential address is important because an elector is allocated to a constituency in which he is entitled to vote according to the residential address he provides, and any subsequent changes in residential address may entail a consequential change of his constituency for voting. The requirement of address proof, in addition to

the checks set out in paragraph 14, will assist the ERO in ascertaining the accuracy of an elector's residential address.

18. The Administration will need to lay down a standard as to what kind of address proofs would be accepted by the ERO, such as utility bills, and Government and bank correspondence issued within a certain period of time (say, the last three months).

19. In implementing the proposal, the Administration will need to assess and address the following implications:

- (a) the proposed requirement of address proof may cause inconvenience to some eligible persons in registering as electors, and existing electors in reporting changes of their residential addresses;
- (b) the impact on the existing arrangements under which a large number of VR applications are received on the street and at the Registration of Persons Offices because many applicants would unlikely carry with them address proofs all the time;
- (c) the statutory deadline for new registration and reporting change of registered addresses may need to be advanced to allow sufficient time for the ERO to verify the address proofs and for the applicants to provide further proofs or documents in case of doubt. According to past experience, the bulk of new applications in a VR cycle are only received in the last two weeks before the statutory deadline for registration. Legislative amendment is required if the statutory deadlines are to be advanced. The implications of advancing the statutory deadlines on the individual's right and opportunity to vote, if any, will need to be assessed;
- (d) some eligible persons may not be able to provide address proofs, such as those who are living in remote areas (e.g. rural villages) in the New Territories. Those family members who are not the property owners of the addresses may have problem producing the required address proofs and alternative acceptable documents would have to be considered;
- (e) legislative amendments will be required to stipulate that address proofs are required as standard supporting evidence when a person applies for registration as a GC elector or when a registered elector applies for change in his residential address, and that the ERO may decide not to consider the application further if address proofs are not provided or acceptable; and

- (f) the ERO will need extra resources in processing applications in respect of verifying the address proofs provided and following up with the applicants if the address proofs are not provided or unacceptable.

### *Enhanced checking*

20. We propose to enhance the checking mentioned in paragraph 14. As regards paragraph 14(d), the ERO will improve the follow-up checks on undelivered poll cards by sending inquiry letters to the electors concerned by registered post to request for address proof after the electors have been contacted through telephone enquiries. If the inquiry letters cannot be delivered to the electors or the electors fails to provide the address proof before the deadline specified in the inquiry letter, their names will be included in the OL to be published in the VR cycle for public inspection.

21. On top of checking addresses with 7 or more electors as mentioned in paragraph 14(e), the ERO will step up the checking based on additional parameters, such as when the number of surnames of electors in an address exceeds a certain figure. Random sampling checks on voter registration will also be performed and the ERO will require the electors in an address under checking to provide address proofs. Should there be any cases arising from these checking measures that the ERO considers to be suspicious, he will refer these cases to the law enforcement agencies without delay.

22. Under the existing arrangements, checks mentioned in paragraph 14(e) above are undertaken after the publication of the FR. To tighten control, there are merits in advancing these checks and the proposed additional checks mentioned in paragraph 21 above so that they can be completed before the publication of the FR. As a result, electors who have to be removed from the register could not vote at the elections following the publication of the FR. However, the statutory deadline for new registration and reporting change of addresses will need to be advanced to allow sufficient time for the ERO to complete the checking and the verification processes.

### *Reporting change of registered addresses*

23. According to section 11 of Cap. 541A, a person whose name or other personal particulars are recorded in the existing FR **may** make a written request to the ERO to alter his entry and supply information as to how it should be altered.

24. To keep the addresses in the FR up to date, we may consider legislative amendments to require registered electors to report change of registered addresses. However, since VR is voluntary and some registered electors may not report such changes if they do not plan to vote at elections, it may not be appropriate to impose sanction on them if they do not report change in registered addresses.

25. Another option is to introduce sanction under the electoral law for registered electors who fail to report change of addresses before the statutory deadline for reporting change of registered particulars and who vote in an election afterwards. This option can also help motivate electors to report change of addresses if they wish to vote in the election.

26. To complement the option in paragraph 25 above and to allow time for the ERO to verify reports on change of registered addresses based on the address proofs, we will consider advancing the deadline for reporting change of addresses so that this exercise will precede that for new registrations.

#### *Enhanced publicity*

27. During election years, there will be territory-wide publicity campaigns promoting VR. With the assistance of the ICAC, the campaigns also feature messages relating to corrupt conducts in elections, which include voting at an election after having furnished the ERO with false information. The Administration will consider allocating more resources in disseminating such messages.

28. We plan to send a letter to all electors in the FR early next year to appeal to them to update their residential addresses if there is any change and explain to them the new requirement on address proof. It will be complemented by other publicity measures such as Announcements in the Public Interests (APIs) and newspaper advertisements.

29. Furthermore, subject to the implementation of the suggestions in paragraphs 17 to 28 above, the Administration will step up publicity measures as appropriate to promote public awareness of the new arrangements.

#### *Additional check on demolished buildings and buildings to be demolished*

30. We will launch an additional measure, that REO will liaise with the Buildings Department and the Rating and Valuation Department to conduct checking in the coming months on the list of buildings which have been demolished recently and buildings which will be demolished soon. This will help identify electors who may not have reported change in their addresses.

## **Additional Resources**

31. All of the above new measures will incur a lot of work for REO. For this, REO has set up a special team headed by a Deputy Chief Electoral Officer to take forward the work. The Administration will provide the necessary resources to REO.

## **Summary of the Improvement Measures**

32. In sum, we propose the following improvement measures for Members' consideration :

- (a) to introduce a requirement that address proof should be provided as standard supporting evidence at the same time when a person applies for registration as a GC elector or when a registered elector applies for change in his residential address;
- (b) to enhance the existing checking performed by the ERO;
- (c) to consider introducing legislative amendments to require electors to report change of registered address and to introduce sanction for registered electors who fail to report change of addresses before the statutory deadline and who vote at an election afterwards;
- (d) to enhance publicity measures; and
- (e) additional checks on lists of demolished buildings and buildings to be demolished.

## **Advice Sought**

33. Members' views are invited on the proposed improvement measures set out in paragraphs 17 to 29 above.

Constitutional and Mainland Affairs Bureau  
Registration and Electoral Office  
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**Sections 27 to 31 of the LCO (Cap. 542)**

Section 27 : Elector to be permanent resident of Hong Kong

A natural person is not eligible to be registered as an elector for a constituency unless the person is a permanent resident of Hong Kong.

Section 28(1) : Elector to ordinarily reside in Hong Kong

A natural person is not eligible to be registered as an elector in the register of GCs unless, at the time of applying for registration, the person satisfies the Electoral Registration Officer (ERO) –

- (a) that the person ordinarily resides in Hong Kong; and
- (b) that the residential address notified in the person's application for registration is the person's only or principal residence in Hong Kong.

Section 29 : Elector to be 18 years of age

A natural person is not eligible to be registered as an elector unless-

- (a) the person has reached 18 years of age; or
- (b) the person's eighteenth birthday falls –
  - (i) in any year other than a year in which a District Council (DC) ordinary election is to be held, on or before 25 July next following the person's application for registration; or
  - (ii) in a year in which a DC ordinary election is to be held, on or before 25 September next following the person's application for registration.

Section 30 : Applicant for registration as elector to be in possession of identity document

A natural person is not eligible to be registered as an elector unless, at the time of applying to be registered, the person satisfies the ERO that the person –

- (a) holds an identity document; or
- (b) has –
  - (i) applied for a new identity document; or
  - (ii) requested the alteration of the identity document or the issue of a new identity document, in replacement of the identity document previously issued to the person.

Section 31(1) : When person is disqualified from being registered as an elector

A natural person is disqualified from being registered as an elector for a constituency if the person –

- (a)-(c) (Repealed)
- (d) is found under the Mental Health Ordinance (Cap 136) to be incapable, by reason of mental incapacity, of managing and administering his or her property and affairs; or
- (e) is a member of the armed forces of the Central People's Government or any other country or territory.

## Annex B

### Statutory Deadlines Concerning VR in a DC Election Year

Date	Major Event	Relevant Legislation
16 July	The statutory deadline for an applicant to apply to the ERO for registration in the 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 OL, for subsequent sorting and distribution to the District Offices for public inspection.</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 OL 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 OL, the statutory deadline for the public to make an objection to or make a claim on the registration in the PR, or to apply for updating the registration particulars in the 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.

<b>Date</b>	<b>Major Event</b>	<b>Relevant Legislation</b>
15 August to 11 September	<p>The ERO must deliver to the 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 for public inspection.	
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	

## Annex C

### Statutory Deadlines Concerning VR in a non-DC Election Year

Date	Major Event	Relevant Legislation
16 May	The statutory deadline for an applicant to apply to the ERO for registration in the PR is 16 May.	According to section 4 of Cap. 541A and section 19 of Cap. 541B.
25 May	<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 May.</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 OL, for subsequent sorting and distribution to the District Offices for public inspection.</p>	According to section 5 of Cap. 541A and section 21 of Cap. 541B.
15 June	The statutory deadline for the ERO to publish and make available the PR and OL for public inspection is 15 June.	According to section 10 and 13 of Cap. 541A and section 25 and 29 of Cap. 541B.
29 June	After inspecting the PR and OL, the statutory deadline for the public to make an objection to or make a claim on the registration in the PR, or to apply for updating the registration particulars in the FR, is 29 June.	According to section 10, 13, 14, 15 and 17 of Cap. 541A, and section 25, 29, 30, 31 and 33 of Cap. 541B.

<b>Date</b>	<b>Major Event</b>	<b>Relevant Legislation</b>
15 June to 11 July	<p>The ERO must deliver to the 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 July	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 for public inspection.	
25 July	The statutory deadline for the ERO to publish and make available the FR for public inspection is 25 July.	According to section 20 of Cap. 541A and section 38 of Cap. 541B.