

II. REPORT

The date of First Reading of the Bill is 8 May 2013. Members may refer to the LegCo Brief (File Ref.: SF(1) to HAB/CR 6/5/210) issued by Home Affairs Bureau on 30 April 2013 for further details.

Object of the Bill

2. The object of the Bill is to amend the Hong Kong Arts Development Council Ordinance (Cap. 472) (the Ordinance) to remove the restriction of cross-arts interest nomination of persons for appointment as members of the Hong Kong Arts Development Council (HKADC); and to modify the provision on specification of nominators to provide for specifying organizations or individuals (or both) for each of the arts interests listed in the Ordinance.

Background

3. HKADC is a statutory body set up in 1995 under the Ordinance to promote the development of the arts in Hong Kong. Under section 3(3) of the Ordinance, HKADC shall consist of a Chairman, a Vice-Chairman, the Secretary for Home Affairs (or his representative), the Permanent Secretary for Education (or his representative), the Director of Leisure and Culture Services (or his representative) and not more than 22 other members. The Chairman, Vice-Chairman and other members of HKADC shall be appointed by the Chief Executive (CE) for a term not exceeding 3 years.

4. Under section 3(4) of the Ordinance, the other members that may be appointed as members of HKADC may include up to 10 persons nominated by organizations or groups of organizations specified under section 3(5), and each such organization or group of organizations may nominate not more than one person for each of the art interests represented by that organization or group of organizations. Under section 3(5), the CE may by notice in the Gazette specify up to 10 organizations or groups of organizations each of which, in the CE's opinion, shall be representative of one or more of the following arts interests—literary arts, music, dance, drama, visual arts, film arts, arts administration, arts education, arts criticism and Chinese opera (Xiqu).

5. According to paragraphs 4 to 6 of the LegCo Brief, the nomination process and its details have been implemented by way of administrative arrangements. Some of the practices adopted pursuant to the administrative arrangements are summarized below –

- (a) since 1997, the Administration has adopted a practice under which both organizations and individual arts workers have been specified by notice in the Gazette for the purpose of nominating 10 respective arts interests representatives for appointment to HKADC; and
- (b) since 1999, the practice of cross-arts interest nomination has been implemented by the Administration under which each voter may cast not more than one vote in each of the 10 arts interests.

6. According to the Administration, the practices referred to in paragraph 5(a) and (b) above are not consistent with the relevant provisions of the Ordinance. The Administration therefore considers that legislative amendments to the Ordinance are necessary if the above practices are to continue in future nomination exercises.

Provisions of the Bill

7. The Bill seeks to amend –

- (a) section 3(4) and section 3(5) of the Ordinance to change from specifying organizations or groups of organizations to specifying organizations or individuals (or both) for each of the arts interests listed in section 3(5) of the Ordinance; and
- (b) section 3(4) of the Ordinance by repealing the existing restriction that the relevant organization or group of organization may only nominate a representative for the arts interest represented by them.

8. The effect of the proposed amendments is that individual arts workers would be able to take part in the nomination of representatives for the respective arts interests and that each eligible organization or individual who is registered under one arts interest may also vote for candidates in the other nine arts interests.

Commencement

9. The Bill, if enacted as an ordinance, would come into operation on the day on which it is published in the Gazette.

Public Consultation

10. According to paragraph 4 of the Paper titled *Nomination of Representatives of Arts Interests for the Hong Kong Arts Development Council*

prepared by the Home Affairs Bureau for the Panel on Home Affairs (the Panel) in January 2013 (LC Paper No. CB(2) 474/12-13(04)), a working group was set up by HKADC in 2011 to review the arrangements and make suggestions for the 2013 nomination exercise. Apart from consulting the experts of the 10 art-form groups under HKADC, the working group also launched a month-long public consultation. After considering the experts' advice of the 10 art-form groups and the views collected in the public consultation, HKADC has recommended, among others, to retain the arrangements of specification of individual arts workers and the cross-arts interest nomination.

Consultation with LegCo Panel

11. As advised by the Clerk to the Panel, the Panel was briefed on the results of HKADC's review on the nomination exercise and the Administration's plan to amend the Ordinance to better reflect the established arrangements for the nomination exercise at its meeting on 18 January 2013. While welcoming HKADC's proposal to relax the eligibility criteria for individual arts workers to become voters, some members expressed concern that students currently undertaking arts degree programmes and graduates of sub-degree programmes in arts run by local tertiary institutions, overseas graduates in relevant disciplines and winners of overseas awards were excluded from participation in the voting process. Some members were also concerned about the fairness and credibility of the voting process under the "cross-arts interest voting system".

Conclusion

12. The Legal Service Division is seeking clarification from the Administration on certain technical issues, including the legal implications arising from the procedural irregularities in the nomination of HKADC's members and whether these irregularities will affect the validity of the past acts and decisions of HKADC. A further report will be issued if necessary. In the light of concerns raised at the above Panel meeting, Members may consider whether to study the policy aspects of the Bill in detail.

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