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Panel on Home Affairs

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 11 April 2014**

**Issues arising from the scrutiny of the Hong Kong Arts Development
Council (Amendment) Bill 2013**

Purpose

This paper provides background information on the introduction of the Hong Kong Arts Development Council (Amendment) Bill 2013 ("the Amendment Bill") and summarizes the deliberations of the relevant committees on the Amendment Bill.

Background

2. The Hong Kong Arts Development Council ("HKADC") was established in 1995 as a statutory body under the Hong Kong Arts Development Council Ordinance (Cap. 472) ("the HKADC Ordinance") to promote the development of arts in Hong Kong. Under section 3 of the HKADC Ordinance, HKADC consists of not more than 27 members¹ out of which up to 10 may be nominated by the 10 specified arts interests for appointment by the Chief Executive ("CE"). The 10 specified arts interests include literary arts, music, dance, drama, visual arts, film arts, arts administration, arts education, arts criticism and Chinese opera (Xiqu).

¹ The 27 members include (a) a Chairman, a Vice-chairman and not more than 22 other members, each of whom shall be appointed by CE for a term not exceeding three years; (b) the Secretary for Home Affairs or his representative; (c) the Permanent Secretary for Education or his representative; and (d) the Director of Leisure and Cultural Services or his representative.

The nomination exercises conducted before 2013

3. Since its establishment and before the enactment of the Amendment Bill in July 2013, HKADC conducted seven exercises to nominate arts interests representatives for HKADC ("the nomination exercise"). In 1995, the arts community conducted the first nomination exercise on their own with reference to the guidelines provided by the Administration. Since 1997, the Administration has assisted the arts sector to conduct the nomination exercises. According to the Administration, as the details of the nomination process were not spelt out in the HKADC Ordinance, the Administration made several administrative arrangements for the nomination exercises including -

- (a) starting from 1997, the nomination exercise allowed individual arts workers who were not members of any arts organizations to take part in; and
- (b) starting from 1999, the nomination exercise allowed voters to vote for candidates standing for nomination in all of the arts interest (*i.e.* cross-arts interest voting system). In other words, each registered voter could vote for each of the 10 arts interests, casting a total of 10 votes.

4. On 18 January 2013, the Panel on Home Affairs ("the Panel") was briefed by the Administration on the results of the review conducted by HKADC on the administrative arrangements for the nomination exercise. The Panel was advised that the two administrative arrangements for the nomination exercise mentioned in paragraph 3 above might not be consistent with the relevant provisions of the HKADC Ordinance. The HKADC Ordinance had no provision for the practice of allowing individual arts workers who were not members of any arts organizations to take part in the nomination exercise, as the HKADC Ordinance specified that nominations were to be made by "organizations or group of organizations". As regards the practice of "cross-arts interests voting system", it was inconsistent with section 3 of the HKADC Ordinance which stipulated that each organization or group of organizations might nominate not more than one person for each of the interests represented by that organization or group of organizations. The Panel noted that the Administration would introduce amendments to the HKADC Ordinance in the first half of 2013.

The Amendment Bill

5. The Administration introduced the Amendment Bill into Legislative Council ("LegCo") on 8 May 2013. The Amendment Bill sought to amend -

- (a) sections 3(4) and 3(5) of the HKADC 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 HKADC Ordinance; and
- (b) section 3(4) of the HKADC Ordinance by removing the existing restriction that the relevant organization or group of organization may only nominate a representative for the arts interest represented by them.

6. Following the scrutiny by the Bills Committee on the Hong Kong Arts Development Council (Amendment) Bill 2013 ("the Bills Committee"), the Amendment Bill was passed at the Council Meeting of 10 July 2013. Upon the completion of its work, the Bills Committee agreed to refer the following issues to the Panel for follow-up -

- (a) proportion of the nominated membership and the arts interest to be specified in the HKADC Ordinance;
- (b) eligibility criteria for individual arts workers to take part in the nomination of arts interests representatives for appointment to HKADC; and
- (c) absence of definition of "individuals" in the HKADC Ordinance.

Deliberations of the relevant committees

7. Major concerns raised by members of the Panel and the Bills Committee on issues relating to the nomination exercises are summarized below.

Proportion of the nominated membership and number of arts interests

8. A concern was raised as to whether the proportion of the nominated membership (*i.e.* 10 out of 27) should be increased so as to enhance the representativeness of HKADC. The Administration advised that, apart from the 10 nominated representatives, the other members of HKADC might also include members from the arts and cultural sector. In the Administration's view, HKADC should comprise a balanced mix of individuals with the required expertise and knowledge in various fields to cater for the needs of the development and operation of HKADC.

9. Some members were of the view that the 10 specified arts interests should be reviewed and include new arts interests to accommodate new developments

of the arts scene. There was also another view that, for art interest(s) in which no candidates stood for the nomination in two exercises or more, the Administration should consider whether this/these arts interests should be kept or changed.

10. The Administration advised that the 10 arts interests were stipulated under section 3(5) of the HKADC Ordinance, and legislative amendments would be necessary to add any new arts interests. Nevertheless, the Administration agreed to take members' suggestions into consideration in the review prior to the 2016 nomination exercise ("the next review").

Eligibility criteria for individual arts workers

11. The Bills Committee members noted that the Amendment Bill relaxed the eligibility criteria for "individual arts workers" to take part in the nomination exercise². Some members urged the Administration to consider further relaxing the eligibility criteria for individual arts workers, so that more members of the arts community could take part in the nomination exercises, including the following categories -

- (a) students currently undertaking an arts degree programme and graduates of an associate degree programme in the relevant disciplines;
- (b) winners of overseas honours/awards and graduates having equivalent qualifications conferred by recognized overseas institutions; and
- (c) arts workers including amateur ones who engaged in artistic creation / performances but did fall into any of the recognized categories of individual arts workers³ and were neither members nor employees of the specified arts organizations⁴.

12. A concern was also raised as to whether the existing eligibility criteria might give rise to a situation that art veterans were excluded from the nomination exercise simply because they lacked formal academic qualifications or were not able to qualify under other conditions, while arts degree graduates with limited experience in arts creation were allowed to participate. As regards the eligibility criteria for arts organizations to take part in the nomination exercise, some members suggested that the criteria should be able to

² The eligibility criteria for participation in the nomination exercise 2013 are in **Appendix I**.

³ The relevant eligibility criteria for "individual arts workers" are set out in **Appendix I**.

⁴ For specified arts organizations, they might register their members (who had joined the organization for not less than one year prior to the start date of the nomination exercise) or employees who engaged in artistic production or arts administration for not less than one year as voters.

accommodate small and budding arts groups and those in non-mainstream arts interests (e.g. street performers and small music bands).

13. The Administration advised that the eligibility criteria for "individual arts workers" had already been relaxed after the review in 2012, and that the eligibility criteria must be objective, clear and verifiable. Nevertheless, the Administration advised that it was willing to consider members' suggestions in the next review.

14. Members noted that for the past nomination exercises, the organizations and individual arts workers, once gazetted, would continue to be valid in subsequent nomination exercises without the need for re-registration unless the arts organizations/individual arts workers concerned wished to update their particulars or change the arts interests they had registered. There was a view that a mechanism should be put in place for cancellation of the registration of individual arts workers who had long ceased to participate in any arts performances or activities.

Absence of definition of "individuals" in the HKADC Ordinance

15. Members of the Bills Committee noted that the Amendment Bill proposed to change from specifying "organizations or groups of organizations" to specifying "organizations or individuals" for each of the arts interests listed in section 3 of the HKADC Ordinance. There was a view that a definition of "individuals" should be provided in the HKADC Ordinance, and the definition should make reference to the relevant administrative guidelines setting out the eligibility criteria which a person had to meet in order to participate in the nomination exercise in the capacity of "individuals".

Latest development

16. The most recent nomination exercise was completed on 7 October 2013 and the details of the nomination exercise are in **Appendix II**.

17. At the Panel meeting on 10 October 2013, a concern was raised about the arrangements on the polling day for the 2013 nomination exercise. Noting that incorrectly stapled ballots had been issued and the numbers of blank votes received in the nomination exercise of some arts interests were high, members agreed to discuss issues relating to the 2013 nomination exercise together with issues arising from the scrutiny of the Amendment Bill at a Panel meeting.

18. The Administration will report to the Panel the nomination exercise conducted in 2013 at the meeting on 11 April 2014.

Relevant papers

19. A list of the relevant papers on the LegCo website is in **Appendix III**.

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Eligibility Criteria for Participation in the Nomination Exercise 2013

Eligible organizations should –

- (a) be a bona fide arts organization that aims at promoting the development of the arts;
- (b) be a statutory arts organization, or have registered under the Societies Ordinance, Companies Ordinance, Business Registration Ordinance or Trade Unions Ordinance in Hong Kong;
- (c) be formed and operated under a constitution or memorandum and articles of association; and
- (d) had been set up for at least one year before 15 March 2013.

Eligible arts worker should –

- (a) be a current or former member, co-opted member, arts adviser or examiner of HKADC, since its establishment on 15 April 1994; or
- (b) be a current or former arts adviser of the Leisure and Cultural Services Department ("LCSD") since 1 January 2000; or
- (c) had been a winner or an announced finalist of the arts achievement awards of HKADC since its establishment on 15 April 1994; or
- (d) had been a winner or an announced finalist of recognized local arts competitions and awards as set out in Annex; or
- (e) had been successful in obtaining grant, financial sponsorship or venue sponsorship from HKADC, LCSD, the Home Affairs Bureau ("HAB"), the West Kowloon Cultural District Authority ("WKCD"), the Hong Kong Academy for Performing Arts ("HKAPA") or the Hong Kong Arts Centre ("HKAC") for arts projects submitted in his/her name (including the participating arts workers listed in the applications for grant/sponsorship); or

- (f) had obtained fees from HKADC, LCSO, HAB, WKCD, HKAPA or HKAC for direct engagement in arts creation, direction, performance, exhibition, production / technical support and arts administration of arts projects; or
- (g) be or had been in collaboration with LCSO in holding arts exhibitions / competitions; or had participated in these exhibitions / competitions in his / her name since 1 January 2000; or
- (h) be a full-time or part-time teacher / instructor / tutor of subjects relating to arts administration, arts criticism, arts education, Chinese opera (Xiqu), dance, drama, film art, literary arts, music or visual arts employed by local tertiary institutions (and their schools of continuing studies), secondary schools or primary schools in Hong Kong as at 15 March 2013; or
- (i) be a graduate of an arts programme on one of the specified arts interests at bachelor's degree or above levels run by local universities /tertiary institutions; or
- (j) be an individual artist tenant of the Jockey Club Creative Arts Centre, the Cattle Depot Artist Village or the Hong Kong Arts Centre as at 15 March 2013.

Source: Section II of the Application Guidelines for the Application by Organisations and Individual Arts Workers for Participation in the Nomination of Representatives of the Respective Arts Interests for the Hong Kong Arts Development Council 2013: [http://www.voteforhkadc2013.hk/en/doc/Guideline+Annex%20\(Eng\).pdf](http://www.voteforhkadc2013.hk/en/doc/Guideline+Annex%20(Eng).pdf) (retrieved on 3 April 2014)

Annex

Recognized Local Arts Competitions and Awards

Arts Form	Arts Competitions / Awards	Organiser
Visual Arts *	1. Hong Kong Contemporary Art Awards	The Hong Kong Museum of Art
	2. HKDA Global Design Awards	Hong Kong Designers Association
	3. HKDC Awards	Hong Kong Design Centre
Literary Arts	1. Hong Kong Book Prize (Literary books)	RTHK, Hong Kong Public Libraries and Hong Kong Publishing Federation
	2. Youth Literary Awards	Youth Literary Awards Association
	3. City Literary Awards	City University of Hong Kong
	4. Young Writers' Debut Competition	Sun Hung Kai Properties and Joint Publishing (HK) Limited
	5. Hong Kong Biennial Awards for Chinese Literature	Hong Kong Public Libraries and Hong Kong Arts Development Council
	6. The Dream of the Red Chamber Awards	Hong Kong Baptist University
	7. The Asian Literary Prize	Man Group plc. and Hong Kong International Literary Festival
	8. Awards for Creative Writing in Chinese	Hong Kong Public Libraries
Drama	1. Hong Kong Drama Awards	Hong Kong Federation of Drama Societies
	2. The Hong Kong Theatre Libre	101arts.net
Dance	1. Hong Kong Dance Awards	Hong Kong Dance Alliance
	2. Bauhinia Cup Dance Championships	Hong Kong Dance Federation
Arts Criticism	1. ADC Critic's Prize	Hong Kong Arts Development Council
Film & Media Arts #	1. Hong Kong Independent Short Film and Video Awards	Hong Kong Arts Centre
	2. Fresh Wave International Short Film Festival	Hong Kong Arts Development Council
	3. Hong Kong International Film Festival Short Film Competition	Hong Kong International Film Festival

	4. Hong Kong Film Awards	Hong Kong Film Awards Association Board Of Directors
	5. Asian Film Awards	Hong Kong International Film Festival Society
	6. Hong Kong Film Critics Society Awards	Hong Kong Film Critics Society
Various arts form	1. Hong Kong Arts Development Awards	Hong Kong Arts Development Council

* Visual arts includes Chinese Painting/ Calligraphy, Seal-engraving, Western Arts-2D (e.g. Painting, Print-making, Mural Painting, Cartoon, etc.), 3D (e.g. Ceramics, Sculpture, etc.), Design/Architecture, Photography, Mixed Material and installation, etc

Media Arts can be defined as artistic creations that contain images created through any medium that can be traced, reflected, photographed, reproduced and projected. Artistic projects of this category often engage digital technology, interactive media, integration of text and image, sound composing and video installation, programme design and production, etc. in the production.

(Presentation format includes CD-ROM, Website, DVD/VCD, or other creative forms of presentation using technology such as computer games, video/sound installation, virtual galleries/performances etc.)

Nomination of Arts Interests Representatives for Appointment to the Hong Kong Arts Development Council

Four-phase Nomination Exercise

(based on the last nomination exercise held in 2013)

(a) Phase 1 - Application for the participation in the Nomination Exercise
(from 15 March to 25 April)

- Eligible organisations or individual arts workers may apply to take part in the exercise to nominate representatives of the respective arts interests.

(b) Phase 2 - Voter registration
(from 14 June to 22 July)

- Individual arts workers who had successfully applied under Phase I automatically became voters and did not need to apply for voter registration.
- Arts organisations which were eligible to take part in the exercise may make applications for registration of their members/employees as voters.
- The list of organizations and individuals eligible to take part in the exercise were gazetted (G.N. 4257) on 23 July 2013.

(c) Phase 3 - Candidate Nomination
(from 13 August to 26 August)

- Eligible candidate should be -
 - (a) aged 18 years or above;
 - (b) a registered voter of the arts interest for which he/she is standing for candidature; and

(c) nominated by 5 proposers or 1% of the number of the registered voters from the same arts interest (whichever is the higher).

• The proposer should -

(a) be a registered voter of his/her arts interests; and

(b) make only one nomination in the Nomination Exercise

(d) Phase 4 - Electioneering and polling
(29 August to 7 October)

- All electioneering activities commenced only after the official announcement of the list of candidates.
- The nomination agent appointed by the Home Affairs Bureau assisted the candidates in sending out their platforms to voters by mail, as well as arranging other electioneering activities
- The two-day polling was held on 6-7 October 2013. “Cross-arts interests voting” system was adopted (*i.e.* each registered voter could vote for each of the 10 arts interests, casting a total of 10 votes).

Source: The official website of the Nomination of Representatives of Arts Interests for the Hong Kong Arts Development Council 2013:
<http://voteforhkadc2013.hk/en/nomexdetails.php> (retrieved on 3 April 2014)

Appendix III

Relevant papers on Issues arising from the scrutiny of the Hong Kong Arts Development Council (Amendment) Bill 2013

Committee	Date of meeting	Paper
Panel on Home Affairs	18.1.2013 (Item V)	Agenda Minutes
Bills Committee on Hong Kong Arts Development Council (Amendment) Bill 2013	--	Report of Bills Committee on Hong Kong Arts Development Council (Amendment) Bill 2013 to the House Committee Issued on 27 June 2013
Panel on Home Affairs	10.10.2013 (Item III)	Agenda Minutes

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