

立法會
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**Subcommittee on Declaration of Geographical Constituencies
(Legislative Council) Order 2015**

Background brief prepared by the Legislative Council Secretariat

Purpose

1. This paper provides background information on the Declaration of Geographical Constituencies (Legislative Council) Order 2015 ("the Order") (L.N. 200), and gives a brief account of relevant discussion held by the Panel on Constitutional Affairs ("the Panel").

Background

2. The Electoral Affairs Commission ("EAC") is a statutory and independent body responsible for the conduct and supervision of elections. Under section 18 of the EAC Ordinance (Cap. 541), EAC is required to make recommendations to the Chief Executive ("CE") on the delineation and the names of the geographical constituencies ("GCs") for LegCo elections. In delineating GCs, EAC is required to follow the statutory criteria stipulated under sections 18 to 19 of the LegCo Ordinance (Cap. 542) ("LCO"), section 20 of the EAC Ordinance and certain working principles (see **Appendix I**).

3. Before finalizing the recommendations, EAC shall, in accordance with section 19 of the EAC Ordinance, consult the public on the provisional recommendations for a period of 30 days and submit a report containing its recommendations to CE after considering the representations received. The CE in Council must have regard to EAC's report when making a decision, which will be effected by way of an Order published under section 18(2) of LCO. The Order has to be tabled in LegCo for negative vetting.

The Order (L.N. 200)

4. The Order is made by CE in Council under sections 18 and 19 of LCO to declare areas of Hong Kong to be GCs for the purpose of electing Members for the Sixth LegCo, give names to those GCs and specify the number of Members to be returned for each of those GCs.

5. The effect of the Order is to change the numbers of Members to be returned in two GCs for the Sixth LegCo without changing the delineation and names of the existing five GCs. The details of the Order are set out in the table below -

Name of GC	Number of Members	Change to the Number of Members returned for each GC for the Fifth LegCo
Hong Kong Island	6	Decreased by 1
Kowloon West	6	Increased by 1
Kowloon East	5	Unchanged
New Territories ("NT") West	9	Unchanged
NT East	9	Unchanged

6. The Order will come into operation on 1 January 2016.

7. According to the LegCo Brief (File Ref: CMAB C1/30/8) issued by the Constitutional and Mainland Affairs Bureau on 14 October 2015, EAC conducted a public consultation exercise on its provisional recommendations on the boundaries and names of GCs for the 2016 LegCo General Election from 21 May to 19 June 2015. EAC then submitted its final recommendations for consideration by CE in Council which accepted all the recommendations.

Consultation with the Panel

8. The Administration consulted the Panel at its meeting on 15 June 2015 on the provisional recommendations of EAC on the boundaries and the names of GCs for the 2016 LegCo General Election. The major concerns expressed by members are summarized below -

Allocation of seats among the proposed GCs

9. Mr CHAN Kam-lam expressed concern that while the proposed number of LegCo seats for both NT West GC and NT East GC was nine, their projected population differed by over 300 000. He also pointed out that the number of valid votes that would need to be obtained by a candidate in order to win a seat in a GC allocated with nine seats would be much smaller than that in a GC with five seats. He suggested that there should be a more even distribution of LegCo seats among the proposed GCs.

10. Dr CHIANG Lai-wan expressed concern as to why the numbers of Members to be returned for Hong Kong Island GC and Kowloon West GC were proposed to be adjusted from seven to six and from five to six respectively when the number of GCs as well as the upper and lower limits on the number of Members to be returned for the proposed GCs would all remain unchanged.

11. The Administration advised that it was stipulated under the EAC Ordinance that, in the allocation of seats, EAC would have to ensure that the population in each proposed GC was as near as practicable to the number which resulted (i.e. "the resulting number") when the population quota¹ was multiplied by the number of Members to be returned by that GC. Where it was not practicable to comply with the aforementioned requirement in respect of a proposed GC, EAC would have to ensure that the population in that GC should not exceed or fall short of the resulting number applicable to that GC by more than 15%. This was to ensure that the allocation of LegCo seats among the proposed five GCs would be in line with the principle of "equal representation". In each delineation exercise, the then existing allocation of seats for the GCs was not a consideration under the statutory criteria.

12. Dr Priscilla LEUNG expressed the view that the extremely large area covered by the two NT GCs had posed immense difficulties to the incumbent LegCo Members returned from these GCs in serving their constituents. She considered that EAC's considerations in the delineation exercise should also include service quality.

Upper and lower limits of seats for each GC and the number of GCs

13. Mr Paul TSE expressed concern that the rate of deviation of the population from the resulting number in Kowloon West GC and NT West GC would be -9.63% and +10.82% respectively. He asked whether consideration would be given to amending LCO to provide that the number of Members to be returned for each GC was to be a number not less than five nor greater than 10 (instead of nine). In this way, EAC might consider allocating 10 seats to NT West GC in view of its large population size. Mr LEUNG Yiu-chung also asked whether the Administration would consider increasing the number of GCs to six. The Administration explained that the rate of deviation from the resulting number of NT West was still within the statutory permissible range. The Administration advised that the decision of maintaining the existing number of GCs as well as the existing upper and lower limits of seats returned for each GC was based on the outcome of the five-month public consultation

¹ According to section 17(1) of the EAC Ordinance, "population quota" means the total population of Hong Kong divided by the total number of Members to be returned for all GCs in the election. Based on the forecast population as at 30 June 2016, the population quota is: $7\,370\,500 \div 35 = 210\,586$.

exercise on the methods for selecting CE in 2017 and for forming LegCo in 2016.

Relevant papers

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

Council Business Division 2
Legislative Council Secretariat
2 November 2015

**Delineation of Geographical Constituencies
for the 2016 Legislative Council General Election**

(I) Statutory Requirements

Provisions stipulated under sections 18 and 19 of the Legislative Council Ordinance (Cap. 542)

- (a) there are to be five Geographical Constituencies (“GCs”) for the purpose of returning Members at elections for those constituencies;
- (b) at a general election, 35 Members are to be returned for all GCs; and
- (c) the number of Members to be returned for each GC is to be a number, not less than five nor greater than nine.

Criteria stipulated under section 20 of the Electoral Affairs Commission Ordinance (Cap. 541)

- (a) the Electoral Affairs Commission (“EAC”) shall ensure that the population in each proposed GC is as near as practicable to the number which results (i.e. “the resulting number”) when the population quota is multiplied by the number of Members to be returned to the Legislative Council (“LegCo”) by that GC. The population quota means the figure arrived at by dividing the total population of Hong Kong by the total number of Members to be returned for all GCs in the LegCo election.

(Note: For the 2016 LegCo General Election, the total population of Hong Kong (projected as at 30 June 2016 by the Government) is 7 370 500 and the total number of Members to be returned for all GCs is 35. Therefore, the population quota is 210 586, i.e. $7\,370\,500 \div 35$);

- (b) where it is not practicable to comply with (a) above in respect of a proposed GC, the EAC shall ensure that the population in that GC does not exceed or fall short of the resulting number applicable to that GC by more than 15%;

- (c) the EAC shall have regard to the community identities, the preservation of local ties and physical features (such as size, shape, accessibility and development) of the relevant area;
- (d) the EAC may depart from the strict application of (a) and (b) above only where it appears that one or more of the considerations in (c) above renders a departure necessary or desirable;
- (e) the EAC shall ensure that each proposed GC is to be constituted by two or more contiguous whole District Council constituencies; and
- (f) the EAC shall have regard to the existing boundaries of Districts⁴ and existing boundaries of GCs.

(II) Working Principles

- (a) the boundaries of the existing five GCs should form the basis of consideration in the current delineation exercise;
- (b) for those existing GCs where the population falls within the permissible range of the population quota requirement, their boundaries would be adopted as far as possible to form new GCs;
- (c) Hong Kong Island, Kowloon and the New Territories are to be treated separately, as these areas are traditionally regarded as distinct from one another;
- (d) splitting of Districts by District Council Constituencies should be avoided unless there are very strong reasons. Where splitting is necessary, it should affect the least number of Districts; and
- (e) factors with political implications are not considered.

⁴ "District" has the meaning assigned to it by the District Councils Ordinance (Cap. 547) according to section 20 of the Electoral Affairs Commission Ordinance (Cap. 541).

**Relevant documents on Declaration of Geographical Constituencies
(Legislative Council) Order 2015**

Committee	Date of meeting	Paper
Panel on Constitutional Affairs	15.6.2015 (Item IV)	Agenda Minutes Public consultation document on "Provisional Recommendations on Boundaries and Names of Geographical Constituencies for the 2016 LegCo General Election"

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