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Panel on Home Affairs

**Updated background brief prepared by the Legislative Council Secretariat
for the meeting on 18 January 2016**

**Nomination of representatives of arts interests for
the Hong Kong Arts Development Council**

Purpose

This paper summarizes the deliberations of the relevant Legislative Council ("LegCo") committees on the arrangements for nominating representatives of arts interests for the Hong Kong Arts Development Council ("HKADC") ("the nomination exercise").

Background

2. 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).

Arrangements for the nomination exercise

3. Since its establishment, HKADC has conducted eight nomination exercises. 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, in response to the request of the arts sector,

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.

assisted the 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 after taking into account the sector's views, 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)². 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 were not consistent with the relevant provisions of the HKADC Ordinance. The HKADC Ordinance specified that nominations were to be made by "organizations or group of organizations" and there was 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 regards the practice of "cross-arts interest 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 Administration advised that legislative amendments were required to be made to the HKADC Ordinance if the aforesaid practices were to continue.

The Hong Kong Arts Development Council (Amendment) Bill 2013 ("the Bill")

5. The Administration introduced the Bill into LegCo on 8 May 2013. The Bill sought to amend -

² In March 1999, the Government issued the Consultant's Report on Culture, Arts, Recreation and Sports Services, which suggested, among others, that the electorate base of HKADC was fluid and too narrow, and one option to enhance the representativeness of the nominee was to allow an eligible voter to elect not only the representative of his own arts interest group, but also those of the other specified interest groups. In response to this view, the Administration agreed to broaden the electorate base of HKADC, allow an eligible voter to elect the representatives of all 10 arts interests instead of just the arts interest to which the voter belonged.

- (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.

The Bill was passed at the Council Meeting of 10 July 2013.

6. In the course of its scrutiny work, the former Bills Committee on the Hong Kong Arts Development Council (Amendment) Bill 2013 ("the Bills Committee") agreed to refer the following issues to the Panel for follow-up -

- (a) proportion of the nominated membership and the arts interests 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.

7. The last nomination exercise was completed on 7 October 2013. At its meeting on 11 April 2014, the Panel received a report from the Administration on the 2013 nomination exercise and discussed the above issues arising from the scrutiny of the Bill.

Deliberations of the relevant committees

8. 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

9. 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.

10. 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 arts 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.

11. The Administration advised that the 10 arts interests were stipulated under section 3(5) of the HKADC Ordinance. Legislative amendments would be necessary to add any new arts interests. Furthermore, the Administration would need to conduct a thorough consultation to collect the sector's views before introducing such amendments. During meetings of the Bills Committee, the Administration agreed to consider members' suggestions in the next review of the arrangements for the nomination exercise.

Eligibility criteria for individual arts workers applying to take part in the nomination exercise

12. After the review in 2012³, the eligibility criteria for individual arts workers applying to take part in the nomination exercise in 2013 were broadened by introducing new categories⁴. The eligibility criteria for participation in the nomination exercise in 2013 are set out in **Appendix I**. During discussion of

³ The Home Affairs Bureau ("HAB") briefed the Panel in March 2011 on the arrangements for the 2010 nomination exercise. A working group was then set up by HKADC to review the arrangements and make suggestions for the 2013 nomination exercise.

⁴ The new categories are:

- (i) an announced finalist of the arts achievement awards of HKADC; or
- (ii) a winner or an announced finalist of specified recognized local arts competitions and awards; or
- (iii) a recipient of financial sponsorship or venue sponsorship from HAB, West Kowloon Cultural District ("WKCD"), Hong Kong Academy for Performing Arts ("HKAPA") or the Hong Kong Arts Centre ("HKAC"); or
- (iv) a recipient of fees from HAB, WKCD, HKAPA or HKAC for direct engagement in arts creation, direction, performance, exhibition, production/technical support and arts administration of arts projects; or
- (v) a full-time or part-time instructor/tutor of subjects relating to the ten art interests employed by local tertiary institutions (and their schools of continuing studies), secondary schools or primary schools in Hong Kong; or
- (vi) a graduate of one of the relevant arts programmes at bachelor's degree or above levels run by local universities/tertiary institutions; or
- (vii) an individual artist tenant of the Jockey Club Creative Arts Centre, the Cattle Depot Artist Village and HKAC.

the Bills Committee, 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 not fall into any of the recognized categories of individual arts workers and were neither members nor employees of the specified arts organizations⁵.

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

14. 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 to make them practicably feasible to implement. Nevertheless, the Administration advised that it was willing to consider members' suggestions.

15. 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

⁵ For specified arts organizations, they may register their members (who have 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.

individual arts workers who had long ceased to participate in any arts performances or activities.

Absence of definition of "individuals" in the HKADC Ordinance

16. Some members held the 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"⁶. The Administration advised that they had no plan at the present stage to provide in the HKADC Ordinance a definition of "individuals", since the eligibility criteria for individual arts workers to take part in the nomination exercise would evolve and keep on changing over time. The list of eligible organizations and individual arts workers for participation in the nomination exercise would continue to be promulgated by administrative arrangements to allow for the necessary flexibility.

"Cross-arts interest voting system"

17. Members expressed diverse views on the "cross-arts interest voting system". While some members considered that the "cross-arts interest voting system" could encourage members of the arts sector and the nominated representatives to adopt a broader perspective covering different arts interests, some other members expressed concern about the fairness and credibility of the voting process under this system. The latter raised concern over the problem of having outsiders voting for insiders as well as the joint electioneering activities conducted by candidates with a view to canvassing more votes from voters who belonged to other arts interests. There was a suggestion that consideration should be given to adopting the "weighted average" approach to adjust the weight of vote(s) cast by a voter, depending on whether the voter was or was not directly involved in the arts interest(s) for which vote(s) were cast by the voter.

18. According to the Administration, the "cross-arts interest voting system" aimed at encouraging members of the arts sector to take a broader and holistic perspective covering different arts interests, rather than the views and concerns of individual arts interests only, in considering the overall arts development in Hong Kong. In addition, there was no indication that candidates conducting joint electioneering activities could gain an advantage over others but the Administration undertook to review whether guidelines on electioneering activities could be improved to further enhance the nomination exercise.

⁶ At the Council meeting of 10 July 2013, Hon Cyd HO moved proposed amendments to the Bill at its Committee stage to provide for a definition of "individuals" in the HKADC Ordinance. The proposed amendments were negated.

Performance of the nomination agent

19. Members noted that the same consulting firm was commissioned for implementing the last five nomination exercises from 2001 to 2013. Noting that the nomination agent had issued wrongly stapled ballots on the polling day of the 2013 nomination exercise, some members expressed dissatisfaction with the performance of the nomination agent. They suggested that the Administration should take over the work carried out by the nomination agent in future nomination exercises.

20. The Administration explained that as the nomination exercise was a four-phased process spanning over six months, it was more appropriate to contract out the job to a consulting firm.

Latest development

21. The Administration will brief the Panel on the arrangements for the nomination exercise in 2016 at the meeting on 18 January 2016.

Relevant papers

22. A list of the relevant papers on the LegCo website is in **Appendix II**.

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.)

Appendix II

Relevant papers on nomination of representatives of arts interests for the Hong Kong Arts Development Council

Committee	Date of meeting	Paper
Panel on Home Affairs ("HA Panel")	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
HA Panel	10.10.2013 (Item III)	Agenda Minutes
	11.4.2014 (Item IV)	Agenda Minutes

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