

**Legislative Council Bills Committee on  
Legislative Council (Amendment) Bill 2003**

**Delineation of Functional Constituency Electorate**

**Introduction**

This note addresses Members' questions relating to the delineation of functional constituency (FC) electorate raised at the meeting held on 15 May 2003.

**Response to Questions raised**

*Delineation of Labour FC*

2. A Member requested that the Administration clarify whether a federation of trade unions, which is registered under the Trade Union Ordinance (Cap. 332) with members made up of individual trade unions, would be allowed to vote in the Labour FC.

3. The electorate of the Labour FC is delineated in section 20L of the Legislative Council (LegCo) Ordinance, Cap. 542. The section provides that the Labour FC is composed of bodies that are trade unions registered under the Trade Unions Ordinance of which all the voting members are employees.

4. Although a federation of unions may be a registered body under the Trade Unions Ordinance, it is composed of individual trade unions instead of employees and is therefore not covered under section 20L. In other words, as the law now stands, a federation of unions is not eligible to be registered as an elector in the Labour FC.

5. We have considered whether a federation of unions should be eligible to be registered as an elector in the Labour FC, and have concluded that status quo should be maintained. This is because individual trade unions which are members of a federation are already

themselves eligible electors of the Labour FC.

***Amendment to the constitution of “umbrella organisations”***

6. Under the FC system, the electors of some FCs are defined as corporate or individual members (as the case may be) of “umbrella organisations” who are entitled to vote at general meetings of such organisations. Our policy is that amendments to the constitutions of these organisations require the approval of the Secretary for Constitutional Affairs (SCA) in so far as the amendments relate to -

- a) the objects of the body;
- b) the criteria and conditions of membership of the body; or
- c) the eligibility of members of the body to vote at general meetings of the body,

**for the purposes of the LegCo Ordinance.** The rationale of this requirement is to ensure that changes made by the umbrella organisations to their constitutions will not alter the electorate or the nature of the relevant FC without the approval of the Government. Section 3(2A) of the LegCo Ordinance (extract at **Annex A**) is intended to reflect this policy.

7. At the last meeting of the Committee, Members requested the Administration to review the formulation of section 3(2A) with a view to removing any misunderstanding that the Administration has the authority to interfere in the internal affairs of an umbrella organisation.

8. As explained in paragraph 6 above, the sole purpose of section 3(2A) is to protect the integrity of the electorate of the relevant FCs. We have no intention to involve ourselves in the internal affairs of umbrella organisations. Indeed, all amendments to the constitutions of umbrella organisations which we processed in the past were handled in this spirit. To address Members’ concerns, we are prepared to move a committee stage amendment to add a subsection after section 3(2A) to put beyond doubt that the power given to SCA under section 3(2A) is only exercisable for the purpose of defining the composition of FC and not for

any other purposes. A preliminary draft of the amendment is at **Annex B.**

Constitutional Affairs Bureau  
28 May 2003

MC0336

(2A) 就本條例而言，凡提述有權在某團體的大會上表決，即為提述按該團體的章程的規定有權在該大會上表決，而在本款中——

(a) 凡提述某團體的章程，即為提述——

(i) 在本條例生效時有效的章程；或

(ii) 其後經修訂或替代的章程；但如有關修訂或替代與以下事宜有關，則僅限於經政制事務局長以書面批准者——

(A) 該團體的宗旨；或

(B) 取得該團體的成員或會員身分的準則及條件；或

(C) 該團體的成員或會員在該團體的大會上表決的資格；及

(b) “章程”(constitution) 就某團體而言，包括組織章程細則及規則。(由 1999 年第 48 號第 2 條增補)

(2A) For the purposes of this Ordinance, a reference to an entitlement to vote at a general meeting of a body is a reference to an entitlement to vote at such a meeting as provided by the body's constitution and, in this subsection—

(a) the reference to the constitution of a body is a reference to the constitution either—

(i) as in force at the commencement of this Ordinance; or

(ii) as subsequently amended or substituted, but only if the amendment or substitution, in so far as it relates to—

(A) the objects of the body; or

(B) the criteria and conditions of membership of the body; or

(C) the eligibility of members of the body to vote at a general meeting of the body,

has been approved in writing by the Secretary for Constitutional Affairs; and

(b) “constitution” (章程), in relation to a body, includes articles of association and rules. (Added 48 of 1999 s. 2)

## **Annex B**

### **Proposed Amendment to Section 3(2A)**

Section 3 is amended by adding –

“(2B) For the avoidance of doubt, the power of the Secretary for Constitutional Affairs under subsection (2A) to approve an amendment to or substitution of the constitution of a body may be exercised only for the purpose of defining the composition of the relevant functional constituency.”