

Legislative Council Panel on Constitutional Affairs

Electoral Arrangements for 2008 Legislative Council Elections Updating of Electorate of Functional Constituencies

Introduction

This paper sets out the proposed arrangement for updating the electorate of the functional constituencies (“FCs”) for the 2008 Legislative Council (“LegCo”) election.

Background

Existing FCs

2. There are currently 28 FCs in the third term LegCo. Their composition is prescribed in the Legislative Council Ordinance (“LCO”)(Cap. 542). Apart from the Labour FC which returns three Members, each of the remaining 27 FCs returns a Member to the LegCo. These FCs represent various sectors of the community.

Basis for forming the fourth term LegCo

3. In January 2004, the Chief Executive (“CE”) set up the Constitutional Development Task Force (“the Task Force”) to address issues relating to the 2007/08 electoral arrangements. In the ensuing months, the Task Force issued a number of reports, culminating in the Fifth Report which set out a package of proposals for the methods of selecting the CE in 2007 and for forming LegCo in 2008.

4. On 21 December 2005, the Government put to LegCo two motions to amend Annexes I and II of the Basic Law respectively. As the two motions did not receive the required two-thirds majority support of LegCo members, they could not be processed further.

5. In accordance with the Interpretation made by the Standing Committee of the National People's Congress on 6 April 2004, if no amendment is made to the methods for selecting the CE and for forming the LegCo as stipulated in Annexes I and II of the Basic Law, the provisions relating to the two methods in Annexes I and II of the Basic Law will continue to apply. In the circumstances, the 2008 LegCo election will be held on the basis of the existing arrangements.

Proposals

Proposed amendments to FCs

6. Based on the approach set out in paragraph 5 above, we propose that the number and composition of existing FCs should remain unchanged for the 2008 LegCo election, except for updating of some FCs' electorate to reflect the latest development in relevant FCs. Technical amendments will need to be introduced to the LCO:

- (a) to reflect changes in the names of corporate electors or organisations which are in the existing electorate of the FC;
- (b) to reflect the replacement of certain corporate elector or organisation which have ceased to exist by another relevant elector or organisation; and

- (c) to reflect the change in business nature of a corporate elector.

7. Examples of amendments include:

- (a) Deletion of Kowloon-Canton Railway Corporation (“KCRC”) from Schedule 1A of the LCO

Under the merger package, KCRC would enter into a service concession agreement with Mass Transit Railway Corporation Limited (“MTRCL”) to grant MTRCL the right to use its properties to operate the existing KCR railway lines and the new KCRC railway lines currently under construction when they are completed, as well as its other transport-related businesses. We propose to remove KCRC from Schedule 1A (i.e. the Transport FC) of LCO to reflect the ceasing of transport operation by KCRC.

- (b) Inclusion of The Hong Kong Sports Institute Limited (“HKSIL”) in the Sports, Performing Arts, Culture and Publication (“SPCP”) FC

Following the dissolution of the Hong Kong Sports Development Board (“HKSDB”) on 1 October 2004, the HKSIL was established to take over the elite training function of the former HKSDB. The former HKSDB was a registered voter under section 20V of the LCO. As some key functions of the former HKSDB have been taken over by the HKSIL, we consider that there is a case to include the HKSIL in the SPCP FC.

(c) Inclusion of The Tobacco Association of Hong Kong Limited (“TAHKL”) in the Wholesale and Retail FC

In 2005, the Registration and Electoral Office was requested to deregister the Tobacco Institute of Hong Kong Limited (a listed umbrella organization included in the Wholesale and Retail FC) from this FC, as it was wound up in December 2004. The Institute was subsequently removed from the list of bodies in Schedule 1C (i.e. the Wholesale and Retail FC) to the LCO. In 2006, the TAHKL informed us that it intended to replace the Institute as representative of the tobacco industry and requested its inclusion in the FC.

The Wholesale and Retail FC is composed of members of umbrella bodies listed in Schedule 1C to the LCO that are entitled to vote at general meetings of the body. The umbrella organizations in this FC cover specific business sectors. Following the removal of the Tobacco Institute of Hong Kong Limited from the list, there is no organization in this FC that covers the tobacco industry. Accordingly, there is a case for the TAHKL to be included in this FC as the representative body of the tobacco industry.

8. We will explain the details of the amendments to the LCO when the relevant bill is introduced into the LegCo.

Corresponding changes to Election Committee subsectors

9. Section (2)(5)(a) of the Schedule of the Chief Executive Election Ordinance (“CEEEO”)(Cap. 569) provides that the Election Committee (“EC”) subsectors with corresponding FCs (i.e. FCs with the same name as the subsectors) should have the same

composition as their respective FCs and that a subsector voter must be registered as a FC elector and vice versa. In updating the electorate of FCs, we will make corresponding changes to the EC subsectors by way of consequential amendments to the CEEO, in order to tie in with the changes proposed in para. 6 above.

Way Forward

10. We need to amend the LCO and CEEO to implement the above updating proposals. We plan to introduce the amendment bill into the LegCo in due course.

Advice Sought

11. Members are invited to comment on the proposals as set out in this paper.

Constitutional and Mainland Affairs Bureau
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