

AU Chung-pun

10 June 2011

Secretary for Constitutional and Mainland Affairs  
Constitutional and Mainland Affairs Bureau  
Government Secretariat  
3rd Floor, Main Wing  
Central Government Offices  
Lower Albert Road  
Hong Kong

Dear sir,

**Registration Right for the District Council (Second) Functional Constituency**

I am a permanent resident who have a concern for the civic rights of Hong Kong people. Recently, the two bills for implementing the two electoral methods for the selection of the Chief Executive and for the formation of the Legislative Council in 2012 have been passed. In the amended Legislative Council Ordinance (LCO), I have found a problem concerning the registration eligibility for the District Council (second) functional constituency (DC(2<sup>nd</sup>) FC).

Section 25(1) of the LCO provides that a person is eligible to be registered as an elector for the DC(2<sup>nd</sup>) FC only if the person is a person specified in section 20ZC. Section 20ZC specifies that the DC(2<sup>nd</sup>) FC is composed of persons who are registered as electors for geographical constituencies (GCs) but are not registered as electors for any of the functional constituencies (FCs) specified in section 20(1)(a) to (zb). Section 3 interprets that "elector" (選民) means a person who is registered in accordance with the LCO in a final register and who is not disqualified from being registered or from voting at an election. Taking these together, it is clear that a person is eligible to be registered as an elector for the DC(2<sup>nd</sup>) FC only if the person is **registered as an elector for a GC in a final register for GCs** but is not registered as

an elector for any of the functional constituencies specified in section 20(1)(a) to (zb) in a final register for FCs.

Section 25(6) of the LCO stipulates that a person who is a member of a body specified in any of the specified sections is eligible to be registered as an elector for the relevant functional constituency only if the person has been a member of the body for the 12 months immediately before making an application for registration as an elector (“12-month membership requirement”). It is illogical and inconsistent that, for a person who is a person specified in any of the sections without the 12-month membership requirement, the reference date for determining the eligibility of the person is a date other than the date that person makes an application for registration as an elector.

The consequence is serious. For a non-elector, who is qualified to be registered as an elector for a GC and applies for registration as an elector for a GC and as an elector for the DC(2<sup>nd</sup>) FC in the 2012 registration cycle, can only be registered as an elector for a GC in the 2012 cycle. He will become eligible to be registered as an elector for the DC(2<sup>nd</sup>) FC only upon or after the publication of the 2012 final register for GCs. He will also miss the part of the 2012 LegCo election to return 5 members for the DC(2<sup>nd</sup>) FC.

Section 6 of the Schedule to the LCO provides for the automatic registration of electors in the first register for the DC(2<sup>nd</sup>) FC for 2012 by using the final register for GCs for 2011 and the provisional register for GCs to be published for 2012 as the basis. However, some of the records in the provisional register for GCs to be published for 2012 will be the records of new GC electors (those not in 2011 final register for GCs) who will become eligible to be registered as electors for the DC(2<sup>nd</sup>) FC only upon or after the publication of the 2012 final register for GCs. As the first register for the DC(2<sup>nd</sup>) FC is a provisional register which is published before a final register, section 6 of the Schedule therefore contravenes section 25(1) because the first register for the DC(2<sup>nd</sup>) FC to be compiled in accordance with section 6 of the Schedule will contain records of persons who are not yet eligible to be registered as electors for the DC(2<sup>nd</sup>) FC.

I should be grateful if you could confirm whether the Government would solve the problem by amending the LCO. By copy of this letter, the Secretary General of the Legislative Council is requested to copy this letter to all Legislative Council Members who have the responsibility to press the Government for taking

due action. Thanks.

Yours faithfully,

Handwritten signature in black ink, appearing to read 'PUN'.

AU Chung-pun

c.c. Secretary General, Legislative Council