

立法會
Legislative Council

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**Paper for the House Committee meeting
on 26 November 2010**

**Report of the Subcommittee on District Councils Ordinance
(Amendment of Schedule 3) Order 2010**

Purpose

This paper reports on the deliberations of the Subcommittee on District Councils Ordinance (Amendment of Schedule 3) Order 2010 ("the Order").

Background

2. The number of elected seats on each of the 18 District Councils ("DCs") is stipulated in Schedule 3 to the District Councils Ordinance (Cap. 547) ("DCO"). At present, there are a total of 405 elected DC members (breakdown by districts in **Appendix I**). Pursuant to section 8 of DCO, the Chief Executive in Council may, subject to the approval of the Legislative Council ("LegCo"), amend Schedule 3 by order published in the Gazette.

3. Within the number of elected seats for each DC, the Electoral Affairs Commission ("EAC") has the statutory authority to recommend the boundaries of corresponding DC constituency areas ("DCCAs") before each DC election. In demarcating the constituency boundaries, EAC must follow the criteria laid down in section 20(1) of the EAC Ordinance (Cap. 541). Section 20(1) requires that the population sizes of DCCAs should be as near the territory-wide average ("the population quota") as practicable. The population quota means the total population of Hong Kong divided by the total number of elected members to be returned in the DC ordinary election (section 17(1) of EAC Ordinance). Section 20(1) also requires that deviation from the population quota should be within 25%. Section 20(5) allows EAC to depart from the strict application of section 20(1), if EAC considers such a departure necessary or desirable having regard to such

factors as the preservation of local ties, community identities and physical features of the relevant areas.

4. Pursuant to section 18 of the EAC Ordinance, EAC shall submit a report to the Chief Executive ("CE") on its recommendations for the delineation of DCCAs. The 18 DCs at present comprise 405 constituencies in which all elected members are returned through the first-past-the-post system.

The Order

5. The Order is to amend Schedule 3 to the DCO to add a total of seven elected seats to six DCs from the fourth term DCs which starts on 1 January 2012 as follows -

- (a) addition of one more elected seat for each DC in Kwun Tong, Yau Tsim Mong, Kwai Tsing, North District and Sai Kung; and
- (b) addition of two more elected seats for the Yuen Long DC.

6. According to the Administration, the proposed increase has taken into account the result of an overall review on the number of elected seats for each DC having regard to the population forecast for Hong Kong in 2011. As projected by the Planning Department, the total population of Hong Kong in mid-2011 will increase to 7 120 200. Since the Administration proposes to maintain the population quota of 17 275 adopted for the 2007 DC election, the total number of elected seats for the fourth term DCs should be 412 ($7\ 120\ 200 \div 17\ 275$), that is, seven seats more than that of the current term of 405 seats.

7. For the purpose only of enabling arrangements to be made for the holding of the DC election in 2011, the Order shall come into operation on a day before 1 January 2012 to be appointed by the Secretary for Constitutional and Mainland Affairs ("SCMA") by notice published in the Gazette. In so far as it has not come into operation as stated above, the Order shall come into operation on 1 January 2012. EAC will proceed with the demarcation of constituency boundaries for the 2011 DC election with regard to the revised number of elected DC seats as stipulated in the Order, if approved.

The Subcommittee

8. At the House Committee meeting on 8 October 2010, Members agreed that a subcommittee should be formed to study the Order. At the request of the House Committee, SCMA withdrew his notice for moving the motion at the Council meeting on 20 October 2010 to allow time for the Subcommittee to study the Order in detail.

9. The membership list of the Subcommittee is in **Appendix II**. Under the chairmanship of Mr IP Kwok-him, the Subcommittee has held two meetings with the Administration. The Subcommittee has also received views from deputations at one of the meetings. The names of the organizations/individuals that have submitted views to the Subcommittee are in **Appendix III**.

Deliberations of the Subcommittee

Allocation of new elected seats and population quota

10. The Subcommittee notes that on the basis of the projected population of each district, the Administration has calculated the number of elected seats for each DC in 2011 according to the proposed population quota of 17 275 ("calculated number of seats") as detailed in **Appendix IV**. The seven new elected seats are allocated as follows –

- (a) for the five DCs (i.e. Kwun Tong, Yau Tsim Mong, Kwai Tsing, North District and Sai Kung) where the calculated number of seats is higher than existing number of seats by over one seat, they will be allocated one extra seat each; and
- (b) for the Yuen Long DC where the calculated number of seats is higher than the existing number of seats by over four seats, it will be allocated two extra seats.

11. Some members, including Ms Cyd HO, Mr Ronny TONG and Mr CHEUNG Man-kwong, are of the view that the numbers of elected seats should be further increased for the DCs where the respective proposed numbers of seats are lower than the calculated numbers of seats. Ms Cyd HO has suggested that the number of additional elected seats to be allocated to these DCs should be based strictly on the number of seats calculated according to the population quota. She considers that the appointed DC seats in these DCs should be abolished to make way for more elected seats.

Mr Ronny TONG has suggested that at least one more additional elected seat should be allocated to the Yuen Long DC, given that it is the only DC with a shortfall of two elected seats between the proposed number of seats and the calculated number of seats while the shortfall for the other DCs is only one seat. Mr CHEUNG Man-kwong has suggested that the population quota should be adjusted slightly downward to around 17 033, thereby increasing the total number of elected seats for the fourth term DCs from 412 to 418 (i.e. $7\,120\,200 \div 17\,033$). With the six extra seats, there will be no shortfall in the proposed number of elected seats for the DCs concerned.

12. Some other members, including Mr IP Kwok-him and Mr WONG Kwok-kin, have expressed concern about the impact on the integrity of local communities should a larger number of elected seats be added in the fourth term DCs. While expressing support in principle for increasing the number of elected DC seats to provide for more room for political participation, Mr IP Kwok-him considers it important to ensure that the addition of elected seats would not result in major changes to the boundaries of existing DCCAs which would disrupt the established cohesiveness of local communities.

13. After consideration of members' views, the Administration maintains its position that the current proposal on the allocation of new elected seats is appropriate. The Administration has reiterated that its proposal on the allocation of the seven additional elected seats is made having regard to the projected population of each district and the current number of elected seats of each DC. For DCs where the number of elected seats calculated according to the population quota is lower than the existing number of seats, no change would be made to the number of elected seats so as not to affect the provision of services to the public in the districts concerned. As a result, the numbers of the elected seats for the six DCs mentioned in paragraph 10 above would not be increased strictly in accordance with the projected population in the respective districts and the population quota. The Administration has pointed out that should a larger number of elected seats be added in the fourth term DCs, it might necessitate the adjustment of the boundaries of more existing DCCAs in order to comply with the population quota requirement as set out in the EAC Ordinance.

14. The Administration has further advised that in proportional terms the proposed increase of seven elected seats for the fourth term DCs for a population increase of about 120 000 is already higher than that for the second term DCs when there was an addition of 10 elected seats for a population increase of about 230 000 and the third term DCs when five elected seats were added for a population increase of about 190 000.

15. Mr LEUNG Yiu-chung considers it necessary to review the existing arrangement of determining the number of additional elected seats for the relevant DCs before embarking on the delineation of DCCAs, with a view to reducing the disparity in population sizes among DCCAs. In his view, a more reasonable and fair approach is to delineate the DCCAs first in accordance with the population quota to work out the number of elected seats for each district before determining the total number of new elected seats to be added.

16. The Administration has advised that its proposal for increasing the number of elected seats for the DCs concerned was made on the basis of the projected population increase of the districts in 2011 with a view to reducing the extent of deviation from the population quota of the DCs concerned. In demarcating the constituency boundaries, EAC is mindful of the statutory requirement that the population in each constituency should be as near the population quota as practicable. In practice, there are bound to be deviations from the population quota on account of community and geographical considerations. The Administration has further advised that under the existing statutory provisions, EAC is required to recommend the boundaries of DCCAs with regard to the number of elected seats as stipulated in Schedule 3 to DCO. The Administration envisages that EAC would have encountered considerable difficulties in making determinations on representations made during public consultation if there had been no prescribed number of elected seats for each DC. The Administration considers that the existing arrangement has been working well and should continue to be adopted.

17. Ms Emily LAU has expressed the view that the existing population quota should be raised and the proportional representation system should be adopted for returning DC members so as to make elected DC members accountable to electors of larger constituencies and enhance their representativeness. The Administration has advised that there are different views among Members on the level of population quota and the Administration considers that for the 2011 DC election, the population quota of 17 275 for the third term DCs should continue to be adopted.

Procedure and timetable for the delineation of DCCAs for the 2011 DC election

18. Members have enquired about the timetable for the delineation of DCCAs for the fourth term DCs and how it compares with that for the third term DCs. The Administration has advised that as it had focused its work

on the two electoral methods for 2012 in the earlier part of the year, the current timetable is a few months late as compared with that of the last DC election. The Subcommittee has expressed grave concern about the delay in finalizing the delineation of DCCAs since it would affect the preparation work of prospective candidates who plan to participate in the next DC election to be held in November 2011. The Subcommittee has urged the Administration to expedite the work and advance the timetable for the current exercise.

19. At the Subcommittee's request, the Administration has reviewed the timetable for the current exercise. According to the Administration, for the last exercise, the EAC report containing recommendations on the delineation of DCCAs ("the EAC Report") was submitted to CE five and a half months after LegCo approved the subsidiary legislation providing for the addition of elected seats in the third term DCs. Having critically reviewed the timetable for the current exercise, the Administration has undertaken to compress the relevant time frame to about four months. Upon completion of work of the Subcommittee, the Administration will move a motion to seek LegCo's approval of the Order as soon as possible; and EAC will, after gazettal of the Order, commence public consultation on its provisional recommendations on the delineation of DCCAs in early December 2010 for a period of not less than 30 days pursuant to section 19 of the EAC Ordinance. The Administration has stressed that based on the provisional recommendations, prospective candidates and the public should have a reasonably clear idea of the proposed delineation of the DCCAs and can start their preparation for participating in the 2011 DC election. After the public consultation, it is expected that the EAC Report will be submitted to CE by March 2011. The Administration will then prepare immediately the Declaration of Constituencies (District Councils) Order 2011 ("the Declaration Order") for consideration by the Chief Executive in Council pursuant to section 6 of DCO and table the EAC Report and the Declaration Order at LegCo, with a view to completing the legislative exercise on the declaration of DCCAs as soon as practicable.

20. Mr IP Kwok-him has enquired whether there is room for further advancing the timetable for the current exercise such that the delineation of DCCAs can be finalized by early March 2011. The Administration has advised that the time required for the production of the EAC Report will depend on the number of written and oral representations received by EAC during the public consultation period. EAC has to consider all the representations having regard to the relevant statutory criteria and the established working principles adopted in the previous exercises. For

representations submitting that special physical characteristics of individual areas should be taken into account in the delineation exercise, staff of the Registration and Electoral Office may conduct site visits to the specific areas concerned. Furthermore, pursuant to section 18 of the EAC Ordinance, the EAC Report should contain summaries of all the representations received and the reasons for EAC's recommendations. Given the time required for production of the DCCA boundary maps and the compilation of the EAC Report, it is expected that the EAC Report will be submitted to CE by March 2011.

Recommendation

21. The Subcommittee supports SCMA giving fresh notice to move the motion on the Order at the Council meeting on 1 December 2010.

Advice Sought

22. Members are invited to note the deliberations of the Subcommittee.

Council Business Division 2
Legislative Council Secretariat
25 November 2010

Number of Elected Seats on District Councils

<u>District Council</u>	<u>Number of Elected Seats</u>
Egpvcn'cpf 'Y guvtp 'F kvtlev'Eqwpekn'	" 37"
Gcuvtp 'F kvtlev'Eqwpekn'	" 59"
Mqy nqpp'Ekv 'F kvtlev'Eqwpekn'	" 44"
My wp'Vqpi 'F kvtlev'Eqwpekn'	" 56"
Uj co 'Uj wk'Rq 'F kvtlev'Eqwpekn'	" 43"
Uqwj gtp 'F kvtlev'Eqwpekn'	" 39"
Y cp'Ej ck'F kvtlev'Eqwpekn'	" 33"
Y qpi 'Vck'Ukp 'F kvtlev'Eqwpekn'	" 47"
[cw'Vuko 'O qpi 'F kvtlev'Eqwpekn'	" 38"
Kurpf u'F kvtlev'Eqwpekn'	" 32"
My ck'Vukpi 'F kvtlev'Eqwpekn'	" 4 "
P qt vj 'F kvtlev'Eqwpekn'	" 38"
Uck'Mwpi 'F kvtlev'Eqwpekn'	" 45"
Uj c'Vkp 'F kvtlev'Eqwpekn'	" 58"
Vck'Rq 'F kvtlev'Eqwpekn'	" 3; "
Vuwgp 'Y cp 'F kvtlev'Eqwpekn'	" 39"
Vwgp 'O wp 'F kvtlev'Eqwpekn'	" 4; "
[wgp 'Nqpi 'F kvtlev'Eqwpekn'	" 4; "
Vqvcn'<"	" 627"

**Subcommittee on District Councils Ordinance
(Amendment of Schedule 3) Order 2010**

Membership list

Chairman	Hon IP Kwok-him, GBS, JP
Members	Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP Hon CHEUNG Man-kwong Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP Hon LEUNG Yiu-chung Dr Hon Philip WONG Yu-hong, GBS Hon WONG Yung-kan, SBS, JP Hon Emily LAU Wai-hing, JP Hon Audrey EU Yuet-mee, SC, JP Hon WONG Kwok-hing, MH Hon LEE Wing-tat Hon CHEUNG Hok-ming, GBS, JP Hon Ronny TONG Ka-wah, SC Hon CHIM Pui-chung Hon Cyd HO Sau-lan Hon Starry LEE Wai-king, JP Dr Hon LAM Tai-fai, BBS, JP Dr Hon Priscilla LEUNG Mei-fun Hon WONG Kwok-kin, BBS Hon Alan LEONG Kah-kit, SC Total: 20 Members
Clerk	Ms Amy YU
Legal Adviser	Ms Clara TAM
Date	26 October 2010

《 2010年區議會條例(修訂附表3)令 》小組委員會
Subcommittee on District Councils Ordinance
(Amendment of Schedule 3) Order 2010

曾向小組委員會表達意見的團體/個別人士名單
List of organizations/individuals which/who have
submitted views to the Subcommittee

<u>名稱</u>	<u>Name</u>
1. 公民黨	Civic Party
* 2. 東區區議會議員楊位醒先生	Mr YEUNG Wai-sing, member of Eastern District Council
* 3. 南區區議會議員司馬文先生	Mr Paul Zimmerman, member of Southern District Council
* 4. 南區區議會議員楊默博士	Dr YANG Mo, member of Southern District Council
5. 逸東社區網絡協會	Yat Tung Community Network Association
* 只提交書面意見的個別人士	Individuals who have submitted written views only

Proposed Allocation of Elected Seats for the Fourth Term District Councils

Appendix IV

2007 Total Population (Projected Figures)	6,996,222
Population Quota (2007 Figure)	17,275
Current Number of Elected Seats	405

2011 Total Population (Projected Figures)	7,120,200
Population Quota (Proposed)	17,275 (same as in 2007)
Proposed Number of Elected Seats	412
Proposed Additional Elected Seats	7

- (1) For DCs where the number of elected seats in 2011 according to population quota (“calculated number of seats”) is smaller than or equal to the existing number of seats, there will be no change to the number of seats.
- (2) For five DCs (i.e. Kwun Tong, Yau Tsim Mong, Kwai Tsing, North District and Sai Kung) where the calculated number of seats is higher than existing number of seats by over one seat, they will be allocated one extra seat.
- (3) For Yuen Long where the calculated number of seats is higher than the existing number of seats by over four seats, it will be allocated two extra seats.

District Council	(A) 2011 Projected Population	(B) Calculated Number of Seats	(C) Current Number of Elected Seats	Deviation of current number of seats from calculated number of seats		(F) Proposed Number of Additional Elected Seats	(G) Proposed Number of Elected Seats ((C) +(F))
				(D) Calculated Number of Seats is <i>lower than</i> Current Number of Elected Seats	(E) Calculated Number of Seats is <i>higher than</i> Current Number of Elected Seats		
Central and Western	264 700	15.32	15		0.32		15
Wan Chai	163 400	9.46	11	1.54			11
Eastern	593 600	34.36	37	2.64			37
Southern	279 200	16.16	17	0.84			17
Sham Shui Po	376 300	21.78	21		0.78		21
Kowloon City	374 300	21.67	22	0.33			22
Wong Tai Sin	421 100	24.38	25	0.62			25
Kwun Tong	622 400	36.03	34		2.03	1	35
Yau Tsim Mong	317 600	18.38	16		2.38	1	17
Kwai Tsing	506 300	29.31	28		1.31	1	29
Tsuen Wan	295 000	17.08	17		0.08		17
Tuen Mun	498 300	28.85	29	0.15			29
Yuen Long	577 500	33.43	29		4.43	2	31
North	312 900	18.11	16		2.11	1	17
Tai Po	295 800	17.12	19	1.88			19
Sha Tin	631 100	36.53	36		0.53		36
Sai Kung	434 900	25.18	23		2.18	1	24
Islands	156 000	9.03	10	0.97			10
Total:	7 120 200 *	412	405			7	412

* Due to rounding, there is a slight discrepancy between the sum of the project population in the districts and the projected total population.