

立法會

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Bills Committee on Hong Kong Arts Development Council (Amendment) Bill 2013

Background brief prepared by the Legislative Council Secretariat

Purpose

This paper provides background information on the Hong Kong Arts Development Council (Amendment) Bill 2013 ("the Amendment Bill") and gives a brief account of the past discussions by the Panel on Home Affairs ("the Panel") on issues relating to the nomination of representatives of arts interests for the Hong Kong Arts Development Council ("HKADC").

Background

2. HKADC was established as a statutory body in 1995 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 27 members, of which a Chairman, a Vice-chairman and not more than 22 other members shall be appointed by the Chief Executive ("CE") for a term not exceeding three years. Pursuant to section 3(4) and 3(5) of the HKADC Ordinance, the members of HKADC may include up to 10 persons nominated by organizations or groups of organizations representing the 10 specified arts interests (viz. arts administration, arts criticism, arts education, Chinese opera (Xiqu), dance, drama, film arts, literary arts, music and visual arts).

3. Since its establishment, HKADC has undergone seven nomination exercises, with the latest one conducted in 2010. Following the past practice, the 2010 nomination exercise proceeded in four phases, including –

(a) Phase 1 - registration of members of the nominating bodies

Eligible arts organizations or individual arts workers may register as members of the nominating bodies of the respective arts interests.

Registered members of the nominating bodies are published in the gazette¹.

(b) Phase 2 - voter registration

Arts organizations which have been registered as members of the nominating bodies may register their members or their employees who engage in artistic productions or arts administration as voters. Individual arts workers who are registered as members of nominating bodies may participate in the voting process without undergoing voter registration through arts organizations.

(c) Phase 3 - candidate nomination

Unless disqualified under section 3(6) of the HKADC Ordinance, registered voters may seek candidature in their respective arts interest. A valid candidate nomination should be backed by five proposers or 1% of the number of the registered voters from the respective arts interest (whichever is the higher).

(d) Phase 4 - electioneering and polling

Under a "cross-arts interest voting system", each voter may cast one vote in each contested arts interest, for candidates standing for nomination to come up with persons nominated by the arts interests for the CE's consideration for appointment to HKADC.

4. The current terms of office of members of HKADC will expire on 31 December 2013. According to the Administration, the next nomination exercise will be conducted in 2013 to return arts interests representatives to HKADC for the new term commencing on 1 January 2014. HKADC has set up a working group to review the arrangements and made suggestions for the 2013 nomination exercise. The working group has launched a one-month public consultation in November 2012. Having considered the views and suggestions collected during the public consultation, HKADC has submitted a proposal to the Home Affairs Bureau concerning the arrangements of the 2013 nomination exercise.

¹ Membership of the nominating bodies, once gazetted, will continue to be valid in subsequent nomination exercises without the need for re-registration unless the arts organizations/individual arts workers concerned wish to update their particulars or change the arts interests they have registered.

The Amendment Bill

5. The Administration introduced the Amendment Bill into the Legislative Council ("LegCo") to amend the HKADC Ordinance to remove the restriction of cross-interest nomination of persons for appointment as members of HKADC, and to modify the provision on specification of nominators to provide for specifying organizations or individuals (or both) for each of the interests listed in the Ordinance.

Discussion by the Panel

6. The Panel discussed issues relating to the nomination of representatives of arts interests for HKADC at its meetings on 18 March 2011 and 18 January 2013. The major views of members are as follows –

"Cross-arts interest voting system"

7. When discussing the results of the 2010 nomination exercise at the Panel meeting on 18 March 2011, members considered that the "cross-arts interests voting system" might give rise to a situation whereby an arts organization which had been registered as a member of the nominating bodies of an arts interest might register their members as voters and mobilize them to cast their votes collectively for its preferred candidate in each of the 10 arts interests. Consequently, a single arts organization in an arts interest might dominate the results of the nomination exercises of all other arts interests. Members were also concerned that the numbers of blank votes in the nomination exercise of some arts interests were higher than those received by the elected candidates.

8. The Administration explained that the "cross-arts interests voting system" was introduced in 1999 in the light of the recommendation in the Consultant's Report on Culture, Arts, Recreation and Sports Services issued in March 1999 and after detailed discussions in HKADC. The system aimed at encouraging members of the arts interests to take a holistic view of the arts development in Hong Kong rather than the concerns of individual arts interests only. The Administration also advised that as evidenced by the 2010 nomination exercise in which one voter cast votes for five arts interests on average, the "cross-arts interests voting system" could encourage members of an arts interest to care about other arts interests and the broad development of the arts in Hong Kong.

9. When the Panel was briefed on the results of HKADC's review on the nomination exercise at its meeting on 18 January 2013, members noted that HKADC proposed to allow registered voters to choose the arts interest(s) for

which they would cast their votes, with a view to addressing the concern over the numbers of blank votes received in the previous nomination exercises of some arts interests.

10. There was a suggestion that to enhance the fairness and credibility of the voting process under the "cross-arts interest voting system", a "weighted average" approach to adjust the weight of vote(s) cast by a voter depending on whether he/she was or was not directly involved in the arts interest(s) for which vote(s) were cast by him/her should be adopted. Another suggestion was also made that a "mixed election" model in which each voter would have two votes i.e. one for a candidate standing for nomination representing an arts interest to which the voter belonged, and one for another candidate representing all the arts interests.

11. According to the Administration, the "cross-arts interest voting system" had already addressed the concerns about encouraging wider participation and cross-disciplinary vision. The proposal of HKADC to allow registered voters to choose the arts interest(s) for which they would cast their votes and be allocated ballots according to their choice of arts interest(s) was to address the problem of blank votes.

Relaxing the eligibility criteria for individual arts workers applying for membership of the nominating bodies

12. While welcoming HKADC's proposal to relax the eligibility criteria for individual arts workers to become voters, some members expressed concern that students currently undertaking arts degree programmes and graduates of sub-degree programmes in arts run by local tertiary institutions, overseas graduates in relevant disciplines and winners of overseas awards were excluded from participation in the voting process.

13. The Administration explained that HKADC proposed to allow graduates awarded with a bachelor's degree or above to participate in the voting process because these graduates had attained high levels of academic competence in the arts subjects they studied and had had opportunities to practise and take part in arts creation and performances during their studies. Since students currently undertaking an arts programme and non-degree arts graduates had relatively lower level of academic achievements and less practical experience in the related arts disciplines, HKADC considered it not suitable to relax the requirement to include them as eligible for registration as voters. HKADC had taken into account a number of factors in considering relaxing the eligibility criteria for individual arts workers to also include individuals with awards/honours or qualifications granted by Mainland or overseas

organizations/institutions. In the view of HKADC, registered voters in the nomination exercise should maintain some connection with the local arts community. Also, it would be difficult to verify the credentials of excellence achieved outside Hong Kong.

14. Members noted that under the revised eligibility criteria for arts organizations to become members of the nominating bodies, the arts organization must have conducted works or activities related to the 10 specified arts interests during the three years preceding the commencement of the nomination exercise. There was a view that to uphold the principles of maintaining fairness and encouraging wider participation, individual art workers should also be required to meet this new requirement to be imposed on the arts organizations for membership of the nominating bodies.

15. The Administration advised that it intended to apply this new additional requirement proposed by HKADC to all organization applicants in the 2016 nomination exercise. According to the Administration, HKADC did not consider it necessary to impose an additional requirement for fresh graduates of arts programmes to prove that they had participated in activities relating to the 10 arts interests as these graduates should have already been involved in arts activities during the study of the degree programmes.

Composition of HKADC

16. Some members expressed concern about the existing ratio of appointed members to elected members in HKADC, as only 10 of its 27 members were nominated by the 10 specified arts interests. They considered that a review on the composition of HKADC should be conducted. The Administration advised that while the Administration had no plan to review the ratio of appointed members to elected members in HKADC at this stage, it would maintain an open mind on any proposals for enhancing the representativeness and credibility of HKADC in future.

Relevant papers

17. A list of relevant papers with their hyperlinks at LegCo's website is in the **Appendix**.

**Relevant documents on
the Hong Kong Arts Development Council (Amendment) Bill 2013**

Committee	Date of meeting	Papers
Panel on Home Affairs	18.3.2011 (Item III)	Agenda Minutes
Panel on Home Affairs	18.1.2013 (Item V)	Agenda Minutes

Council Business Division 2
Legislative Council Secretariat
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