

# 立法會 *Legislative Council*

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## **Background brief prepared by Legislative Council Secretariat**

### **Subcommittee on District Councils Ordinance (Amendment of Schedule 3) Order 2013**

#### **Purpose**

This paper provides background information on the review of the number of elected seats for District Councils ("DCs"). It also gives an account of the major concerns raised by members of the Panel on Constitutional Affairs ("the CA Panel") on the review of the number of elected seats for the fifth term DCs.

#### **Background**

2. The number of elected seats on each of the 18 DCs is stipulated in Schedule 3 to the DC Ordinance (Cap. 547) ("DCO"). At present, there are a total of 412 elected DC members (breakdown in **Appendix I**).

3. Within the number of elected seats for each DC, the Electoral Affairs Commission ("EAC") is required under the EAC Ordinance (Cap. 541) 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 of the EAC Ordinance, a copy of which is in **Appendix II**. Section 20(1) requires that the population size of DCCAs should be as near the territory-wide average ("the population quota"<sup>1</sup>) as practicable, and any 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. According to section 18 of the EAC Ordinance, EAC shall submit to the Chief Executive ("CE") its recommendations for the delineation of DCCAs within 36 months from the preceding DC election.

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<sup>1</sup> Section 17(1)(b) of the EAC Ordinance stipulates that 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.

5. In the last DC Election held in December 2011, the population quota amounted to about 17 282 persons. The 18 DCs comprised 412 constituencies in which all elected members were returned through the first-past-the-post system.

### **The District Councils Ordinance (Amendment of Schedule 3) Order 2013**

6. Part 1 of Schedule 3 to DCO provides for the number of members of each DC. The District Councils (Amendment) Ordinance 2013, which sought to amend DCO to abolish the system of appointing members to DCs with effect from 1 January 2016, was passed by the Legislative Council ("LegCo") on 22 May 2013. The District Councils Ordinance (Amendment of Schedule 3) Order 2013 now proposes to amend Part 1 of Schedule 3 to DCO to increase the number of elected members of nine DCs as from the fifth term DCs commencing on 1 January 2016. The overall increase will be 19 elected members (from the present total of 412 elected members to 431). The proposed increases and their distribution are set out in **Appendix III**.

### **Addition of elected seats for the second term DCs (2004-2007)**

7. The first term DCs were made up of 390 elected seats with one elected member to be returned from each of the 390 DCCAs which were delineated on the basis of an average population quota of about 17 000 per constituency. The Administration initially proposed to retain the existing district boundaries of the 18 DCs and to cap the total number of elected seats at 390 for the second term DCs. Due to an overall population increase in the territory, the population quota for each DCCA would be increased to 17 635. The Administration's explanation was that pending the comprehensive review of the roles, functions and composition of DCs to be conducted after the DC elections in late 2003, the status quo should be maintained for the second term DCs.

8. When the Administration briefed the CA Panel and the Panel on Home Affairs ("HA Panel") on its initial proposal at a joint meeting on 4 June 2002, members in general were of the view that it was unreasonable to maintain the same elected membership of all DCs in view of the great variations in the change of population of some of the districts such as Yuen Long and Sai Kung. They considered that the number of elected seats should be increased for districts with substantial population increases. Some members also suggested that the maximum deviation from the population quota for a DCCA should be increased from 25% to 35%.

9. The Administration explained that if the number of elected seats should be altered in the light of population changes, a total of 13 districts would be affected. The number of elected seats would have to be increased for seven of the districts while that of the other six would be reduced. This would result in changes to

the number and boundaries of constituencies in the districts concerned. As regards deviations from the population quota, the Administration advised that EAC was empowered under section 20(5) of the EAC Ordinance to allow the population of certain DCCAs to deviate from the population quota by more than 25%, if a consideration relating to the community identities, preservation of local ties and physical features rendered such a deviation necessary or desirable. The Administration, however, did not consider that legislative amendments should be introduced in this regard.

10. The Administration subsequently informed the CA Panel and the HA Panel at another joint meeting on 27 September 2002 that having regard to the views expressed by LegCo Members and DC members and the significant population increases in certain districts, particularly the three new towns, i.e. Tung Chung, Tseung Kwan O and Tin Shui Wai, it was considered appropriate to have a limited increase in the number of elected seats for the Islands, Sai Kung and Yuen Long DCs. Specifically, the Administration recommended that an extra elected seat should be provided for Islands DC to cater for increase of population in Tung Chung, three elected seats for Sai Kung DC and six for Yuen Long DC.

11. The Electoral Provisions (Miscellaneous Amendments) Bill 2002 which sought to, among others, amend Schedule 3 to DCO to implement the proposal of increasing the number of elected seats for Islands, Sai Kung and Yuen Long DCs was passed by LegCo on 18 December 2002.

### **Addition of elected seats for the third term DCs (2008-2011)**

12. The Administration briefed the CA Panel on 20 February 2006 on its proposal of increasing the numbers of elected seats for the Islands and Sai Kung DCs by two (from eight to 10) and three (from 20 to 23) respectively. According to the Administration, the proposal was put forward having regard to the projected rates of population growth in the two districts between the last DC election in 2003 and the coming DC election in 2007. The rapid population growth of the Islands district was mainly due to the development of the Tung Chung new town, and the high rate of population growth in Sai Kung was mainly due to the development of the Tseung Kwan O new town. Its proposal of increasing the number of elected seats on these two DCs should provide EAC with the necessary scope to redraw the DCCAs in Tung Chung and Tseung Kwan O in such a way as to bring the population-to-seat ratio to within 25% of the population quota without causing substantial changes to the boundaries of other DCCAs in the districts.

13. Some members queried the rationale for the Administration not proposing new elected seats for districts other than the Islands and Sai Kung given the fact that according to the projection, the population of Hong Kong would be

increased by 195 000 in 2007. They further pointed out that there was great variation on the population-to-seat ratio among the 18 DCs, e.g. the ratio in the Wan Chai DC was 13 000 and that in the Kwai Tsing DC was 19 000. These members considered that new DC seats should be provided to districts with overall population growth, and not just districts with population growth in new towns.

14. The Administration explained that following the development of new towns in Tung Chung and Tseung Kwan O, the Islands and Sai Kung districts had respectively experienced rapid population growth and the trend was expected to continue in the coming years. If additional seats were not provided for the two districts, the population-to-seat ratio in Tung Chung and Tseung Kwan O South in 2007 would exceed the population quota by over 25%. There was hence a need to increase the elected seats in the two districts. As regards the remaining 16 districts, the population growth was quite even and the average population size of their constituency areas in 2007 was expected to stay within the statutory deviation limit of 25% of the population quota. There should be room to address the issue of certain constituency areas exceeding the 25% limit in the demarcation of constituency boundaries.

15. Some members were of the view that the existing demarcation of boundaries for DCCAs was far from ideal, for example, the same residential estate could be grouped under three different DCCAs. They suggested that the boundaries of DCCAs could be redefined instead of creating additional seats in the Islands and Sai Kung DCs, or the deviation limit of 25% of the population quota should be applied flexibly so that there would be clear delineation of DCCAs. These members also considered that new seats could be added as and when necessary with a view to maintaining the cohesiveness and identity of local communities.

16. The Administration explained that if seats were not increased in the Islands and Sai Kung, major changes to the boundaries of many existing DCCAs in the two districts would likely be unavoidable. In this regard, DCCAs in rural areas might have to be merged to free up seats for the new towns. These changes would disrupt the cohesiveness and identity of the local communities. In addition, even with substantial changes to the boundaries of DCCAs, the population of some DCCAs might still be more than 25% over the population quota. The Administration pointed out that while it was the duty of the Administration to propose the number of DC seats having regard to the population sizes of the 18 DCs, it was for EAC to decide on the boundaries of DCCAs. If EAC considered a departure from the 25% rule to be necessary having regard to such factors as the preservation of local ties, community identities and physical features of the relevant areas, section 20(5) of the EAC Ordinance allowed EAC to depart from the strict application of the rule.

17. The resolution to increase the number of elected seats for the Islands and Sai Kung DCs by amending Schedule 3 to DCO was approved by LegCo on 7 June 2006.

### **Addition of elected seats for the fourth term DCs (2012-2015)**

18. The Administration briefed the CA Panel on 19 July 2010 on its proposal of increasing seven elected seats for the fourth term DCs (i.e. one extra seat each for Kwun Tong DC, Yau Tsim Mong DC, Kwai Tsing DC, North DC and Sai Kung DC, and two extra seats for Yuen Long DC). Some members expressed concern about the population quota of 17 275 adopted for the calculation of the number of elected seats for each DC in 2011. They suggested raising the population quota by merging three or four DCCAs and adopting the proportional representation system for returning DC members so as to make DC members answerable to electors of larger constituencies and hence broaden their vision. These members considered that the population size of the existing DC constituencies was so small that DC members lacked representativeness and often discussed public policies and community issues from a narrow perspective. Their views were fragmented and decisions could not be made efficiently. With larger population to form a DC constituency, more resources should then be allocated to support the work of the elected members and that would, in turn, attract people of high calibre to participate in district affairs.

19. Some other members, however, considered that the existing population quota appropriate as it enabled individual DC members to maintain a close relationship with local residents and grasp the needs of the relevant constituencies. These members further considered that there was room for population quota to be adjusted downward so that individual DC members could serve better the local residents and more elected DC seats could be created. These members also expressed the view that the sizes of the existing DCCAs were actually not small. They pointed out that if there were two candidates contesting in an election, a candidate had to secure around 2 000 votes in order to get elected and for some DCCAs, the winning candidates had secured as many as 4 000 votes.

20. The Administration advised that it respected the different views of Members on the level of population quota. The Administration explained that the existing population quota was incepted for the first term DCs in 1999 and had been functioning well. The Administration therefore proposed that for the 2011 DC Election, the population quota of 17 275 for the 2007 DC Election should continue to be adopted. It was the view of the Administration that the number of elected DC seats should be adjusted in each term in the light of

population change, so as to provide more room for political talent to participate in politics and to serve the local community.

21. Some members expressed concern that, with the anticipated abolition of DC appointed membership starting from the fourth term DC in 2012, districts with a small elected DC membership might face operational problems following the reduction in the number of appointed DC members. These members asked whether the Administration would consider replacing the appointed DC members by elected DC members, and re-defining the DC boundaries so as to reduce the disparity of elected DC membership among DCs, e.g. the elected DC membership in Wan Chai DC and Eastern DC was 11 and 37 respectively.

22. The Administration advised at that time that it had not decided whether the DC appointed membership would be abolished in one go or in phases. It was the view of the Administration that the issues of appointed DC seats and elected DC seats should be dealt with separately. The Administration explained that as the population in the Wan Chai District was far less than that of the Eastern District, the former had fewer elected DC members. The Administration advised that redefining the district boundaries of the 18 DCs would disrupt the cohesiveness and identity of the local communities. As the 18 DCs and their boundaries had been operating smoothly for many years and were widely accepted by the public, they should not be changed lightly. The Administration informed members that EAC had the statutory authority to recommend the boundaries of DCCAs before each DC ordinary election. The Administration aimed to introduce subsidiary legislation in the autumn of 2010 to effect the proposed addition of the seven elected DC seats. If the legislative proposal was endorsed by LegCo, EAC would take into account the newly added seats in its demarcation of DCCAs for the 2011 DC Election and consult LegCo accordingly.

23. The resolution to add a total of seven elected seats to Kwun Tong, Yau Tsim Mong, Kwai Tsing, North District, Sai Kung, and Yuen Long as detailed in paragraph 18 above by amending Schedule 3 to DCO was approved by LegCo on 1 December 2010.

### **Proposal to increase the number of elected seats for the fifth term DCs (2016-2019)**

24. The Administration briefed the CA Panel on 20 May 2013 on its review of the number of elected seats for the fifth term DCs and the proposed increases in the number of elected seats as set out in paragraph 6 above.

25. Members in general raised no objection to the recommendation to increase the number of elected seats. Some members, however, were of the view that

the population of the existing DC constituencies was so small that DC members lacked representativeness. They queried the basis of setting the population quota at around 17 000, and suggested merging some DCCAs to form larger constituencies and returning DC members through the proportional representation system. The Administration advised that the existing population quota had all along been maintained at around 17 000. It cautioned that raising the population quota might adversely affect the standard of district services provided by DC members as each of them would then have to provide services to more residents. The Administration also advised that as the existing election system for DCs had been operating effectively, there was no plan to introduce new arrangements. However, the Administration would continue to listen to the views of various sectors of the community on the matter.

26. Some members reiterated their concern that some DCs with a small number of elected seats (e.g. Wan Chai DC) might face operational problems following the abolition of all appointed seats from the fifth term DCs. They asked whether consideration would be given to "transferring" some DCCAs from Eastern DC to Wan Chai DC. The Administration advised that it was open as to whether there should be realignment of district boundary, and would continue to listen to the views of the local community, DCs and LegCo. The Administration advised that based on the merger exercise of Yau Tsim and Mong Kok in 1993, the main concerns of local residents had been about the possible impacts on school net for secondary school places and on the provision of public leisure and recreational facilities, as both of which might be affected by changes to the administrative district boundary. The Administration pointed out that some members of Eastern DC were also concerned that the local community might lose its identity and local ties. The Administration advised that it would consult the two DCs and the local residents of the possibly affected DCCAs on the "transfer" proposal.

### **Relevant documents**

27. A list of the relevant documents is in **Appendix IV** for Members' reference. These papers/documents are available on the LegCo's website at <http://www.legco.gov.hk>.

**Number of Elected Seats on District Councils**

<b><u>District Council</u></b>	<b><u>Number of Elected Seats</u></b>
Central and Western District Council	15
Eastern District Council	37
Kowloon City District Council	22
Kwun Tong District Council	35
Sham Shui Po District Council	21
Southern District Council	17
Wan Chai District Council	11
Wong Tai Sin District Council	25
Yau Tsim Mong District Council	17
Islands District Council	10
Kwai Tsing District Council	29
North District Council	17
Sai Kung District Council	24
Sha Tin District Council	36
Tai Po District Council	19
Tsuen Wan District Council	17
Tuen Mun District Council	29
Yuen Long District Council	31
Total :	<hr/> 412 <hr/> <hr/>



## Appendix II

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## Contents of Section

Chapter:	541		Title:	<b>Electoral Affairs Commission Ordinance</b>	Add to Printing List	Bookmark
Section:	20		Heading:	<b>Criteria for making recommendations</b>	Gazette Number:	E.R. 2 of 2012
					Version Date:	02/08/2012

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(1) In making recommendations for the purposes of this Part, the Commission shall-

- (a) ensure that the extent of each proposed geographical constituency is such that the population in that constituency is as near as is practicable to the number which results (*the resulting number*) when the population quota is multiplied by the number of members to be returned to the Legislative Council by that geographical constituency pursuant to any electoral law;
- (b) where it is not practicable to comply with paragraph (a) in respect of a proposed geographical constituency, ensure that the extent of the constituency is such that the population in that constituency does not exceed or fall short of the resulting number applicable to that constituency, by more than 15% thereof;
- (c) ensure that the extent of each proposed District Council constituency is such that the population in that constituency is as near the population quota as practicable; (Added 8 of 1999 s. 89)
- (d) where it is not practicable to comply with paragraph (c) in respect of a proposed District Council constituency, ensure that the extent of the proposed constituency is such that the population in that constituency does not exceed or fall short of the population quota, by more than 25% thereof. (Added 8 of 1999 s. 89)

(2) In making such recommendations the Commission shall ensure that each proposed geographical constituency is constituted by 2 or more contiguous whole District Council constituencies.

(3) In making such recommendations the Commission shall have regard to-

- (a) community identities and the preservation of local ties; and
- (b) physical features such as size, shape, accessibility and development of the relevant area or any part thereof.

(4) In making such recommendations in relation to a general election the Commission shall have regard to-

- (a) existing boundaries of Districts; and
- (b) existing boundaries of geographical constituencies. (Replaced 78 of 1999 s. 7)

(4A) Subject to subsection (4B), in making such recommendations in relation to an ordinary election, the Commission must follow the existing boundaries of Districts and the existing number of members to be elected to a District Council as specified in or under the District Councils Ordinance (Cap 547). (Added 8 of 1999 s. 89)

(4B) If the Chief Executive in Council makes any order under section 8 of the District Councils Ordinance (Cap 547)-

- (a) not later than 12 months before the deadline for submitting a report for the ordinary election to which the recommendations relate; and
- (b) which is applicable in relation to that ordinary election; and

(c) for the purpose of declaring Districts or specifying the number of members to be elected to a District Council,

the Commission must, in making such recommendations in relation to that ordinary election, follow the boundaries of the Districts as declared in the relevant order and the number of members to be elected as specified in the relevant order. (Added 8 of 1999 s. 89)

(5) The Commission may depart from the strict application of subsection (1) only where it appears that a consideration referred to in subsection (3) renders such a departure necessary or desirable.

(6) The Commission shall, for the purposes of subsection (1)-

(a) endeavour to estimate the total population of Hong Kong or any proposed constituency, as the case may be, in the year in which the election to which the recommendations relate, is to be held; and

(b) if it is not practicable to comply with paragraph (a), estimate the population of Hong Kong, the geographical constituency or the District Council constituency, as the case may be, having regard to the available information which is the best possible in the circumstances for the purpose of making recommendations.

(7) In this section-

**District** (地方行政區) has the meaning assigned to it by the District Councils Ordinance (Cap 547). (Replaced 8 of 1999 s. 89)

(Amended 8 of 1999 s. 89; 78 of 1999 s. 7)

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**The proposed number of additional elected members  
for the fifth term DCs**

<b>DC</b>	<b>Current number of elected members</b>	<b>Proposed number of elected members</b>	<b>Proposed number of additional elected members</b>
Tsuen Wan	17	18	1
North	17	18	1
Sham Shui Po	21	23	2
Kowloon City	22	24	2
Kwun Tong	35	37	2
Yau Tsim Mong	17	19	2
Sha Tin	36	38	2
Sai Kung	24	27	3
Yuen Long	31	35	4
		<b>Total</b>	<b>19</b>

## Appendix IV

### Relevant documents on Subcommittee on District Councils Ordinance (Amendment of Schedule 3) Order 2013

Committee	Date of meeting	Paper
Panel on Constitutional Affairs ("CA Panel") and Panel on Home Affairs	4 June 2002 (Item II)	<a href="#">Agenda Minutes</a>
	27 September 2002 (Item II)	<a href="#">Agenda Minutes</a>
Legislative Council	3 July 2002	<a href="#">Official Record of Proceedings Pages 89 - 90 (Written question raised by Dr Hon TANG Siu-tong)</a>
CA Panel	20 February 2006 (Item V)	<a href="#">Agenda Minutes</a>
Legislative Council	3 December 2008	<a href="#">Official Record of Proceedings Pages 34 - 44 (Oral question raised by Hon Emily LAU)</a>
CA Panel	19 July 2010 (Item III)	<a href="#">Agenda Minutes</a>
House Committee	26 November 2010	<a href="#">Report of the Subcommittee on District Councils Ordinance (Amendment of Schedule 3) Order 2010</a>
House Committee	6 May 2011	<a href="#">Report of the Subcommittee on Declaration of Constituencies (District Councils) Order 2011</a>
CA Panel	20 May 2013 (Item III)	<a href="#">Agenda</a>

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