

# 立法會

## *Legislative Council*

LC Paper No. CB(2)1565/12-13(03)

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### **Panel on Constitutional Affairs**

#### **Updated background brief prepared by the Legislative Council Secretariat for the meeting on 15 July 2013**

#### **Review of the voter registration system and related matters**

#### **Purpose**

This paper provides background information and summarizes major issues raised by relevant committees of the Legislative Council ("LegCo") in respect of the voter registration ("VR") system for the LegCo and District Council ("DC") elections since the First LegCo. This paper also gives a brief account of the past discussion of LegCo Members on the use of the electoral register.

#### **Background**

##### Eligibility for VR

2. For a DC election, only a registered elector is eligible to vote. A registered elector is a person whose name appears on the final register of geographical constituencies ("GC") which is in force at the time of election as compiled and published by the Electoral Registration Officer ("ERO") under the Legislative Council Ordinance (Cap. 542) ("LCO"). According to section 29(3) of the District Councils Ordinance (Cap. 547), a person may only vote in respect of the DC constituency for which the person is registered as an elector in the register.
3. For a LegCo election, only a registered elector, i.e. a person whose name appears on the final register which is in force at the time of the election, is eligible to vote. The qualifications for registration as electors for GCs and functional constituencies ("FCs") (paragraph 9 refers) are provided in LCO.
4. To qualify for registration as an elector in a GC, an individual has to satisfy all the following requirements -
  - (a) in any year other than a year in which a DC ordinary election is to be held ("non DC election year"), he has to be aged 18 years or above

as at 25 July next following his application for registration (or 25 September in a DC election year);

- (b) he is a permanent resident of Hong Kong;
- (c) (i) he ordinarily resides in Hong Kong and the residential address in his application for registration is his only or principal residence in Hong Kong; or
  - (ii) if he is a person serving a sentence of imprisonment and at the time of the application does not have a home in Hong Kong outside the prison, the following prescribed address is deemed to be the person's only or principal residence in Hong Kong for the purpose of VR -
    - (1) the last dwelling-place in Hong Kong at which the person resided and which constituted his sole or main home; or
    - (2) the residential address of the person last recorded by the Immigration Department under the Registration of Persons Regulations (Cap. 177A) if the person cannot provide any proof on his last dwelling place in Hong Kong.
- (d) he holds an identity document or has applied for a new identity document or a replacement identity document; and
- (e) he is not disqualified from being registered as an elector by virtue of section 31 of LCO.

The disqualification provisions which also apply to the VR for FCs in section 31 of LCO are in **Appendix I**.

5. According to section 28 of LCO, a reference to a person's only or principal residence in Hong Kong is a reference to a dwelling-place in Hong Kong at which the person resides and which constitutes the person's sole or main home.

6. The Electoral Affairs Commission (Registration of Electors) (LegCo GCs) (DC Constituencies) Regulation (Cap. 541A) stipulates a statutory timeframe for receiving applications for VR as electors for GCs, publication of the provisional register, omission list and final register, and determination of claims and objections in an annual registration cycle. An applicant who qualifies for registration will be allocated to the relevant GC and DC Constituency Area on

the basis of his residential address. The deadline for receiving VR applications and the publication of the final register are approximately two months apart in a VR cycle. The statutory timetables for the VR cycle in a DC election year and a non DC election year are in **Appendix II**.

7. Section 32(4) of LCO states that in compiling a provisional register, ERO must strike out the name and particulars of a registered elector from the final register of electors if the person is no longer eligible to be an elector. At the same time when the provisional register for GCs is published, ERO will also publish the omissions list, containing the names and residential addresses of persons formerly registered as GC electors. These particulars are struck out from the provisional register and proposed to be omitted from the next final register, based on the information received by ERO who is satisfied on reasonable grounds that these persons are no longer eligible to be registered or have been disqualified.

8. An individual who is already registered in the final register of GCs is not entitled to be included as an elector in the next register of GCs if -

- (a) he has ceased to ordinarily reside in Hong Kong;
- (b) he no longer resides at the residential address recorded against his name in the existing register and ERO does not know his new principal residential address in Hong Kong;
- (c) he is no longer a permanent resident of Hong Kong;
- (d) he was an imprisoned person who used his last dwelling-place in Hong Kong at which he resided or the address last recorded under the Registration of Persons of Regulations as the address for registration as an elector and who had served his sentence of imprisonment and left the prison without reporting his new residential address to ERO; or
- (e) he is disqualified for being registered as an elector by virtue of section 31 of LCO.

9. FCs and their electors are provided for in sections 20A to 20ZC of and Schedules 1 to 1E to LCO. Two kinds of persons (i.e. a natural person (individual) and a body) are eligible to be registered as FC electors. If the person is an individual, he must also be either registered for a GC or eligible to be registered for a GC and has made an application to be so registered. A body is eligible to be registered as a corporate elector for the relevant FC only if it has been operating

for the 12 months immediately before making an application for registration as an elector. The electorate of the new DC (second) FC is composed of persons who are registered as electors for GCs but are not registered as electors for any of the other 28 traditional FCs. Electors registered for the traditional FCs<sup>1</sup> may choose to be registered for their own FCs or for the DC (second) FC. Similar to the VR for GCs, ERO is responsible for publishing the provisional registers, the omissions list and the final registers for FCs.

### Offence

10. It is an offence under section 22 of Cap. 541A for a person to make any statement which the person knows to be false in a material particular or recklessly makes any statement which is incorrect in a material particular or knowingly omits any material particular when furnishing ERO with information regarding his application for registration.

11. The Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) ("ECICO") is enforced by the Independent Commission Against Corruption ("ICAC"). According to section 16 of ECICO, it is an offence for any person -

- (a) to vote at an election knowing that he is not entitled to vote at that election;
- (b) to vote at an election after having knowingly or recklessly given materially false or misleading information to an electoral officer, or to vote at an election after having knowingly omitted to give material information to an electoral officer;
- (c) (i) to vote at an election more than once in the same GC, or to vote in more than one GC, or  
(ii) to vote more than once in the same FC, or vote in more than one FC,  
except as expressly permitted by an electoral law; or
- (d) to invite or induce another person to commit the act in (a), (b) or (c) above.

The maximum penalty for the above offences is a fine of \$500,000 and imprisonment for seven years.

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<sup>1</sup> The arrangement for FC electors to choose to be registered in the DC (second) FC is not applicable to the electors in the Heung Yee Kuk, Agriculture and Fisheries, Insurance, Transport, and DC (first) FCs.

## **Review of VR system conducted after the 2011 DC Election**

12. After the 2011 DC Election, there were complaints and media reports on cases of suspected false addresses of electors. To address public concern and to maintain the integrity of the VR system, the Administration conducted a review in late 2011. Having considered Members' views, the Government announced that it would implement a number of improvement measures starting from 1 January 2012 and would conduct public consultation on the other proposed measures. The enhanced checking measures implemented by the Registration and Electoral Office ("REO") since January 2012 are set out in **Appendix III**.

13. On 16 January 2012, the Administration issued the Consultation Paper on Proposed Improvement Measures of the VR System ("the Consultation Paper") for public consultation which ended on 2 March 2012. In April 2012, the Consultation Report was published. In light of the views received, the Administration decided not to pursue some of the proposed measures including the proposed requirement for address proof and the proposed penalty concerning update of address.

### Members' views on the proposals contained in the Consultation Paper

14. During discussion on the proposed improvement measures put forward in the Consultation Paper at meetings of the Panel on Constitutional Affairs ("the CA Panel")<sup>2</sup>, members expressed views on the following proposed measures -

(a) *The proposed requirement for address proof and proposed penalty concerning update of address*

15. Members in general expressed reservations about the proposal for introducing a requirement that address proof should be provided as standard supporting evidence at the same time when a person applied for registration as a GC elector or when a registered elector applied for change of his residential address ("the proposed requirement for address proof"), and the proposal of introducing penalty for registered electors who failed to report changes of addresses or who failed to report such changes before the statutory deadline and vote in an election afterwards ("the proposed penalty concerning update of address"). They considered that the proposed requirement for address proof might affect the desire of the public to apply for VR and to vote, and that some eligible voters who were not property owners of the addresses would have

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<sup>2</sup> At its meeting on 19 December 2011, the CA Panel discussed REO's proposed improvement measures to the VR system. After publication of the Consultation Paper, the Panel held a special meeting on 17 February 2012 to receive public views on the relevant proposals. The Administration reported the summary of the public views and its initial position at the Panel meeting on 19 March 2012.

difficulty in producing address proofs. The proposed penalty concerning update of address would also create panic among the public.

*(b) The proposed requirement for producing the poll card before voting*

16. Some members considered that electors should be required to produce poll cards before voting in order to prevent occurrence of vote-rigging cases. Some other members, however, considered that this requirement would cause undue inconvenience to electors who might forget to bring along their poll cards or have lost their polling cards.

*(c) The proposed transfer of offence under Cap. 541A on false declaration to ECICO*

17. The existing offences under section 22 of Cap. 541A on false declaration and the existing offences related to voting under ECICO are enforced by the Police and ICAC respectively. Some members considered that the enforcement of offences separately by two law enforcement agencies was undesirable and suggested that consideration should be given to transferring the offences under section 22 of Cap. 541A to ECICO in order to facilitate the relevant investigation work. The Administration explained that the proposal would have the effect of raising the penalty of the offences under Cap. 541A because offences under ECICO were subject to higher penalties.

*(d) The proposed amendment to the statutory deadlines*

18. Some members suggested that the period of public inspection of the provisional register should be extended to allow for a more meaningful public scrutiny. The Administration advised that extension of the inspection period would require advancing the statutory deadlines for new registration and reporting change of addresses so as to allow sufficient time for ERO to complete the checking and verification processes, and for the public to inspect and to lodge claims and objections, before the publication of the final register.

*(e) The proposed amendment to the register format*

19. Members in general expressed support for the proposal subject to the advice of the Privacy Commissioner for Personal Data that the proposal was not inconsistent with the Personal Data (Privacy) Ordinance (Cap. 486).

20. The Administration's final position on the above proposals is set out in the Consultation Report. The relevant extract is in **Appendix IV**.

## 2013 VR cycle

21. The CA Panel discussed the checking measures implemented by REO for the 2013 VR cycle and the related publicity work at its meeting on 18 March 2013. REO would continue to implement the checking measures adopted in the 2012 VR cycle with modifications with a view to improving the efficiency of the measures. To encourage timely updating of registered particulars, the Administration had earmarked \$6.7 million for the publicity measures in the 2013 VR cycle, which was about three times of the amount typically earmarked for the VR drive in a non-election year.

22. The Administration also informed members that for FCs, in order to enhance the accuracy of the membership information supplied by the bodies specified<sup>3</sup> under LCO, ICAC had agreed to initiate a new and targeted visit-cum-advisory service programme starting from the 2013 registration cycle to further drive home the message of good corporate governance and transparent membership administration. Under the programme, ICAC would proactively offer advisory service to individual specified bodies to help review and enhance their membership administration, ensure procedural compliance and enhance transparency.

## **Major issues relating to VR raised by relevant committees**

### Accuracy of the voter register

23. Under section 24(2)(b) of LCO, a person registered as an elector in an existing final register of GCs shall not be entitled to be included as an elector in any subsequent register if ERO is satisfied on reasonable grounds that the person no longer resides at the residential address recorded in that existing register and ERO does not know his new principal residential address. It is the duty of ERO to maintain accuracy of the voter register by removing from it the name of these electors who no longer reside at their registered addresses.

24. Maintaining the accuracy of the voter register has all along been a concern to Members. Members noted that a full-scale door-to-door visit to all the two million households in the territory had been conducted during the 2000 VR campaign. According to the Administration, the purpose of the household visits was to help all the potential electors to get registered, and to verify and, if necessary, update the records of registered electors on the existing electoral rolls. The Administration informed the CA Panel in 2004 that as the result of

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<sup>3</sup> Section 9 and section 42 of Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541B).

conducting door-to-door household visits for the whole territory during the 2000 VR campaign was found not to be cost effective, household visits would be conducted to newly developed residential areas only.

25. There were media reports that a large number of poll cards mailed by REO for the 2011 DC election were undeliverable. REO had referred all the complaints received where there was a prima facie case of suspected false registered addresses to relevant law enforcement agencies for investigation. At the CA Panel meeting on 18 March 2013, members requested the Administration to provide details of the investigation results on the suspected vote-rigging cases. The supplementary information provided by REO is in **Appendix V**.

#### Removal of registered electors' names from the final register

26. Members expressed concern on various occasions about the removal of registered electors' names from the final register. They stressed that there should be stringent vetting procedure prior to striking out an elector's name from the voter register. They pointed out that some electors were only aware of the removal of their names from the final register on the polling day. Even if an elector realized that he had not received a polling card and reported to REO, it would be too late to reinstate his voting right in the upcoming election because the deadline for registration had already lapsed. Members suggested that the Administration should devise user-friendly measures for electors to update their particulars with REO and to check their status in the voter register such as enabling an elector to check on-line his registration status in the voter register.

27. Regarding the 2012 LegCo Election, the CA Panel expressed concern at various meetings about the removal of some 210 000 electors' names from the final registers of electors. Some members expressed concern whether the enhanced checking measures adopted by REO were over-stringent. REO assured members that it had strictly followed the relevant statutory procedures in the implementation of the checking measures. Each of the electors concerned had received two to three checking/inquiry/reminder letters from REO before they were removed from the final register in accordance with the relevant electoral legislation. REO had endeavored to strike a balance between upholding the accuracy and integrity of the VR system and safeguarding a person's voting right as far as possible.

#### Streamlining procedures for VR

28. The CA Panel has discussed the subject of the implementation of automatic VR on various occasions. While some members were of the view that implementation of an automatic VR system should be the long-term solution to the issues arising from VR, some other members held the view that it was not



necessary to implement such a system, taking into account the technical problems identified and the right of eligible persons to decide whether or not to register as an elector. According to the Administration, it would not rule out the possibility of implementing an automatic VR system, but the problems which had been identified, including inherent difficulties in excluding disqualified voters from an automatically generated register, and difficulties in updating effectively the particulars of registered electors, should be addressed before consideration could be given to introducing the system. It was the Administration's view that eligible persons should continue to be given the personal choice of whether to register as an elector.

29. Members suggested that the procedures of on-line application should be streamlined to facilitate VR, particularly by young people. The Administration advised that on-line VR was currently available by way of using the Hong Kong Post personal e-certificate. Members further suggested that where necessary, consideration should be given to amending relevant legislation or practical guidelines to ensure that the whole procedure of VR could be processed through electronic means for the applicants' convenience.

#### Time gap between the deadline for VR and the polling day

30. During the scrutiny of the Chief Executive Election (Amendment) Bill 2010 and the LegCo (Amendment) Bill 2010, some members of the Bills Committee concerned considered that there was room for postponing the deadline for registration of electors to allow more time for eligible persons to register as electors for the 2011 DC election. The Administration advised that in response to the views raised by members a few years ago, the Administration had already postponed the deadline for registration of electors in a DC election year for two months to allow more time for VR.

31. Some members pointed out that there was no time gap between the deadline for application for VR and the polling day in Canada, and immediate registration on polling day could be arranged there. These members considered that the Administration should make reference to VR procedures of overseas jurisdictions. The Administration advised that while compulsory VR was adopted in Australia, VR was voluntary in Hong Kong and Canada. Under the existing practice in Hong Kong, registers for electors were published annually to facilitate candidates to liaise with electors and the Administration considered that the existing arrangement for VR had been functioning well.

#### Meaning and interpretation of "ordinarily resident in Hong Kong"

32. Noting that the issue relating to the meaning of "ordinarily resident in Hong Kong" was not included in the Consultation Paper, some members

requested the Administration to clarify as a matter of principle the eligibility of electors who had retired outside Hong Kong or still retained a close connection but did not have a residential address in Hong Kong. Members requested the Administration to explore whether these people were still entitled to vote and if so, how they could exercise their voting right legally.

33. The Administration explained that the address so provided by these people should be residential address and it should be the elector's only or principal residence in Hong Kong. Under section 2(6) of the Immigration Ordinance (Cap.115), a person did not cease to be ordinarily resident in Hong Kong if he was temporarily absent from Hong Kong and whether that person should cease to be so ordinarily resident would depend on the circumstances of that person and his absence. According to the "Guidelines on Election-related Activities in respect of the DC Election", relevant factors would include the length of the person's absence, the reason for his absence, and his continuing connections with Hong Kong, etc. and each case would have to be considered on its own merits.

34. During the public consultation, the Administration has received views on VR in relation to the definitions of "ordinarily reside in Hong Kong" and "principal residential address" which are outside the scope of the consultation paper. The Administration has explained in its Consultation Report that these are complicated issues which have to be handled carefully by the fourth-term Government. Other factors, including the freedom of movement and travel by the Hong Kong permanent residents enjoyed and protected under the Basic Law, have to be taken into consideration as well.

#### Status of registered electors of FCs

35. During the scrutiny of the former Subcommittee on Package of Proposals for the Methods for Selecting Chief Executive and for Forming LegCo in 2012 and the former Bills Committee on Chief Executive Election (Amendment) Bill 2010 and LegCo (Amendment) Bill 2010, some members expressed the view that the Administration should have conducted a comprehensive review to assess and verify the status of the registered corporate electors of FCs on a regular basis to ensure that they remained to be eligible for registration as electors, i.e. whether they were still active and representative since LCO was enacted back in 1997. The Administration explained that REO had kept in touch with relevant umbrella organizations to update the electoral records. The Administration would review LCO before every LegCo general election to reflect the latest developments.

36. At the CA Panel meeting on 18 March 2013, some members called on REO to take more proactive measures to verify the eligibility of FC electors. The Administration advised that REO would check the electors' information in

the existing register and process the VR applications based on the updated information of members/employees provided by the specified bodies/institutions to REO pursuant to LCO before a LegCo election was held. If REO received new information from a specified body/institution regarding changes in membership/employment status of a registered elector after the publication of the final registers, REO would issue a letter to the relevant elector reminding him not to vote in the election if he had lost his eligibility for registration.

37. Some members queried the effectiveness of the new visit-cum-advisory service programme by ICAC as it was purely advisory and its recommendations were not binding. The Administration explained that under the new programme, ICAC would proactively offer advisory service to individual specified bodies to help review and enhance their membership administration, ensure procedural compliance and enhance transparency. The programme was intended to help address various concerns about the registers of FC electors with a view to ensuring the accuracy of the VR records.

#### Election Petition

38. With reference to the court case of *Chong Wing Fai Winfield v Cheung Kwok Kwan and Another* (HCAL10/2012) where it was ruled that there was no provision to bar or disqualify an elector from voting even though he had moved to a new address without informing REO, some members asked whether the judgment would have any implications on the existing VR policy. The Administration explained that the judgment was not expected to have any implications on the existing policy or VR work. However, to address the phenomenon that registered electors often failed to update their particulars after moving their residence, the Administration would strengthen publicity efforts in the 2013 VR cycle to encourage timely updating of registered particulars so that REO could update and keep the relevant registers of electors most up-to-date.

#### **Issues relating to usage of electoral register**

39. Under section 41 of the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541B), an extract from any published register of electors should only be used "for any purpose related to an election".

40. In September 2007, Hon Margaret NG requested the CA Panel to discuss whether the Administration should review and amend the relevant subsidiary legislation to allow Members returned by election to use the relevant information in the electoral register for communication with their constituents while they

were in office, and to require corporate and professional bodies of FCs to provide the necessary assistance to FC Members.

41. The CA Panel followed up the issue at its meetings on 19 November 2007 and 18 February 2008. Some members expressed the view that the information contained in the electoral register should be released for use for purposes other than a purpose related to an election, e.g. to communicate with electors after the election. The Administration, however, advised that having considered the need to protect personal data and the privacy of electors and to avoid giving undue advantage to incumbent LegCo Members, it had no plan to introduce legislative amendment to the relevant electoral law. The Administration had relayed members' views to Electoral Affairs Commission for consideration. Members may wish to refer to the Information Notes on "Usage of electoral register" [IN05/07-08] and "Access to the electoral register" [IN15/07-08] for reference.

### **Recent development**

42. The provisional registers of electors and omissions lists were released on 14 June 2013 for public inspection. The Administration has proposed to brief the CA Panel on the updated position regarding the 2013 provisional registers of electors and related matters at the next meeting on 15 July 2013.

43. In June 2013, Dr Hon Helena WONG requested the CA Panel to follow up the aforesaid request for usage of the electoral register. The Administration has agreed that the matter be discussed under the agenda item of "2013 provisional registers of electors and related matters".

### **Relevant motion/questions and papers**

44. At the Council meeting of 21 December 2011, Hon KAM Nai-wai moved a motion on "Improving the VR system to rebuild people's confidence in the electoral system". The motion, as amended by Dr Hon Philip WONG, was passed by the Council.

45. Details of relevant LegCo questions raised at Council meetings since the first LegCo and relevant papers available on the LegCo website (<http://www.legco.gov.hk>) are in **Appendix VI**.

## Appendix I

### Cap 542 s 31 When person is disqualified from being registered as an elector (Legislative ...

#### Contents of Section

Chapter:	542	Title:	<b>Legislative Council Ordinance</b>	Gazette Number:	2 of 2011; G.N. 5176 of 2012
Section:	31	Heading:	<b>When person is disqualified from being registered as an elector</b>	Version Date:	01/10/2012

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(1) A natural person is disqualified from being registered as an elector for a constituency if the person-

(a)-(c) (Repealed 7 of 2009 s. 7)

(d) is found under the Mental Health Ordinance (Cap 136) to be incapable, by reason of mental incapacity, of managing and administering his or her property and affairs; or (Replaced 25 of 2003 s. 17)

(e) is a member of the armed forces of the Central People's Government or any other country or territory.

(2) Subsection (1) applies to an authorized representative of a corporate elector in the same way as it applies to an elector who is a natural person. (Amended 2 of 2011 s. 14)

(3) A consular post to which any privilege or immunity is accorded under the Consular Relations Ordinance (Cap 557) is disqualified from being registered as a corporate elector. (Added 2 of 2011 s. 14)

(4) An organization to which section 2 of the International Organizations and Diplomatic Privileges Ordinance (Cap 190) applies or an international organization defined in section 2 of the International Organizations (Privileges and Immunities) Ordinance (Cap 558) is disqualified from being registered as a corporate elector. (Added 2 of 2011 s. 14)

(5) A body which is a department or an agency of a government of a place outside the People's Republic of China, whether at national, regional or municipal level, is disqualified from being registered as a corporate elector. (Added 11 of 2012 s. 34)

(6) For the purposes of subsection (5), a body is not regarded as a department or an agency of a government of a place unless-

(a) the management of the body is appointed by the government and is answerable to the government;

(b) the principal function of the body is to advance the interest of the place; and

(c) the body is non-profit-making. (Added 11 of 2012 s. 34)

**Statutory Timetables for Voter Registration**

<b>Major Event</b>	<b>Statutory deadlines in a non-DC election year</b>	<b>Statutory deadlines in a DC election year</b>
The statutory deadline for an applicant to apply to the ERO for registration in the PR.	16 May	16 July
<p>If the ERO requires an applicant to provide further particulars relating to the application, the statutory deadline for an applicant to provide such particulars.</p> <p>After finishing all the registration procedures, the ERO has to compile the registration particulars, and to arrange for printing, checking and binding of the PR and OL, for subsequent sorting and distribution to the District Offices for public inspection.</p>	25 May	25 July
The statutory deadline for the ERO to publish and make available the PR and OL for public inspection.	15 June	15 August
After inspecting the PR and OL, the statutory deadline for the public to make an objection to or make a claim on the registration in the PR, or to apply for updating the registration particulars in the FR.	29 June	29 August

<b>Major Event</b>	<b>Statutory deadlines in a non-DC election year</b>	<b>Statutory deadlines in a DC election year</b>
<p>The ERO must deliver to the Revising Officer (RO) a copy of each notice of objection or notice of claim received. The RO will fix a hearing for each notice of objection or notice of claim concerning VR, and may review the ruling. With the approval of the RO, the ERO will correct an entry, make an additional entry or remove an entry as may be appropriate when compiling the FR.</p> <p>Meanwhile, the ERO will determine the applications for updating registration particulars, and with the approval of the RO, correct an entry, make an additional entry or remove an entry as may be appropriate.</p>	15 June to 11 July	15 August to 11 September
<p>After updating the entries, the ERO has to compile the registration particulars, and to arrange for printing, checking and binding of the FR, for subsequent sorting and distribution to the District Offices for public inspection.</p>	11 to 25 July	11 to 25 September
<p>The statutory deadline for the ERO to publish and make available the FR for public inspection.</p>	25 July	25 September
<p>DC Election</p>	Not applicable	November
<p>LegCo Election</p>	September	Not applicable

**Legislative Council Panel on Constitutional Affairs**

**Checking Measures to Improve the Voter Registration System**

**Purpose**

This paper explains the various checking measures on the registered residential addresses of electors introduced by the Registration and Electoral Office (“REO”) in 2012 to enhance the accuracy of the information in the voter registers.

**Checking Measures**

2. According to the current legislation, any eligible Hong Kong permanent resident has to provide a true and accurate residential address if he wishes to apply to be registered as an elector. After the 2011 District Council (“DC”) Election, there were complaints and media reports on cases of suspected false addresses of electors. To address public concern and to maintain the integrity of the voter registration system, the Administration conducted a review on the current voter registration system in late 2011 and proposed a series of improvement measures. After considering the views of the Members of the Legislative Council and those from the community, the REO has implemented a series of measures since January 2012 to improve the voter registration system and to enhance the accuracy of the information in the voter registers. The checking measures implemented by the REO in this regard include:

- (a) Follow up on the undelivered poll cards of the DC Election and the Election Committee Subsector Elections in 2011: the REO has issued a letter by registered mail to the elector concerned for any undelivered poll cards received, requesting the elector to confirm whether the address on the current final register is his principal residential address and to provide an address proof. If that letter is also undelivered or if the elector fails to reply by the deadline on the inquiry letter, the registration particulars of that elector will be removed from the 2012 provisional register and be included in the omissions list;



- (b) Checks on multiple electors or multiple surnames of electors at one registered residential address: the REO will require the electors concerned to provide proof or information if the number of electors or the surnames of electors exceed a certain number to confirm their residential addresses;
- (c) Random sampling checks: the REO has conducted random sampling checks on all electors in Hong Kong and requested the selected electors to provide proof or information to confirm their residential addresses;
- (d) Follow up on the undelivered letters on the voter registration of District Council (second) functional constituency (“DC (second) FC”): the REO sent a letter relating to the voter registration arrangements for the newly established DC (second) FC to all 3.56 million registered electors in Hong Kong in late February 2012. The envelope was specially designed to facilitate the public to return wrongly addressed letters to the REO for follow up action. The REO has issued inquiry letters to all electors whose letters are undelivered and requested them to confirm whether they still reside at the registered addresses and provide address proof;
- (e) Checks on demolished units or vacant units pending demolition: the REO has received a list of recently demolished buildings or buildings vacated pending demolition from the departments concerned (such as the Buildings Department and the Rating and Valuation Department). The REO has identified electors who may not have updated their residential addresses and issued inquiry letters to them;
- (f) Full-scale data matching with the Housing Department and the Hong Kong Housing Society: after seeking the agreement of the Privacy Commissioner for Personal Data, the REO has conducted a full-scale data matching exercise with the Housing Department and the Housing Society in March and April 2012 to confirm the accuracy of registered addresses of electors residing in public housing estates contained in the voter registers;

- (g) Follow up on suspected false address cases arising from the 2011 DC Election: the REO has issued 6 470 inquiry letters to electors involving in suspected false addresses from complaints received and media reports. The REO has thus far referred cases involving 2 120 electors to the law enforcement agencies for investigation (1 537 electors were involved in cases referred to the Hong Kong Police Force, while 583 electors were involved in cases referred to the Independent Commission Against Corruption); and
- (h) Other categories: the REO by applying internal criteria has identified a number of addresses suspected to be incomplete or located in non-domestic buildings from the current final register and issued inquiry letters to the electors concerned.

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**Consultation Report on Improvement Measures of Voter Registration System**

(Extract)

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**Chapter Ten: Conclusion – the Administration’s final position on the proposals****The proposed requirement for address proof**

10.1 In light of the views received, the Administration will not pursue the proposal for the time being. The Administration has stepped up efforts in enhancing the accuracy of the register by increasing the extent of checks including using a more targeted approach, as well as random checks on those new applications.

**The proposed penalty concerning update of address**

10.2 In light of the views received, the Administration will not pursue the proposal.

**The proposed amendment to the statutory deadlines**

10.3 In light of the small number of submissions received which commented on this proposal, the Administration will need to consider the proposal further. In any case, any adjustments to the deadlines will require legislative amendments which can only be done by the next-term government.

**The proposed amendment to the register format**

10.4 In light of the concerns raised, the Administration has consulted the PCPD on the proposal. The PCPD is of the view that the proposal may be within the definition of “election-related purposes” as the proposal would only involve a new sorting sequence and would not involve disclosure of additional personal data of voters. Based on the above information, PCPD considers that the proposal is not inconsistent with Data Protection Principle 3 in Schedule 1 to the Personal Data (Privacy) Ordinance (Cap. 486), which is about the use (including disclosure or transfer) of personal data. Considering that the proposal will facilitate electors to inspect the register to help identify irregularities, the Administration has proposed to introduce a Committee Stage Amendment in the Electoral Legislation (Miscellaneous Amendments) Bill 2012 to implement the proposal.

### **The proposed requirement for poll cards**

10.5 In light of the views received, the Administration will not pursue the proposal.

### **The proposed transfer of offence**

10.6 In light of the small number of submissions received which commented on this proposal, the Administration will need to consider the proposal further, taking into account the views of the REO, the Department of Justice and the relevant law enforcement agencies.

### **Other views on voter registration**

10.7 The definitions of “ordinarily reside in Hong Kong” and “principal residential address” are outside the scope of the consultation paper. The Administration has explained that these are complicated issues which have to be handled carefully by the next-term government, especially as it involves the fundamental right to vote by Hong Kong permanent residents. Other factors, including the freedom of movement and travel by the Hong Kong permanent residents enjoyed and protected under the Basic Law, have to be taken into consideration as well.

**Constitutional and Mainland Affairs Bureau  
April 2012**

## 選舉事務處

## REGISTRATION AND ELECTORAL OFFICE

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Ms Joanne MAK  
Clerk to Panel on Constitutional Affairs,  
Legislative Council Complex,  
1 Legislative Council Road,  
Central,  
Hong Kong

12 April 2013

Dear Ms MAK,

**Legislative Council Panel on Constitutional Affairs  
Supplementary information on Voter Registration in 2013**

During the discussions on the 2013 Voter Registration (VR) exercise and the related publicity campaign at the meeting of the Panel on Constitutional Affairs held on 18 March 2013, Members enquired about the investigation results regarding complaints about suspected false registered addresses of electors received after the 2011 District Council Election, the progress of the checking measures implemented by the Registration and Electoral Office (REO) in the 2013 VR cycle and the arrangement to encourage eligible persons who have lost their registration status in the 2012 VR cycle to register as electors again. The following supplementary information is provided for Members' reference.

Complaints related to voter registration and investigation results

After the 2011 District Council Election, the REO received complaints and media reports about suspected false registered addresses involving 9 940 electors. After checking, the REO found that cases involving 3 466 electors were not suspicious. Inquiry letters were issued to the remaining 6 474 electors in accordance with the statutory process requiring them to confirm whether they were still living at the registered addresses and to provide address proofs. Complaints with prima facie evidence of providing false address for registration were referred to the law enforcement agencies (the Police and the Independent Commission Against Corruption (ICAC)) for investigation. Cases involving 1 580 electors were referred to the Police and cases involving 583 electors to the ICAC.

According to the latest information provided by the two law enforcement agencies, the Police and the ICAC have conducted investigation in complaint cases of 3 020 electors and 8 287 electors respectively. These figures include referrals from the REO and cases received from other sources by the two law enforcement agencies. The investigation results reveal that there is no evidence of so-called "vote-rigging" in more than 90% of the cases,

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For receiving electronic election advertisements from candidates, please provide/update your email address

Call Tel: 2891 1001 or access [www.reo.gov.hk](http://www.reo.gov.hk)

and most of the registered addresses were in fact the old residential addresses of the electors who had moved away without updating the particulars with the REO. As at 10 April 2013, following investigation by the law enforcement agencies, a total of 52 persons have been prosecuted resulting in convictions under section 22 of the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541A) and section 16 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554). Please refer to the Annex on the respective figures.

#### Checking measures in the 2013 VR cycle

To maintain the integrity of the VR system and to enhance the accuracy of entries recorded in the voter registers, from January 2012 onwards, the REO has implemented a series of enhanced checking measures to increase the number of electors checked and to extend the scope of checking. As reported at the meeting of the Panel on Constitutional Affairs on 18 March 2013 (LC Paper No. CB(2)768/12-13(02)), a new round of enhanced checking has been implemented in the 2013 VR cycle as follows:

- (a) follow-up inquiries on undelivered poll cards arising from the 2012 Legislative Council Election;
- (b) cross-matching of data with the Housing Department, the Housing Society and the Home Affairs Department for verification of electors' registered addresses;
- (c) checks on multiple electors or multiple surnames of electors registered with the same residential address;
- (d) random sample checks on existing electors;
- (e) checks on addresses with incomplete information, commercial addresses or suspected non-residential addresses;
- (f) checks on addresses in buildings already demolished or to be demolished; and
- (g) checks on new VR applications with multiple applicants using the same address for registration.

About 130 000 electors' registered particulars are covered in the above checking exercise, including around 29 900 cases of undelivered poll cards arising from the 2012 Legislative Council Election. As different checking measures are being carried out, the number of electors covered by the measures may be adjusted depending on the actual situation and hence a breakdown is not available. In accordance with the statutory provisions, the REO is issuing inquiry letters by registered mail to electors who could not be

contacted to request them to confirm whether the addresses contained in the existing Final Register are still their principal residential addresses.

The inquiry letters state clearly that if the concerned electors do not reply on or before the specified deadline (16 May 2013) to confirm their current principal residential addresses, their names will be included in the Omissions List to be published on 15 June 2013. Unless the electors included in the Omissions List lodge claims or update or confirm their registered addresses by 29 June 2013 and such applications are subsequently approved by the Revising Officer, their names will not be included in the Final Register to be published in late July 2013 and they will not be eligible to cast votes in the subsequent elections.


In addition, the REO has started to issue letters to applicants for voter registration with multiple applicants using the same address for registration since April 2013 asking for written confirmation of the address stated in the application form before further processing.

Mechanism for lodging claims in VR and encouraging eligible persons who have lost registration status to apply for registration again

Currently, a statutory mechanism is in place to handle claims lodged by electors. According to the relevant Electoral Affairs Commission regulations, any person whose name is included in an Omissions List may make a claim, update or confirm his registered address before the statutory deadline to the REO in order to retain his registration status. His claim will be considered by the Revising Officer. Any person whose entries have been removed from the Final Register may apply to the REO for voter registration again. Up to now, about 5 000 electors struck off from the register in 2012 have applied to the REO for registration again. In addition, the REO continues to enhance publicity to appeal to persons who are not sure about their registration status to call the REO hotline at 2891 1001, or approach the REO or the local District Office in person to inspect the existing voter registers to ascertain whether they are still registered electors. If they confirm they are no longer electors, they may complete and submit a VR application form to the REO before the statutory deadline for new registration falling on 16 May 2013. Persons who meet the eligibility requirements under the relevant laws may apply for registration as electors again.

Members are invited to note the above.

Yours sincerely,



(SHUM Nam-lung)  
for Chief Electoral Officer

c.c. Constitutional and Mainland Affairs Bureau

**Statistics of investigation and prosecution by the  
law enforcement agencies on complaints relating to voter registration  
following the 2011 District Council Election  
(As at 10 April 2013)**

<b>Investigation by the Hong Kong Police Force</b>	<b>Persons involved</b>
• Conviction after investigation and prosecution	7 persons *
• Pending trial after investigation and prosecution	3 persons
• Unsubstantiated after investigation	2 465 persons
• Under investigation	391 persons
• Referral to the ICAC	154 persons
<b>Total</b>	<b>3 020 persons</b>
<b>Investigation by the Independent Commission Against Corruption</b>	<b>Persons involved</b>
• Conviction after investigation and prosecution	45 persons #
• Pending trial after investigation and prosecution	3 persons
• Not convicted after investigation, prosecution and trial	3 persons
• Unsubstantiated after investigation	8 218 persons
• Under investigation	18 persons
<b>Total</b>	<b>8 287 persons</b>

\* Sentenced to imprisonment for 2 months to 4 months (suspended)

# Penalties ranging from 160 hours of community service order to imprisonment for 4 months



## Appendix VI

### Relevant documents on review of the voter registration system

Committee	Date of meeting	Paper
Panel on Constitutional Affairs ("CA Panel")	20 December 1999 (Item VI)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Legislative Council	1 March 2000	<a href="#">Official Record of Proceedings</a> <a href="#">Pages 73 - 74 (Written question</a> <a href="#">raised by Hon LEE Wing-tat)</a>
CA Panel	17 April 2000 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	17 March 2003 (Item III)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	19 May 2003 (Item III)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	15 March 2004 (Item V)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	--	<a href="#">IN12/03-04</a>
	16 April 2007 (Item II)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Legislative Council	17 October 2007	<a href="#">Official Record of Proceedings</a> <a href="#">Pages 19 - 28 (Oral question</a> <a href="#">raised by Dr Hon Fernando</a> <a href="#">CHEUNG)</a>
CA Panel	19 November 2007 (Item V)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	18 February 2008 (Item VIII)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	17 March 2008 (Item VI)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Legislative Council	14 May 2008	<a href="#">Official Record of Proceedings</a> <a href="#">Pages 71 - 73 (Written question</a> <a href="#">raised by Hon LAU Chin-shek)</a>

<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
CA Panel	19 May 2008 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Subcommittee on Package of Proposals for the Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012	11 May 2010	<a href="#">Agenda</a> <a href="#">Minutes</a>
	18 May 2010	<a href="#">Agenda</a> <a href="#">Minutes</a>
	3 June 2010	<a href="#">Agenda</a> <a href="#">Minutes</a>
House Committee	11 June 2010	<a href="#">Report of the Subcommittee on Package of Proposals for the Methods for Selecting the Chief Executive and for Forming the Legislative Council in 2012</a>
Bills Committee on Chief Executive Election (Amendment) Bill 2010 and the Legislative Council (Amendment) Bill 2010	18 January 2011	<a href="#">Agenda</a> <a href="#">Minutes</a>
	25 January 2011	<a href="#">Agenda</a> <a href="#">Minutes</a>
House Committee	18 February 2011	<a href="#">Report of the Bills Committee on Chief Executive Election (Amendment) Bill 2010 and the Legislative Council (Amendment) Bill 2010</a>
CA Panel	18 March 2011 (Item III)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Legislative Council	30 November 2011	<a href="#">Official Record of Proceedings Pages 78 - 83 (Written question raised by Hon Albert HO)</a>
	14 December 2011	<a href="#">Official Record of Proceedings Pages 100 - 111 (Oral question raised by Hon Albert HO)</a>

<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
Legislative Council	14 December 2011	<a href="#">Official Record of Proceedings Pages 136 - 140 (Written question raised by Hon Audrey EU)</a>
CA Panel	19 December 2011 (Item III)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Legislative Council	21 December 2011	<a href="#">Official Record of Proceedings Pages 262 - 345 (Motion moved by Hon KAM Nai-wai)</a>
CA Panel	17 February 2012 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	19 March 2012 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Legislative Council	30 May 2012	<a href="#">Official Record of Proceedings Pages 93 - 96 (Written question raised by Hon WONG Kwok-kin)</a>
	6 June 2012	<a href="#">Official Record of Proceedings Pages 23 - 35 (Oral question raised by Hon Ronny TONG)</a>
		<a href="#">Official Record of Proceedings Pages 85 - 88 (Written question raised by Hon Alan LEONG)</a>
CA Panel	16 October 2012 (Item III)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Legislative Council	17 October 2012	<a href="#">Official Record of Proceedings Pages 110 - 115 (Written question raised by Hon Albert CHAN)</a>
	31 October 2012	<a href="#">Official Record of Proceedings Pages 116 - 119 (Written question raised by Hon Albert CHAN)</a>

<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
CA Panel	19 November 2012 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	17 December 2012 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	21 January 2013 (Item III)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	18 March 2013 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>

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9 July 2013