

**立法會**  
**Legislative Council**

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**Panel on Constitutional Affairs**

**Background brief prepared by the Legislative Council Secretariat  
for the meeting on 17 December 2012**

**Electoral Affairs Commission Report  
on the 2012 Legislative Council Election**

**Purpose**

This paper gives a brief account of past discussions of the Panel on Constitutional Affairs ("the Panel") regarding the 2012 Legislative Council ("LegCo") Election.

**Background**

2. The 2012 LegCo Election was held on 9 September 2012 to return 70 Members of LegCo for the fifth term. Section 8 of the Electoral Affairs Commission Ordinance (Cap. 541) ("EACO") requires, inter alia, that the Electoral Affairs Commission ("EAC") shall make a report to the Chief Executive, within three months after the election, on matters relating to the election in respect of which EAC has any function under EACO or any other Ordinance.

**Relevant discussions of the Panel**

3. The Panel discussed the practical arrangements relating to the 2012 LegCo Election at its various meetings. Some of the major issues raised by the Panel are summarized below.

Delineation of geographical constituencies ("GCs") in respect of the 2012 LegCo Election

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4. When the Panel was briefed on the provisional recommendations on delineation of GCs in respect of the 2012 LegCo Election at its meeting held on 18 July 2011, members noted the recommendation that the existing boundaries and the names of the five GCs should remain unchanged and that the 35 seats for GCs be allocated among the five GCs based on their respective projected population as at 30 June 2012. Some members were concerned that the

population and geographical coverage of both New Territories East ("NTE") and New Territories West ("NTW") were very large, rendering electioneering activities difficult in these GCs. Some members also expressed concern that a candidate could win a seat with only about 25 000 votes or around 3% of the total votes cast in a GC that had many seats. They suggested that the Administration should rationalize the demarcation of GCs (e.g. dividing NTW GC into two GCs; merging the NTE GC and NTW GC and then divided into three GCs, transferring Island District from NTW GC to Hong Kong Island GC) with a view to reducing population disparity among GCs and addressing concerns about the uneven distribution of seats among GCs.

5. The Administration explained that the population deviation in the respective GCs was within the  $\pm 15\%$  permissible limit under the provisional recommendations. The Administration considered that the number of GCs should be retained at five as the public was used to the existing electoral arrangement and such arrangement would be conducive to the years of work of prospective candidates in establishing close contact and network within the respective constituencies. If any new proposal (e.g. consolidating five GCs to four GCs or increasing five GCs to six GCs) was adopted, electors would find it difficult to adjust to the new arrangement. The Administration, however, welcomed any further suggestion in future on the number of GCs for returning Members and delineation of boundaries among GCs for the 2016 LegCo Election.

#### Financial assistance and election expenses

##### *Financial assistance*

6. The amount payable as financial assistance in respect of a list of candidates/a candidate standing for the 2008 LegCo Election was the lower of either the amount obtained by multiplying the total number of valid votes cast for the list of candidates/candidates by \$11 or 50% of the declared election expenses of the list of candidates. Some members were of the view that the financial assistance for the 2012 LegCo Election should be increased from \$11 to at least \$20 per vote and that the cap on the financial assistance payable should be adjusted from 50% to 70%-80% of the declared election expenses.

7. Having regard to the views expressed by members, the Administration agreed to enhance the financial assistance scheme for the 2012 LegCo Election. The LegCo (Amendment) Ordinance 2011 provided that the subsidy rate of financial assistance for an eligible candidate or list of candidates be revised to the lowest of (i) \$12 per vote times the number of valid votes received by the candidate or the list of candidates; (ii) 50% of the election expenses limit of the respective constituency; or (iii) the amount of the declared election expenses of

the candidate or list of candidates. According to the Administration, the new formula was fair as it reflected the level of support a list of candidates/a candidate received from the public and would provide more room for candidates to obtain financial assistance.

### *Election expenses*

8. Some members were of the view that the maximum amount of election expenses for the District Council ("DC") (second) functional constituency ("FC") which was proposed by the Administration to be set at \$6 million was too high. Some other members, however, considered that the Administration should set a higher election expense limit for the DC (second) FC or remove any cap on the amount so that independent candidates from the business sector and professional sectors would be encouraged to participate in the election even though they lacked the manpower support from political parties. Some members took the view that while a high election expense limit would put less-well-off candidates at a disadvantage, a low election expense limit would pose limitations to the candidates in running their election campaigns. They considered the maximum election expense limit proposed by the Administration for the DC (second) FC appropriate.

9. The Administration advised that the \$6 million was the upper limit and a candidate could spend less than that. The election expense limit for the DC (second) FC should not be set at a high level so that candidates from large or small political parties and independent candidates could participate in the election. Moreover, the election expenses could be shared by five candidates in a list. Independent candidates could also form a list with other parties to join the election to share out the cost. The LegCo (Amendment) Ordinance 2011 provided that the maximum amount of election expenses that could be incurred at a DC (second) FC election by or on behalf of all the candidates on a list was \$6 million. No adjustment was made to the election expense limits for GC and other FC elections in 2012.

### Election return ("ER")

10. Members had all along called on the Administration to conduct a review on whether election complaints alleging technical and minor breaches of Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) ("ECICO") could be dealt with by administrative means. Members expressed concern that the Registration and Electoral Office ("REO") which was responsible for checking a candidate's ER would refer any possible breach of ECICO, irrespective of how trivial it was, to the Independent Commission Against Corruption ("ICAC") for investigation. Candidates who were involved had to face considerable uncertainty as a result of the ICAC's investigation in such cases and some of them

had to incur a fairly large amount of legal costs to seek an order from the Court of First Instance ("CFI") to grant relief. In the legislative exercise of the Electoral Legislation (Miscellaneous Amendments) Bill 2011, the Administration agreed to introduce Committee Stage amendments to amend ECICO in order to implement a de minimis arrangement for handling ERs with minor errors or omissions. The Electoral Legislation (Miscellaneous Amendments) Bill 2011 was passed by LegCo on 6 July 2011.

11. The Administration, however, stressed that if ICAC had received complaints or intelligence indicating that a candidate might have made a statement that he knew or ought to know was materially false or misleading which amounted to corrupt conduct under section 20 of ECICO, ICAC would conduct investigation into this case despite the de minimis arrangement. The rectifications of ERs under the de minimis arrangement would not exempt the candidate or the list of candidates from being investigated or subsequently prosecuted under ECICO in such circumstances.

#### Election-related publicity materials and electioneering activities

##### *Election advertisement ("EAs")*

12. On the sending of EAs and related materials, some members expressed support for encouraging candidates to disseminate EAs by electronic means for the protection of the environment. They considered that REO should provide candidates with the choice of receiving the address labels of electors for sending EAs on an individual or household basis, in order to reduce the consumption of address labels.

13. According to REO, it had been an established practice to provide each candidate with a set of address labels pertaining to the electors in the constituency. Under the present arrangement, the address labels were printed on an individual basis. To facilitate candidates who wished to send their EAs on a household basis, a mark "H" was currently printed on the address labels with two or more electors sharing the same address. Candidates might just send only one mail to the addresses marked "H". In order not to affect the right of individual electors to receive EAs, REO would continue with the existing practice to provide address labels on an individual basis to candidates. Members noted the EAC's view that the real solution lay in encouraging electors to provide e-mail addresses and candidates to disseminate EAs by electronic means, and various channels had been used to solicit e-mail addresses from electors. Efforts would also be made by REO to remind electors of the need to update their e-mail addresses through publicity to ensure accuracy.

14. Some members were of the view that in anticipation of the need for DC (second) FC candidates to reach out to all registered electors across the territory,

they should be allowed to present their election platform through the electronic media. They pointed out that distribution of EAs via electronic media was common place in overseas countries and the current restriction on electioneering on television and radio should be relaxed. The Administration, however, maintained its view that EAs via electronic media should be prohibited in an election campaign to ensure a level-playing field for all candidates.

15. Some members considered it very inconvenient for candidates to submit to REO hard copies of EAs, authorization letters, ERs, etc. in order to comply with the statutory declaration requirement under the respective electoral procedures/regulations made by EAC. They requested the Administration to facilitate candidates by accepting election materials transmitted electronically and develop an information technology system to cater for the electronic transmission of all types of election materials. They also expressed concern about the practical difficulties for a candidate to comply with the proposed requirement to maintain his election website for a 12-month period after publication of the election results. It was suggested that a central portal to be maintained by REO should be provided for submission of electronic EAs by candidates.

16. Having regard to the views of members, the Administration introduced the Electoral Legislation (Miscellaneous Amendment) Bill 2012 which provided, among others, that a candidate could post EA particulars (i.e. an electronic copy of an EA, a hyperlink of the open platform which publishes an EA, etc.) within one working day after the publication of an EA, onto an open platform either maintained by REO ("Central Platform") or an open platform maintained by the candidate himself or a person authorized by him ("Candidate's Platform") for public inspection.

#### *Joint promotional letters*

17. Under the previous arrangements, a candidate or list of candidates of the DC, LegCo and Election Committee ("EC") subsector was entitled to send a letter free of postage to each elector/voter in the constituency or an EC subsector for which the candidate/list of candidates was nominated. However, the letter must relate to the election concerned and must comply with the requirements and limitations prescribed by the relevant EAC Regulations. Some members had strongly urged the Administration to take on board the suggestion previously made by some LegCo Members that lists of candidates/candidates of different constituencies should be allowed to print their campaign materials in the same promotional letter to be sent free of postage. They stressed that it would enable political parties to enhance the campaign publicity for their lists of candidates/candidate at the same election and economize on paper. Members also enquired whether such arrangement would be applicable to the making of banners, posters and signboards for elections.

18. According to the Electoral Legislation (Miscellaneous Amendments) Ordinance 2011, lists of candidates of different constituencies and candidates of FC or EC subsectors with multiple seats were allowed to send their promotional letters to the same elector/voter free of postage. The arrangements would only apply to a list of candidates in a GC and a list of candidates in the DC (second) FC; candidates in the Labour FC which has three seats; and candidates standing for election in the same EC subsector, which had multiple number of seats (ranging from 16 seats to 60 seats). REO undertook to review the arrangements in relation to the production of banners, posters and signboards when drawing up the electoral guidelines for the coming elections.

#### *Consent of support*

19. Some members expressed concern that there would be practical difficulties for a candidate to obtain prior written consent from persons indicating support to the candidate on social networking and communication websites on the Internet given the spontaneous support received. Members noted that the Electoral Legislation (Miscellaneous Amendment) Ordinance 2012 had amended section 27 of ECICO to provide that a candidate or a person was not required to obtain prior written consent from those who provided support in EAs if the candidate or the person had neither requested or directed nor authorized any other person to request or direct the inclusion of such support in EAs. If a candidate or a person published or continued to publish EAs with the support without any modification of the contents or description of the support, the candidate or the person was not required to obtain prior written consent from those who provided support in such EAs. Members noted that the candidate needed to ascertain that he had neither requested or directed nor authorized any person to request or direct the inclusion of the name, logo or pictorial representation of any person or organization in his EAs. The candidate was not required to ascertain the identity of those who provided support in his EAs out of their own volition.

20. Members may refer to the Report of the Bills Committee on Electoral Legislation (Miscellaneous Amendments) Bill 2012 (LC Paper No. CB(2)1897/11-12) for details of discussion on the relaxation of the requirements relating to the declaration and submission of EAs.

#### *Electioneering at buildings*

21. Some members expressed concern that some management bodies (i.e. owners' corporations, mutual aid committees, management companies, etc.) of private buildings did not comply with the principle of "fair and equal treatment" of all candidates/GC lists competing in the same constituency for the purpose of electioneering. The Administration advised that if EAC received a complaint of unfair or unequal treatment of candidates by the building management, and was

satisfied that the complaint was justified, it could make a censure or reprimand in a public statement which might include the names of candidates/GC lists favourably or unfavourably treated. Some members suggested that any such censure or reprimand issued to a building management body should be publicized in order to achieve a deterrent effect.

### Voter registration ("VR")

22. Following widespread media coverage on a large number of undelivered poll cards and some suspected vote-rigging cases in the 2011 DC Election, the Panel requested that the Administration to review the VR system in order to ensure the accuracy of the voter registers and restore public confidence in the electoral system before the LegCo Election in September 2012. In response to the strong call from the Panel, the Administration conducted a review of the VR system and REO implemented a number of improvement measures to the system starting from January 2012. The "Consultation Report on Improvement Measures of VR System" further set out the outcome of the public consultation exercise on the improvement measures of the VR System and the Administration's final position on the proposed measures (LC Paper No. CB(2)1722/11-12(01)). Members noted that with effect from January 2012, REO had put in place a number of immediate measures, e.g., enhanced checking, enhanced publicity, additional checks on lists of demolished buildings and buildings to be demolished and enhanced cross-matching, to improve the existing VR system.

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

23. Noting that the issue relating to the meaning of "ordinarily resident in Hong Kong" was not included in the "Consultation Paper on Improvement Measures of the VR System", 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.

24. The Administration explained that 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 District Council 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. Each case would have to be

considered on its own merits and the Administration would examine the issue in detail.

### Practical election arrangements

#### *Access to polling stations*

25. Noting that only 90% of the polling stations were barrier-free, some members considered that the Administration should enhance its efforts to identify suitable alternative venues. The Administration advised that ramps would be installed at venues to improve accessibility. An elector with disability finding it difficult for him to access the polling station could apply to REO for re-allocation to a special polling station accessible to such electors. If circumstances permitted, REO would arrange with the Society for Rehabilitation to provide Rehabus service for these electors. Its aim was to achieve that at least 90% of the venues were barrier-free and it would try to identify alternative locations as far as practicable.

#### *Polling hour*

26. Some members were of the view that the polling hours which lasted for 15 hours (from 7:30 am to 10:30 pm) of previous elections were too long and would discourage civil servants from working at polling stations on the polling day. They considered that the Administration should reduce the duration of polling hours to facilitate vote counting arrangements and to save staffing resources. Some members, however, considered that the public might be receptive to a slight adjustment in the polling hours.

27. The Administration advised that the proposal to shorten the polling hours was not well-received in the past on the grounds that it would reduce some electors' desire for voting as they would prefer to vote after dinner. As there would be a substantial increase in the number of votes cast for the 2012 LegCo election, REO would review the time required for vote counting and the duration of polling having regard to past experience.

#### *Staff training and staffing matter*

28. Some members considered that the Administration should review the remuneration, working hours and working condition of polling and counting staff. Noting that polling/counting staff in the 2008 LegCo Election were not sufficiently familiar with the counting procedures, they considered that adequate training should be provided to polling/counting staff on the relevant procedures to prevent recurrence of similar incidents. Some members suggested that civil servants who worked in the district should not be deployed to the same district to avoid any conflict of interests.



29. The Administration advised that the remuneration of polling staff was calculated on a fixed sum basis from the start of polling at 7:30 am until 1:30 am on the next day, and overtime work would be paid on an hourly basis. The workload of polling staff would depend on the actual activities of individual polling station and training and experience sharing sessions would be provided to polling staff to familiarize them with the polling and counting procedures so as to enhance the efficiency of work. To avoid conflict of interests, civil servants whose official duties were district-sensitive would not be assigned to work as presiding officers in the polling stations of the same district as the one in which they worked.

#### *Counting arrangement*

30. Some members considered that the time taken in counting votes in previous elections was unduly long. Given that many electors would cast two votes in the 2012 LegCo Election with the creation of the DC (second) FC seats which would inevitably prolong the counting process, they stressed the need to expedite the counting process. Some members also expressed dissatisfaction with the remote location of the Asia World-Expo in Chek Lap Kok as the central counting station. The Administration undertook to look for improvements to help expedite the counting process and explained that the Asia World-Expo was the only available option that would provide enough space for the counting operation and other ancillary facilities for the 2012 LegCo Election.

#### *Electioneering on the election day*

31. Some members expressed concern about the incidents of violence during election and urged the Administration to provide special training to police officers for handling election-related conflicts. Some members considered that given the sheer size of No Canvassing Zone ("NCZ") outside the polling station, canvassing on the polling day no longer served any meaningful purpose. The Administration advised that the Police had a dedicated group of officers to handle disputes relating to elections and the Police would adopt consistent and impartial practices in the enforcement of the law with guidelines provided to frontline officers stationed at the polling stations. The Administration explained that outside each polling station, areas were designated by Returning Officers as NCZ and No Staying Zone to provide the electors with a hindrance-free access to the station. REO would review the size of NCZ in consultation with Returning Officers where necessary.

#### *Exit poll*

32. Some members reiterated their long-standing concern about the arrangement that a candidate, his political party or election campaign team could

make use of the information provided by a pollster to plan electioneering activities before the close of poll, thereby causing unfairness to the other candidates. They considered that the Administration should tighten the regulation of exit polls to ensure fairness in an election. The Administration advised that EAC had appealed to the media and organisations concerned to refrain from announcing the results of exit polls or making specific remarks or predictions on the performance of individual candidate or GC list before the close of poll in order not to affect the choice of electors. Before the grant of approval for conducting exit polls, the person or organization allowed to conduct an exit poll would be required to sign an undertaking to abide by its terms and the guidelines governing the conduct of exit poll. EAC might issue a censure or reprimand in a public statement which would include the name of the person or organization who/which failed to comply with the terms of the undertaking/guidelines. The Administration respected academic freedom and freedom of expression and had no intention to regulate the use of exit poll results.

#### Election petition mechanism

33. Following a judgment by the Court of Final Appeal ("CFA") on 13 December 2010 that the finality provision in section 67(3) of the LegCo Ordinance (Cap. 542) ("LCO") was unconstitutional and invalid as being inconsistent with Article 82 of the Basic Law which provided that the power of final adjudication of Hong Kong Special Administrative Region shall be vested in CFA, the Panel discussed the Administration's proposal for introducing a leap-frog appeal mechanism to allow an appeal against the CFI's determination on an election petition under LCO, the DC Ordinance (Cap. 547) and the Village Representative Election Ordinance (Cap. 576) to be lodged to CFA direct, subject to leave being granted by the Appeal Committee of CFA. Some members supported the speedy resolution of election petitions. Some other members, however, expressed concerns about the legal costs incurred, the effect of such a leap-frog procedure on the caseload of the Court of Final Appeal, and the right to adopt the normal appeal procedure.

34. During the scrutiny of the Electoral Legislation (Miscellaneous Amendments) Bill 2011 which sought to institute a leap-frog appeal mechanism in relation to an election appeal arising from the LegCo, DC and Village Representative elections, members of the relevant Bills Committee enquired about the financial implication of the proposed leap-frog appeal mechanism. According to the Administration, as the costs involved in an appeal would depend on the nature, length and complexity of the case, which in turn would determine the judicial and other resources that have to be put in, it was not feasible to generalise the costs. Members also enquired whether the proposed seven-working day appeal period could be extended to 14 working days. According to the Administration, the proposed seven-working day appeal period

could facilitate speedy resolution of disputes. It was important to minimize the period of uncertainty faced by the individuals concerned who were subject to election petitions and to alleviate the constituents' feeling of uncertainty towards their representative. The Electoral Legislation (Miscellaneous Amendments) Ordinance 2011 was enacted on 6 July 2011.

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

35. At the Council meeting of 21 December 2011, Hon KAM Nai-wai moved a motion on "Improving the voter registration system to rebuild people's confidence in the electoral system". The motion, as amended by Dr Hon Philip WONG, was passed by the Council. The wording of the passed motion is at **Appendix I**.

36. Two oral questions regarding cases in which the identity of electors were allegedly used by others on the polling day of the 2012 LegCo Election and electors being deregistered from register of electors were raised by Mr Albert CHAN at the Council meetings of 17 October and 31 October 2012 respectively. The questions raised by Mr CHAN and the replies of the Secretary for Constitutional and Mainland Affairs are in **Appendix II**. Details of other 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 III**.

### **Recent development**

37. At the Panel meetings held on 16 October and 19 November 2012, members expressed concerns on issues relating to the 2012 LegCo Election, such as the investigation progress of the reported cases of vote-rigging, accuracy of the CD-ROM containing electors' records produced by REO for the purpose of electioneering, and the removal of the names of some 200 000 registered electors from the final register in the 2012 LegCo election. Members considered it necessary to discuss the issues at a future meeting.

38. The Panel will discuss the EAC Report on the 2012 LegCo Election with the Administration at the next meeting on 17 December 2012.

(Translation)

**Motion on  
“Improving the voter registration system  
to rebuild people’s confidence in the electoral system”  
moved by Hon KAM Nai-wai  
at the Council meeting of 21 December 2011**

**Motion as amended by Dr Hon Philip WONG**

That the media have recently disclosed the discovery of many suspected vote-rigging cases after the District Council Election held on 6 November this year; besides, after every Legislative Council Election and District Council Election in the past, the Administration also received tens of thousands of returned poll cards; in this connection, this Council considers that the Administration should further enhance the verification mechanism under the voter registration system, so as to prevent law-breakers from registering as voters with falsified addresses, thus ruining the electoral system and causing voters to lose confidence; on the other hand, the right to vote is a very important right, and under Article 26 of the Basic Law, permanent residents of the Hong Kong Special Administrative Region (‘HKSAR’) shall have the right to vote and the right to stand for election in accordance with law; in this connection, this Council urges the Administration to spare no efforts in investigating suspected vote-rigging cases, institute prosecutions against law-breakers, comprehensively review the voter registration system, and, while upholding HKSAR permanent residents’ right to vote, ensure that before the Legislative Council Election to be held in September next year, the loopholes are plugged and people’s confidence in the electoral system is rebuilt.

## Appendix II

**Press Releases**

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**ATTACHMENT**

LCQ9: Identity of electors allegedly used by others

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■ Annex

Following is a question by the Hon Albert Chan and a written reply by the Secretary for Constitutional and Mainland Affairs, Mr Raymond Tam, in the Legislative Council today (October 17):

Question:

Quite a number of members of the public relayed to me on September 9, 2012, the polling day of the Legislative Council Election, that when they went to the polling stations to vote, the polling staff inside told them, after verifying their personal particulars, that someone else had previously cast votes using their identity. However, these members of the public had not entered the polling stations to vote at an earlier time. In this connection, will the Government inform this Council:

(a) of the number of cases received on September 9, 2012 in which the identity of electors were allegedly used by others in voting, and the respective numbers of cases for each polling station;

(b) of the reasons for the problem mentioned in (a) above; and

(c) whether the authorities will take measures to prevent the recurrence of the aforesaid problem; if they will, of the details; if not, the reasons for that?

Reply:

President,

The Administration's reply to the three parts of the question is as follows:

(a) and (b) Section 53 of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D)(the Regulation) provides that in a Legislative Council election, immediately before issuing a ballot paper, the Presiding Officer must place a line in the copy of the final register across the name and identity document number of the elector to denote that the ballot paper the person is entitled to have issued to him or her at that polling station have been so issued. Also, section 60 of the Regulation states that if a person representing himself or herself to be a particular elector applies for a ballot paper after that particular elector has been issued with a ballot paper (i.e. a line has been placed in the register across the name and identity document number of the elector), the Presiding Officer may issue a ballot paper endorsed on the front of it with the words 「重複」 and "TENDERED" to that person. These ballot papers will not be regarded as valid in vote counting. The Presiding Officer has to act according to the above Regulation when handling cases in which the name and identity document number of an elector have been crossed out before the elector claims his or her ballot paper at the issuing desk. Generally speaking, since the information of the cases is limited, it is difficult to identify the causes. The possible causes may include the following: there might be an impersonator applying for a ballot paper in the name of another person; an elector might attempt to claim a ballot paper in his or her own

name again after casting a vote; or the electoral staff at the issuing desk might have inadvertently crossed out an entry in the register.

In the Legislative Council election held on September 9, 2012, a total of 135 ballot papers endorsed with the words "重複" and "TENDERED" on their front were found in the vote count for the geographical constituencies. For the District Council (second) functional constituency and traditional functional constituencies, 95 and five ballot papers endorsed with the words "重複" and "TENDERED" on their front were found respectively.


As for complaints, the Electoral Affairs Commission (EAC) has so far received 70 complaints (each complaint involves one elector and in total involving 70 electors). The complainants claim that when they tried to claim their entitled ballot papers in the polling stations, someone else had previously been issued with the ballot papers using their identity. The number of cases for each polling station is set out at Annex. The EAC is investigating the cases and if there is anything dubious, the case(s) will be referred to the relevant law enforcement agency for follow up. On the other hand, the Police has received 31 cases of suspected impersonation whereby persons had been issued with ballot papers using other persons' identity (involving 34 electors). Twenty-six out of the 31 cases (involving 28 electors) have been referred to the Independent Commission Against Corruption (ICAC) for follow up. The ICAC has received a total of 27 such cases (involving 29 electors, and including the 26 cases referred to the ICAC from the Police). As persons making complaints to the EAC may at the same time report to the Police or the ICAC, the complaints received by the EAC and the cases received by the Police or the ICAC may overlap.

Under Section 15 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), a person engages in corrupt conduct at an election if the person applies for a ballot paper in the name of another person; or having voted at an election, applies at the same election for a ballot paper in the person's own name. If tried on indictment, the person is liable on conviction to a fine of \$500,000 and to imprisonment for seven years.

(c) Before every Legislative Council election, the Registration and Electoral Office (REO) will through training remind electoral staff working at the issuing desk that they should act according to the Regulation and exercise due care in crossing out the name and identity document number of an elector in the register after confirming his or her identity. The REO also requires that when crossing out the concerned entry, it should be checked by another electoral staff to ensure that the other entry below or above the concerned entry will not be crossed out inadvertently. In view of the complaints, the REO will continue to enhance training for the electoral staff to ensure that they will carry out their duties correctly and in accordance with the law in future elections.

Ends/Wednesday, October 17, 2012  
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**Annex**

<b>Code</b>	<b>Name of Polling Station</b>	<b>Number of Cases</b>
A0102	Hong Kong Park Sports Centre	1
A0901	St. James' Settlement Belcher Kindergarten Child Care Centre	1
A1302	SKH St. Matthew's Primary School	1
B0801	Wong Nai Chung Sports Centre	2
B1001	Wan Chai Post Office	1
C0401	CCC Kei Wan Primary School (Aldrich Bay)	2
C0501	Shau Kei Wan Post Office	1
C0901	Fukien Secondary School (Siu Sai Wan)	1
C1101	Pui Kiu Primary School	1
C1401	Quarry Bay Sports Centre	1
C1801	Queen's College	1
C2301	Chan's Creative School (Hong Kong Island)	2
C2902	G/F, Yat Hei House (Block B), Tung Hei Court	1
D1001	Centennial College	1
E0701	PLK Camões Tan Siu Lin Primary School	2
E1301	SKH Kei Wing Primary School	1
E1701	St. Mary's Canossian School	1
F0201	Fuk Wing Street Government Primary School	1
F0601	Pei Ho Street Sports Centre	1
F1701	Cheung Sha Wan Community Centre	1
G0502	YMMSS Homantin Integrated Centre for Youth Development	1
G0601	Yu Chun Keung Memorial College	1
G1601	GCEPSA Whampoa Primary School	1
G1701	Ma Tau Chung Government Primary School (Hung Hom Bay)	1
G1901	Hung Hom Municipal Services Building Sports Centre	1
G2101	SKH Holy Trinity Church Secondary School	1
H1202	Kit Sam Lam Bing Yim Secondary School	1
H2101	PLK Centenary School	1
H2401	Buddhist Hung Sean Chau Memorial College	1

<b>Code</b>	<b>Name of Polling Station</b>	<b>Number of Cases</b>
J0501	SKH St John's Primary School	1
J0701	Chun Wah Road Sports Centre	1
J1701	Lam Tin (East) Community Hall	1
J2301	Po Chiu Catholic Secondary School	1
J2701	Kwun Tong Maryknoll College	1
J3501	Lok Wah Estate Community Centre	1
K0101	Princess Alexandra Community Centre	1
K1102	Former Site of Oceanic Kindergarten	2
L1701	TWGHs Sun Hoi Directors' College	1
L1802	Butterfly Bay Community Centre	1
L2701	SKH Mung Yan Primary School	1
M0301	Long Ping Community Hall	1
M1401	TWGHs Yiu Dak Chi Memorial Primary School	1
M1701	Xianggang Putonghua Yanxishe Primary School of Science and Creativity	1
N0401	HHCKLA Buddhist Ching Kok Lin Association School	1
N1001	Po Wing Road Sports Centre	1
N1101	Choi Yuen Estate Hall	3
N1602	Luen Wo Hui Community Hall	1
P1401	Assembly of God Hebron Secondary School	1
P1501	Lam Tsuen Public Wong Fook Luen Memorial School	1
Q0401	Hong Kong and Macau Lutheran Church Primary School	1
Q2402	Creative Secondary School	1
R0401	Baptist Lui Ming Choi Primary School	3
R0601	Chi Hong Primary School	1
R1601	Lung Hang Estate Community Centre	1
R2001	PLK Siu Hon Sum Primary School	1
R2801	Ng Clan's Association Tai Pak Memorial School	1
S0401	Buddhist Lam Bing Yim Memorial School	1
S1401	CCC Kei Chun Primary School	1
S2001	SKH Tsing Yi Estate Ho Chak Wan Primary School	1



<b>Code</b>	<b>Name of Polling Station</b>	<b>Number of Cases</b>
S2901	CNEC Lui Ming Choi Primary School	1
T0601	SKH Wei Lun Primary School	1
<b>Total</b>		<b>70</b>

## Press Releases

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LCQ17: Maintaining the accuracy of electors' information  
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Following is a question by the Hon Albert Chan and a written reply by the Secretary for Constitutional and Mainland Affairs, Mr Raymond Tam, in the Legislative Council today (October 31):

Question:

Over the past few months, quite a number of members of public relayed to me that they had been deregistered from the register of electors without their knowledge, and that during the past few months, they had not received any letter from the Registration and Electoral Office requesting them to verify electors' information. In this connection, will the Government inform this Council:

(a) of the number of complaints received by the authorities from electors in the past 12 months about deregistration from the register of electors without their knowledge;

(b) of the reasons for the electors being deregistered in the cases in (a); whether it has conducted any investigation to ascertain if the deregistration process involves any negligence or administrative errors on the part of government departments; if it has, of the details; if not, the reasons for that; and

(c) whether the authorities will improve the existing policies and arrangements in order to avoid deregistration of electors without their knowledge; if they will, of the details; if not, the reasons for that?

Reply:

Mr President,

Our consolidated reply to the member's questions is as follows:

In response to the concerns of the general public and the Members of the Legislative Council (LegCo) that some electors were suspected to have made false declaration of their residential addresses during the 2011 District Council (DC) Election, the Administration conducted a review of the existing voter registration system in late 2011 and proposed a number of improvement measures. Subsequently, the Registration and Electoral Office (REO) implemented a series of checking measures and increased the extent of checking with effect from January this year with a view to improving the accuracy of the voter registers. These measures included strengthening the random sample check, checking cases of any registered address with more than a certain number of electors or the number of surnames of electors exceeding a certain figure, cross data matching with the Housing Department and the Housing Society to confirm the registration details of households, taking follow-up actions in respect of returned election mails and complaint cases involving suspected false addresses in the 2011 DC Election. The above measures were reported to the LegCo before implementation and were supported by a large number of LegCo Members.

Section 24(2) of the Legislative Council Ordinance (Cap. 542) provides that a person is not, by virtue of being registered as an elector in an existing final register of geographical constituencies, entitled to be included as an elector in any subsequent register of geographical constituencies if the Electoral Registration Officer (ERO) is satisfied on reasonable grounds that the person no longer resides at the residential address recorded against the person's name in that existing register and that Officer does not know the person's new principal residential address (if any) in Hong Kong. Section 28

(2) of the Ordinance also provides that the ERO may omit from the final register of geographical constituencies the name of an elector if he is satisfied on reasonable grounds that the residential address last notified to that Officer is no longer the elector's only or principal residence in Hong Kong.

Following the implementation of the above checking measures, if the REO had reason to suspect that certain registered addresses might not be the only or principal residence of some electors in accordance with the information obtained, the REO would, in compiling the 2012 provisional register, make inquiries into suspected cases in accordance with the relevant Electoral Affairs Commission Regulation, and such inquiry letters were sent by registered post to the persons from whom the inquiries were made.

The REO sent out about 296,000 inquiry letters in batches before April 30 this year. As at the end of May, the REO received responses from about 41,000 electors and about 25,000 electors requested the REO to update their addresses. The remaining 230,000 electors did not respond to the REO before the statutory deadline to confirm or update their registered addresses. For the electors who did not respond to the inquiries before the statutory deadline, the REO was satisfied on reasonable grounds that their registered addresses were no longer their only or principal residential addresses. Hence, the REO put their names and principal residential addresses on the omissions list published on June 15, 2012 in accordance with the statutory requirements.

To appeal to the electors to update their addresses in time, the REO enhanced its publicity campaign through various channels in May and June 2012. The specific measures included press releases, Announcements in the Public Interests on radio and television, newspaper advertisements, posters, LED displays in MTR compartments and messages on government websites. These enhanced measures aimed at reminding the public to check the provisional register and to note the arrangement for introducing an omissions list. The registered electors were also reminded to report any changes of residential addresses or other particulars to the REO on or before June 29, 2012. At the same time, the REO published a notice in accordance with the relevant regulation on June 15, 2012 that the provisional register and the omissions list would be available for public inspection between June 15 and 29, 2012 at the ERO's Office and the District Offices. Those who felt aggrieved that their names were shown on the omissions list could make a claim to the ERO before June 29, 2012 that he or she was entitled to be registered in the final register. The ERO then delivered the notices of claim made in accordance with the relevant regulation to the Revising Officer for consideration and ruling. With the approval of the Revising Officer, the claimants' names would be included in the final register published in July 2012. Such arrangements were covered by the major newspapers and media.

Other than the above publicity and public notice, the REO on June 14, 2012 sent reminders to the 230,000 electors who had been included in the omissions list to remind them to make a claim or update/confirm their addresses on or before June 29, 2012. Some 13,000 electors made a claim or updated/confirmed their registered addresses on or before June 29, 2012 and their names and addresses were included in the 2012 final register with the approval of the Revising Officer. The remaining 217,000 electors who did not respond to the REO before the statutory deadline were struck off from the final register in accordance with the relevant electoral legislation.


All in all, the REO made written inquiries to electors to confirm whether they lived at the registered addresses and struck off the electors from the final register in accordance with relevant electoral legislation. Apart from issuing public notice and arranging for public inspection of the provisional register and omissions list in accordance with the relevant electoral legislation, the REO also made repeated and extensive appeals

through various channels to remind the electors concerned to respond or make a claim.

To maintain the accuracy of the electors' registered addresses in the voter registers, the REO will continue to implement checking measures in 2013 to confirm whether the registered addresses recorded are the electors' only or principal residential address in Hong Kong. Apart from issuing inquiry letters to the electors concerned in accordance with the checking results and electoral legislation, the REO will continue to enhance publicity measures to remind electors to whom the ERO has made inquiries to update/confirm their registered address so that they will not lose their eligibility for registration and voting rights. Besides, electors may call the hotline of the REO at 2891 1001 during office hours to enquire about their eligibility or to update their registered particulars.

Ends/Wednesday, October 31, 2012  
Issued at HKT 13:35

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**Relevant documents on Electoral Affairs Commission Report  
on the 2012 Legislative Council Election**

<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
Legislative Council	9.4.2008	<a href="#">Official Record of Proceedings Pages 29 - 39 (Oral question raised by Hon Ronny TONG)</a>
	18.6.2008	<a href="#">Official Record of Proceedings Pages 97 - 99 (Written question raised by Hon SIN Chung-kai)</a>
Panel on Constitutional Affairs ("CA Panel")	19.7.2010 (Item II)	<a href="#">Agenda Minutes</a>
	30.10.2010 (Item I)	<a href="#">Agenda Minutes</a>
	17.1.2011 (Items III & IV)	<a href="#">Agenda Minutes</a>
House Committee	18.2.2011	<a href="#">Report of the Bills Committee on Legislative Council (Amendment) Bill 2010</a>
CA Panel	18.3.2011 (Items III & IV)	<a href="#">Agenda Minutes</a>
	18.4.2011 (Item III)	<a href="#">Agenda Minutes</a>
House Committee	24.6.2011	<a href="#">Report of the Bills Committee on Electoral Legislation (Miscellaneous Amendments) Bill 2011</a>
CA Panel	18.7.2011 (Items II, III & IV)	<a href="#">Agenda Minutes</a>
	21.11.2011 (Item IV)	<a href="#">Agenda Minutes</a>
Legislative Council	30.11.2011	<a href="#">Official Record of Proceedings Pages 78 - 83 (Written question raised by Hon Albert HO)</a>

Committee	Date of meeting	Paper
	14.12.2011	<a href="#">Official Record of Proceedings Pages 100 - 111 (Written question raised by Hon Albert HO)</a>
CA Panel	19.12.2011 (Item III)	<a href="#">Agenda Minutes</a>
	17.2.2012 (Item I)	<a href="#">Agenda Minutes</a>
	19.3.2012 (Item IV)	<a href="#">Agenda Minutes</a>
	16.4.2012 (Items III & IV)	<a href="#">Agenda Minutes</a>
House Committee	20.4.2012	<a href="#">Report of the Bills Committee on Electoral Legislation (Miscellaneous Amendments) Bill 2012</a>
CA Panel	21.5.2012 (Item IV)	<a href="#">Agenda Minutes</a>
Legislative Council	30.5.2012	<a href="#">Official Record of Proceedings Pages 93 - 96 (Written question raised by Hon WONG Kwok-kin)</a>
	6.6.2012	<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>
House Committee	24.6.2012	<a href="#">Report of the Subcommittee on Nine Amendment Regulations made under the Electoral Affairs Commission Ordinance</a>

<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
Legislative Council	17.10.2012	<a href="#">Official Record of Proceedings Pages 110 - 115 (Written question raised by Hon Albert CHAN)</a>
	31.10.2012	<a href="#">Official Record of Proceedings Pages 116 - 119 (Written question raised by Hon Albert CHAN)</a>

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