

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 20 January 2014

Online system for checking voter registration particulars

Purpose

The Panel on Constitutional Affairs ("CA Panel") has not discussed the above proposed online system for checking voter registration ("VR") particulars before. To facilitate members' deliberation on the subject, this paper provides background information on VR procedure, and summarizes the concerns raised by Legislative Council ("LegCo") Members on related issues including the accuracy of the voter register and measures to facilitate electors to check their VR status.

Background

Procedures for VR

2. The Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541A) stipulates a statutory timeframe for receiving applications for registration as electors for Geographical Constituencies ("GCs"), publication of the provisional register, omissions list¹ and final register, and determination of claims and objections in an annual registration cycle.

3. The Electoral Registration Officer ("ERO") will process the application forms after they have been received. If the information provided is incomplete or incorrect, ERO will send a written enquiry to the applicant to seek further information or proof. If the applicant fails to provide the required information or ERO is not satisfied with the information provided, ERO may decide not to

¹ The omissions list will include persons who, to ERO's satisfaction, are dead, no longer eligible to be registered, have been disqualified and whose address recorded in the existing final register against a person's name is no longer the person's principal residential address.

consider the application further. An applicant who qualifies for registration will be allocated to the relevant GC and District Council ("DC") Constituency Area on the basis of his residential address.

4. Based on the current final register and the applications received on or before the VR deadline for the year, ERO is required to publish a provisional register and an omissions list for public inspection. In compiling a provisional register, ERO will 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. The names and addresses of the persons included in the omissions list will not appear on the provisional register.

Existing arrangements for registered electors to check their VR particulars

5. The provisional register will be available for public inspection at the Registration and Electoral Office ("REO") and District Offices as specified in the Gazette notice of publication for a period after its publication and before the appeal deadline, i.e. not later than 29 June in a non DC election year (or 29 August in a DC election year). The public may lodge claims and objections regarding the entries in the provisional register or the omissions list during a two-week inspection period. Cases of claims and objections will be referred to the Revising Officer for consideration. After settling all the claims and objections, ERO will publish a final register for the year. This final register remains valid until the publication of the next final register. Only electors recorded in the last published final register for a constituency are entitled to vote in an election for that constituency. 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 I**. The numbers of claims/objections lodged in the 2011, 2012 and 2013 VR cycles are respectively 86, nine and one.

6. To enhance the accuracy of the entries recorded in the voter registers, REO has implemented since January 2012 a series of measures to increase the number and scope of checking, namely –

- (a) follow-up inquiries on undelivered poll cards arising from recent elections/by-elections;

- (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) sample checks on new VR applications.

As a result of the extensive inquiry checks conducted in the 2011-2012 registration cycle, a total of 231 000 electors were included in the omissions list published in June 2012.

Concerns raised by LegCo Members on related issues

Accuracy of the voter register

7. 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 where there was a prima facie case of suspected false registered addresses to relevant law enforcement agencies for investigation. At the meeting of the CA Panel on 21 October 2013, members requested the Administration to provide the investigation results on the suspected vote-rigging cases. The information provided by REO is in **Appendix II**.

8. Some members expressed concern that while the Police and the Independent Commission Against Corruption ("ICAC") had conducted investigation into complaint cases of 3 020 electors and 8 287 electors respectively, the number of convictions and prosecutions was on the low side involving only 52 persons convicted (as at October 2013). The Administration advised that a large majority of the complaint cases investigated were concluded unsubstantiated after investigation by the Police and ICAC. The conclusions were drawn based on objective facts and after the serious investigations conducted by the two law enforcement agencies. The Administration considered

that most of the cases had revealed that there was no evidence of so-called "vote-rigging" and most of the registered addresses were in fact the old residential addresses of the electors who had moved away without updating their particulars with REO. The Administration advised that in order to address the phenomenon that registered electors often failed to update their particulars after moving their residence, it would strengthen publicity efforts to encourage timely updating of registered particulars so that REO could update and keep the relevant registers of electors most up-to-date.

9. When the CA Panel discussed the Consultation Paper on Improvement Measures of VR System at its meeting on 19 December 2011, members in general expressed reservations about 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. They considered that the proposed penalty would create panic among the public. The proposal was subsequently not pursued by the Administration.

Measures to facilitate electors to check their VR status

10. During the scrutiny of the Subcommittee on Nine Amendment Regulations made under the Electoral Affairs Commission Ordinance (Cap. 541) ("the Subcommittee"), some members expressed concern about the removal of registered electors' names from the final register without their knowledge. 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 had been aware of the removal of their names from the final register only on the polling day. In some cases, even though the elector realized that he had not received a polling card and had reported to REO, it had been too late to reinstate his voting right in the upcoming election because the deadline for registration had already lapsed. The Subcommittee 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.

11. The Administration advised that a rigorous process would need to be gone through before an elector's name was put on the omissions list in accordance with the electoral law. When assisting electors to update their principal addresses, REO would contact the electors by various means. Only when the person could not be contacted to update his principal address after many attempts would REO undertake a formal inquiry in accordance with the relevant statutory provisions to ascertain whether or not the address recorded in the existing register was still the principal address of the person. The inquiry letter would be sent to the person by registered post and, if the person still failed to

update his principal address within a statutory timeframe, his name would then be put on the omissions list.

12. 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, and whether the enhanced checking measures implemented by REO were over-stringent. REO advised that it had strictly followed the relevant statutory procedures in the implementation of the checking measures. In the 2012 VR cycle, REO had introduced an additional measure, i.e. sending a reminder letter after the publication of the provisional register to remind electors whose names had been included in the omissions list to make a claim, confirm or update their residential addresses before the statutory deadline, in order to resume their registration. At the same time, REO sent emails to those electors if they had provided their email addresses to REO. Therefore, each of the electors concerned had been issued two to three checking/inquiry/reminder letters from REO, before their names were removed from the final register in the 2012 VR cycle in accordance with the relevant electoral legislation. The Administration stressed that 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.

13. Some members asked about the measures taken by REO for verifying requests for de-registration in order to prevent forgery of such requests. REO advised that it would issue a notification letter to the elector concerned after verifying his/her personal particulars contained in the database of REO. The elector concerned who received the notification letter, if in doubt, could approach REO for follow-up action. Any suspicious case would be referred to the law enforcement agencies. Apart from issuing the notification letter, REO would try to contact the elector concerned by email (if available). Moreover, according to the Administration's proposal submitted to the CA Panel for consultation on 18 November 2013, REO would be empowered to include electors requesting voluntary de-registration in the omissions list, thereby enhancing the transparency of the relevant procedures.

14. Some members, however, considered that loopholes might exist under the present arrangements in that REO could only assume that the elector concerned had received the notification letter issued by REO and, on that assumption, included the elector concerned in the omissions list. They suggested that an affirmative action should be required on the part of the elector requesting voluntary de-registration in order to make sure that the voluntary de-registration was genuinely requested by the elector concerned. REO advised that if it was required that any elector requesting voluntary de-registration had to make the request in person to REO, it might cause undue inconvenience to electors.

REO also informed members that it was actively exploring the feasibility to launch an online system which would facilitate the electors to check their VR status and particulars via the Internet.

Recent development

15. The Administration has proposed to brief the CA Panel on the development of an online system for checking VR particulars at the next meeting on 20 January 2014.

Relevant papers

16. A list of the relevant documents is in **Appendix III** for Members' easy reference.

Council Business Division 2
Legislative Council Secretariat
16 January 2014

Statutory Timetables for Voter Registration

Major Event	Statutory deadlines in a non-DC election year	Statutory deadlines in a DC election year
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

Major Event	Statutory deadlines in a non-DC election year	Statutory deadlines in a DC election year
<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

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

13 November 2013

Dear Ms MAK,

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

At the meeting of the Panel on Constitutional Affairs held on 21 October 2013, Members discussed the offences related to voter registration (VR) and checking measures. Some Members enquired about the latest investigation results and prosecution statistics regarding complaints about suspected false registered addresses of electors received after the 2011 District Council (DC) Election and statistics related to the checking measures implemented by the Registration and Electoral Office (REO) in the 2013 VR cycle. The following supplementary information is provided for Members' reference.

Investigation results and prosecution statistics related to electors' suspected false registered addresses

According to the latest information provided by the two law enforcement agencies, the Hong Kong Police Force and the Independent Commission Against Corruption have so far investigated 3 021 and 8 290 electors respectively after the 2011 DC Election¹. Following investigation by the two law enforcement agencies 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), as at 21 October 2013, 66

¹ The figures include cases involving 1 580 electors referred to the Hong Kong Police Force and cases involving 583 electors referred to the Independent Commission Against Corruption by the REO.

electors have been prosecuted and of whom 55 were convicted. Please refer to Annex I for the concerned figures and the sentences handed down by the court.

Follow-up actions on unsubstantiated cases

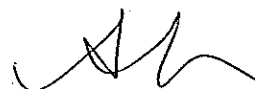
According to the investigation by the two law enforcement agencies, cases involving about 11 000 electors were found unsubstantiated. According to the investigation result, the electors concerned were actually residing in the registered addresses or the registered addresses were in fact the previous residential addresses of the concerned electors who did not update their particulars in a timely manner with the REO after moving home. The REO has been following up these cases with the information in relation to the respective electors obtained from the two law enforcement agencies. Where required, the REO will approach by phone or in writing the electors who did not update their registered addresses with the REO in a timely manner after moving home, to assist them to update their address information.

Statistics related to checking measures in the 2013 VR cycle

About 140 000 electors were covered in the enhanced checking measures in the 2013 VR cycle. The REO issued inquiry letters to about 35 000 of them by registered post between February and April 2013 in accordance with the statutory provisions requesting them to update or confirm their registered addresses. The registration status of about 26 000 electors were cancelled and they were removed from the Final Register (FR) published in late July 2013 as the REO had not received their reply in response to the inquiry letters. The different checking measures and the number of electors removed from the FR are shown at Annex II. The REO will continue to implement the checking measures and make inquiries in the 2014 VR cycle, to enhance the accuracy of the registers and maintain the integrity of the VR system. The REO will also continue to launch publicity to remind electors to fulfil their civic responsibility to update their particulars in the voter registers.

Members are invited to note the above.

Yours sincerely,



(SHUM Nam-lung)
for Chief Electoral Officer

c.c. Constitutional and Mainland Affairs Bureau (Attn: Mr Freely Cheng)

**Statistics of investigation and prosecution by the
law enforcement agencies and sentences handed down in respect of
complaints relating to voter registration
following the 2011 District Council Election
(as at 21 October 2013)**

Investigation and prosecution

Investigation by the Hong Kong Police Force	Number of persons involved
● Unsubstantiated after investigation	2 856
● Conviction after investigation, prosecution and trial	7
● Not convicted after investigation, prosecution and trial	3
● Under investigation	1
● Referral to Independent Commission Against Corruption	154
Total	3 021
Investigation by the Independent Commission Against Corruption	Number of persons involved
● Unsubstantiated after investigation	8 232
● Conviction after investigation, prosecution and trial	48
● Not convicted after investigation, prosecution and trial	4
● Prosecution after investigation but charges dropped after Department of Justice offered no evidence	4
● Under investigation	2
Total	8 290 ¹

¹ The figure has included the 154 persons referred by the Hong Kong Police Force to the Independent Commission Against Corruption for follow-up action.

Sentences handed down

Cases investigated by the Hong Kong Police Force		
<i>Election</i>	<i>Number of persons prosecuted</i>	<i>Sentences handed down</i>
2011 DC Election Ping Shan South Constituency	7	<ul style="list-style-type: none"> • 1 person jailed for 4 months, suspended for 2 years • 6 persons jailed for 2 months, suspended for 1 year
2012 Legislative Council Geographical Constituencies Kowloon West Constituency	3	All acquitted
Total	10	7 convicted, 3 acquitted

Cases investigated by the Independent Commission Against Corruption		
<i>Election</i>	<i>Number of persons prosecuted</i>	<i>Sentences handed down</i>
2011 DC Election King's Park Constituency	51	<ul style="list-style-type: none"> • 45 persons convicted: <ul style="list-style-type: none"> - 1 person jailed for 12 months (reduced to 81 days on appeal) - 1 person jailed for 8 months (reduced to 10 weeks on appeal) - 2 persons jailed for 4 months - 7 persons jailed for 3 months - 29 persons jailed for 2 months - 1 person jailed for 6 weeks - 3 persons jailed for 2 months but given suspended sentence - 1 person given 160 hours of community service order • 3 persons acquitted

		<ul style="list-style-type: none">• 3 persons were offered no evidence, thus acquitted
2011 DC Election To Kwa Wan South Constituency	3	<ul style="list-style-type: none">• 2 persons convicted and jailed for 2 months• 1 person was offered no evidence, thus acquitted
2011 DC Election Lok Hong Constituency	1	Acquitted
2011 DC Election Lung Sing Constituency	1	Convicted and jailed for 2 months
Total	56	48 convicted, 4 acquitted, 4 offered no evidence thus acquitted

Checking measures in 2013 VR cycle

<i>Enhanced checking measures</i>	<i>Electors covered</i>	<i>Inquiry letters sent</i>	<i>Electors removed from Final Register</i>
Follow-up inquiries on undelivered poll cards arising from the 2012 Legislative Council Election	29 830	22 860 Note (1)	19 361
Checks on multiple electors or multiple surnames of electors registered with the same residential address	15 090	2 557 Note (1)	1 250
Random sample checks on existing electors	34 879	6 212 Note (1)	3 158
Checks on addresses with incomplete information, commercial addresses or suspected non-residential addresses	24 970	3 300 Note (1)	2 201
Checks on addresses in buildings already demolished or to be demolished	658	406 Note (1)	321
Cross-matching of data with Housing Department, Housing Society and Home Affairs Department for verification of electors' registered addresses	39 062	Not applicable Note (2)	-
Checks on new VR applications with multiple applicants using the same address for registration	139	Not applicable Note (3)	-
Total	144 628	35 335	26 291

Note (1): In these cases, the REO could not contact the electors concerned, or issued enquiry letters to them and they failed to reply to confirm or update their registered addresses. The REO has reasonable grounds to believe that the address might no longer be concerned electors' principal residence. The REO therefore made inquiries to such electors in accordance with the statutory provisions.

Note (2): The REO conducted data matching with Housing Department/Housing Society regarding the particulars of their occupants; and with Home Affairs Department's current final registers for villages. According to the matching result, 17 620 electors have either provided the REO with their latest addresses or their addresses tallied with the records of the relevant departments. Regarding the remaining 21 442 electors who had not yet updated their addresses, the REO issued written notices according to the statutory provisions to assist them to update their registered addresses having regard to the latest information from the relevant departments.

Note (3): The REO conducted checking on new VR applications where multiple applicants use the same address for registration, by issuing enquiry letters requesting the applicants to provide written confirmation of the residential address stated in the application form. 115 applicants replied and provided the required information; the application for VR was thus completed. The remaining 24 applicants had not responded to the enquiry letters and the REO therefore decided not to process their VR applications further.

Appendix III

Relevant documents in the last and current legislative sessions

Committee	Date of meeting	Paper
Panel on Constitutional Affairs ("CA Panel")	16 October 2012 (Item III)	Agenda Minutes
Legislative Council	17 October 2012	Official Record of Proceedings Pages 110 - 115 (Written question raised by Hon Albert CHAN)
	31 October 2012	Official Record of Proceedings Pages 116 - 119 (Written question raised by Hon Albert CHAN)
CA Panel	19 November 2012 (Item IV)	Agenda Minutes
	17 December 2012 (Item IV)	Agenda Minutes
	21 January 2013 (Item III)	Agenda Minutes
	18 March 2013 (Item IV)	Agenda Minutes
	15 July 2013 (Item II)	Agenda Minutes
	21 October 2013 (Item III)	Agenda Minutes
	18 November 2013 (Item IV)	Agenda