

立法會
Legislative Council

LC Paper No. CB(2)1028/13-14(03)

Ref : CB2/PL/CA

Panel on Constitutional Affairs

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 17 March 2014**

Voter registration system

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.

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 ("FR") 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 FR 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 ("PR"), omission list ("OL") and FR, 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 FR 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 PR, ERO must strike out the name and particulars of a registered elector from FR of electors if the person is no longer eligible to be an elector. At the same time when PR for GCs is published, ERO will also publish OL, containing the names and residential addresses of persons formerly registered as GC electors. These particulars are struck out from PR and proposed to be omitted from the next FR, 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 FR 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 FCs¹ 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 PRs, OL and FRs for FCs.

Offence

10. Under section 22 of Cap. 541A, it is an offence for a person to make a false or incorrect statement knowingly for VR purposes in respect of GCs, or to cause another person to make such false or incorrect statement. A similar provision exists under section 42 of Cap. 541B in respect of VR for FCs. The offences are summary offences and the maximum penalty is a fine of \$5,000 and imprisonment for six months. The Police is the enforcement agency of the offences under Caps. 541A and 541B.

11. Under section 16 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) ("ECICO"),

- (a) it is an offence if a person -
 - (i) votes at the election knowing that he is not entitled to do so; or
 - (ii) votes at the election after having knowingly or recklessly given to an electoral officer information that was materially false or misleading, or knowingly omitted to give material information to an electoral officer;
- (b) it is also an offence if a person invites or induces another person –
 - (i) to vote at the election knowing that the other person is not entitled to do so; or
 - (ii) to vote at the election knowing that the other person has given to an electoral officer information that was materially false or misleading, or knowingly omitted to give material information to an electoral officer.

¹ 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.

The maximum penalty for the above offences is a fine of \$500,000 and imprisonment for seven years. The Independent Commission Against Corruption ("ICAC") is the enforcement agency of the offences under ECICO.

Measures to improve the VR system

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 Registration and Electoral Office ("REO") has implemented a number of measures to improve the VR system starting from 1 January 2012. The enhanced checking measures 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 that one of the proposals should be pursued, three should not be pursued, and two should be further considered². The Administration's position on the proposals contained in the Consultation Paper is set out in **Appendix IV**.

Follow-up on the two outstanding proposals contained in the Consultation Paper

(a) VR statutory deadlines

14. At the meeting of the Panel on Constitutional Affairs ("CA Panel") on 18 November 2013, the Administration recommended extending the claims and

² The gist concerning these two issues is -

- (a) VR statutory deadlines: at present, the key dates of a VR cycle are expressly set out in the electoral laws, including the deadline to apply for VR; the deadline for a VR applicant to provide further particulars if so requested by ERO; the deadline to publish PR and OL for public inspection; the deadline for the public to make claims and objections in respect of PR and OL or to make updates on the registration particulars; the deadline for the Revising Officer to fix a hearing for a claim or objection; and the deadline for ERO to publish FR for public inspection. There have been proposals to advance the VR deadlines so that more time can be allowed for the public to inspect PR and OL and make claims and objections (this period is two weeks currently); and
- (b) VR-related offences: the concerned offences are set out in ECICO and the Electoral Affairs Commission Ordinance (Cap. 541) and related subsidiary legislation. There have been proposals as to whether the offences on false declaration should be put under one ordinance, and whether the penalty levels should be revised, etc.

objections period for VR during a VR cycle by 10 days to allow more time for the public to inspect PR and OL and make claims and objections, and setting aside four additional days for the Revising Officer to arrange hearings of claims and objections (see LC Paper No. CB(2)268/13-14(03)). It is proposed that in a non-DC election year, PR and OL will be published not later than 1 June and the deadline for making claims and objections will fall on 25 June, while the respective deadlines will be not later than 1 August and 25 August in a DC election year. Panel members in general supported the recommendation at the meeting. The Administration will introduce the legislative amendments in the 2013-2014 legislative year. The proposed amendments will be implemented from the 2015 VR cycle onwards.

(b) Administration's proposal on offences on VR false declaration

15. At the CA Panel meeting on 21 October 2013, the Administration proposed to make the offences on VR false declarations under Caps. 541A and 541B become indictable offences instead of summary offences. This would lift the six-month time bar for prosecution so as to enhance the deterrent effect of the offences concerned. The proposal will be included in a miscellaneous electoral amendment bill to be introduced in the 2013-2014 legislative year.

16. While members in general expressed support for the proposal, some members enquired whether the Administration would also consider raising the penalty level for offences relating to VR false declarations in order to enhance the deterrent effect and transferring the offences under Caps. 541A and 541B to ECICO. The Administration explained that the Electoral Affairs Commission ("EAC") had reviewed the existing penalty level of the offences made under the EAC Regulations, and considered that the existing penalty level of the offences relating to false declarations under Caps. 541A and 541B was broadly appropriate. The penalty for offences relating to false declarations under ECICO was also considered sufficiently heavy to reflect the gravity of the offences. The Administration also advised that transferring the offences under Caps. 541A and 541B to ECICO would have the effect of raising the penalty level under Caps. 541A and 541B. The proposal might also run the risk of overloading one single law enforcement agency.

Implementation of Online Voter Information Enquiry System ("OVIES")

17. At the CA Panel meeting on 20 January 2014, the Administration briefed members on the proposed design of OVIES which was an electronic platform to facilitate the public to check their VR particulars. The Administration explained that the information to be provided through OVIES would be the same information contained in the VR documents as required under the electoral law.

OVIIES would operate round the clock. An elector could log in the system anytime anywhere to view his own VR particulars and, if required, take timely action to update their particulars by submitting relevant application forms. According to the Administration, the launching of OVIIES, coupled with the extension of the inspection period of PR and OL (see paragraph 14), would go a long way in facilitating electors to keep their VR particulars up-to-date and thereby enhancing the accuracy of FR. The Administration planned to launch the first phase of the system in the third quarter of 2014.

Major issues relating to VR raised by relevant committees

Accuracy of the voter register

18. 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 updated investigation results. The information provided by REO is in **Appendix V**.

19. The Administration advised that a large majority of the complaint cases investigated were concluded unsubstantiated after investigation by the Police and ICAC. 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.

Measures to facilitate electors to check their VR status

20. Regarding the 2012 LegCo Election, the CA Panel expressed concern at various meetings about the removal of some 210 000 electors' names from the FRs of electors. Some members expressed concern as to whether the enhanced checking measures adopted by REO were over-stringent. REO advised 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 FR 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.

21. Members had also pointed out at various meetings that some electors had been aware of the removal of their names from FR only on the polling day. Also, when some electors who had not received the polling card reported that to REO, they were told that it was already too late to reinstate their voting right in the upcoming election, because the deadline for registration had lapsed. Some members considered that the development of OVIES (see paragraph 17) would help address the problem of removal of registered electors' names from FR without the knowledge of the electors concerned. As for members of the public who were not internet users, the Administration advised that they could continue to ascertain their VR status through the enquiry hotline of REO during office hours, or inspect the registers of electors in person during office hours at REO or the public enquiry service centres of the 18 District Offices.

Streamlining procedures for VR and publicity

22. The CA Panel has discussed the subject of the implementation of automatic VR at various meetings. 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.

23. Some members expressed concern about the low registration rate of young people and urged the Administration to step up publicity and public education. The Administration advised that particular efforts had been made to reach out to young people through the new media platforms, school visit programme for secondary schools and talks. Registration counters were also set up at all Registration of Persons Offices of the Immigration Department to assist young people reaching 18 years of age in registering as electors.

Time gap between the deadline for VR and the polling day

24. 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 expressed 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.

25. 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"

26. 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.

27. 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.

Status of registered electors of FCs

28. The CA Panel 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 FRs, 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.

29. The Administration also informed the CA Panel that for FCs, in order to enhance the accuracy of the membership information supplied by the bodies specified³ under LCO, ICAC had initiated 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. Some members queried the effectiveness of the new programme 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.

Election Petition

30. 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.

Recent development

31. The Administration has proposed to brief the CA Panel on VR in 2014 at the next meeting on 17 March 2014. .

³ 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).

Relevant motion/questions and papers

32. 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.

33. Details of relevant LegCo questions raised at Council meetings and relevant papers in the last and the current terms of LegCo are in **Appendix VI**.

Council Business Division 2
Legislative Council Secretariat
12 March 2014

Appendix I

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

Contents of Section

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

(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

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

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.

Consultation Report on Improvement Measures of Voter Registration System

(Extract)

X X X X X X X X X X

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

香港灣仔港灣道 25 號
海港中心 10 樓

REGISTRATION AND ELECTORAL OFFICE

10/F Harbour Centre
25 Harbour Road
Wan Chai Hong Kong

本函檔號OUR REF: REO10-4/3(Con)XIX
來函檔號YOUR REF:

圖文傳真 Fax : 2507 5810
電話 Tel : 2827 7047
網址 Web Site: <http://www.reo.gov.hk>

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

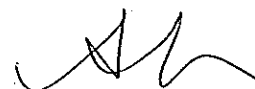
According to the investigation by the two law enforcement agencies, cases involving about 11 000 electors were found unsubstantiated. According to the investigation result, the electors concerned were actually residing in the registered addresses or the registered addresses were in fact the previous 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.

**Relevant documents on voter registration system
in the last and the current terms**

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

Committee	Date of meeting	Paper
Legislative Council	14 December 2011	Official Record of Proceedings Pages 136 - 140 (Written question raised by Hon Audrey EU)
CA Panel	19 December 2011 (Item III)	Agenda Minutes
Legislative Council	21 December 2011	Official Record of Proceedings Pages 262 - 345 (Motion moved by Hon KAM Nai-wai)
CA Panel	17 February 2012 (Item I)	Agenda Minutes
	19 March 2012 (Item IV)	Agenda Minutes
Legislative Council	30 May 2012	Official Record of Proceedings Pages 93 - 96 (Written question raised by Hon WONG Kwok-kin)
	6 June 2012	Official Record of Proceedings Pages 23 - 35 (Oral question raised by Hon Ronny TONG)
		Official Record of Proceedings Pages 85 - 88 (Written question raised by Hon Alan LEONG)
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)

Committee	Date of meeting	Paper
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 Minutes
	20 January 2014 (Item IV)	Agenda

Council Business Division 2
Legislative Council Secretariat
12 March 2014