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Report of the Subcommittee on Census and Statistics (2016 Population Census) Order

Purpose

This paper reports on the deliberations of the Subcommittee on Census and Statistics (2016 Population Census) Order ("the Subcommittee").

Background

2. Population censuses have been conducted in Hong Kong at ten-year intervals since 1961 and by-censuses are carried out in the middle of the intercensal period. Population censuses involve a complete headcount of the population, while population by-censuses enquire about the detailed characteristics of the population on the basis of a large sample. The aim of population censuses and by-censuses is to obtain up-to-date benchmark information on the demographic, social and economic characteristics of the population and on its geographical distribution. Census information is vital to the Government for planning and policy formulation, as well as to the private sector and academia for business and research purposes.

The 2016 Population By-census

3. The Census and Statistics Department ("C&SD") plans to conduct the 2016 Population By-census ("16BC") from 30 June to 2 August 2016 (lasting for 34 days) covering some 300 000 households¹. C&SD will adopt a multi-modal, paperless data collection approach in conducting 16BC. Households will be provided with the option to complete and submit self-administered e-questionnaires ("e-Q") online or via a dedicated mobile app. If households have not completed their e-Q, C&SD will arrange census officers

¹ About 10% of the entire population.

to visit these households and use mobile tablets to record the information collected during the face-to-face interviews. A total of 45 data topics are included in 16BC. Compared to the 2011 Population Census ("11C"), four new data topics have been added, namely "ability to read/write languages", "hours of work", "whether sub-divided units" ("SDU") (in respect of premises other than a vessel), and "saleable area of accommodation".

The Order

4. The Government published in the Gazette the Census and Statistics (2016 Population Census) Order ("Order") on 23 October 2015. The Order specifies the dates for taking 16BC, and other matters for 16BC, including the persons, premises and vessels in respect of which particulars are to be obtained, persons who are required to give the requisite information, and the deadline for destroying the completed questionnaires. The Schedule to the Order sets out the data topics covered by 16BC. The Order was tabled before the Legislative Council ("LegCo") at its meeting of 28 October 2015 and is subject to the negative vetting procedure. It will come into operation on 17 December 2015.

The Subcommittee

5. At the House Committee meeting held on 30 October 2015, Members agreed to form a subcommittee to study the Order. The membership list of the Subcommittee is in **Appendix I**. Under the chairmanship of Hon Cyd HO, the Subcommittee has held three meetings to discuss with the Government, including one meeting to receive views from deputations. The Subcommittee has also received 15 written submissions. The list of organizations and individuals which/who have provided views to the Subcommittee is in **Appendix II**.

6. To allow more time for the Subcommittee to study the Order, a resolution was passed at the Council meeting of 18 November 2015 to extend the scrutiny period to 16 December 2015. Members appreciate the co-operation of the Government in assisting the Subcommittee in scrutinizing the Order, in particular C&SD which has provided the requested information in a timely manner.

Deliberations of the Subcommittee

Sampling methods of the 2016 Population By-census

7. The Subcommittee has enquires about details of the sampling method adopted for 16BC, and how C&SD will ensure that the samples can cover all types of housing accommodation, including SDUs. C&SD has explained that the 300 000 households randomly selected for enquiry in 16BC will come from about one-tenth of all quarters in Hong Kong. The sampling frame will cover the full list of addresses of quarters in Hong Kong including all housing types. As regards SDUs, C&SD has conducted surveys to identify areas and buildings, such as old urban areas and industrial buildings, which are more likely to have SDUs. More samples will be selected in areas with a vast number of SDUs. All SDUs inside a unit of quarters selected will be surveyed. In addition to the number of SDUs, 16BC will collect data relating to the social and economic characteristics of people living in SDUs.

8. The Subcommittee notes that some deputations are of the view that due to the small population size of the ethnic minorities in Hong Kong, C&SD should consider providing a larger sampling size for the ethnic minorities in 16BC to ensure that sufficient data on these people will be collected for studying their needs and formulation of policy for them.

9. C&SD has explained that Hong Kong has not developed a dedicated sampling frame for ethnic minorities as in the case of some overseas jurisdictions. Under the current sampling method adopted for 16BC, C&SD will ensure that sufficient number of ethnic minorities households will be selected, so that accurate statistical information can be collected to reflect situations of ethnic minorities in Hong Kong.

Data topics to be covered in the 2016 Population By-census

Data topics on sexual minorities

10. The Subcommittee has discussed at length the need for including data topics on sexual minorities in 16BC. The Subcommittee notes that C&SD has studied the practice of population censuses in selected economies with similar culture as Hong Kong, including the Mainland, Japan, Korea and Singapore, and those with relatively close socio-economic ties with Hong Kong including Australia, Canada, the United Kingdom ("UK") and the United States. In the population censuses in all these economies, there was no question about sexual orientation, nor a third option regarding gender. As regards same-sex marriage or partnership, related answer options for questions on marital status and/or relationship to household head were available in the censuses of Canada and the UK where there are legal registrations for same-sex marriages or partnership.

Such answer options include "same-sex married spouse", "same-sex common-law partner", "registered same-sex civil partnership", and "same-sex civil partner". However, there were no such options in the censuses of Asian economies including the Mainland, Japan, Korea and Singapore. As regards the practice of population censuses in the member jurisdictions of the European Union ("EU"), C&SD has advised that according to the regulation promulgated by the European Parliament and the Council of the EU, sexual orientation is not included in the topics covered in population censuses. For the topic "sex", two options "male" and "female" are to be provided. As regards "marital status", it is defined as the (legal) conjugal status of an individual in relation to the marriage laws (or customs) of the country. The Member States of the EU shall report data on registered partnerships if they have a legal framework regulating partnerships.

11. Subcommittee members and deputations have expressed different views on whether data topics on sexual minorities should be included in 16BC. Members including Hon CHAN Chi-chuen, Dr Hon Fernando CHEUNG, Hon Emily LAU and Hon Cyd HO, who support including such data topics in 16BC consider that the data will enable the Government to grasp the situations of sexual minorities in Hong Kong and help formulating policies and legislation in this regard. Noting that C&SD has indicated during the discussion on 16BC at the Panel on Financial Affairs ("FA Panel") in December 2013 that it was considering collecting information on transgender and transsexual persons, and same-sex cohabitation relationship in 16BC, these members have queried why such data topics are not included in 16BC. They further note the views expressed by some deputations that refusal to collect data on sexual minorities in 16BC is a form of discrimination against these minorities and will deprive them of their right to give true answers to questions in 16BC. Moreover, in the absence of a third option on sex in the 16BC questionnaire, it will be infeasible for or disrespectful to transsexual or transgender persons to indicate their sex.

12. C&SD has responded that it had conducted extensive consultation with the stakeholders in working out the data topics for 16BC and finalizing the questionnaire, including relevant Government bureaux and departments, the Panel on Financial Affairs, the Statistics Advisory Board, District Council members, and over 100 non-government organizations (such as the relevant faculties and departments in academic institutions). While four new data topics (as mentioned in paragraph 3 above) are to be included in 16BC in light of suggestions from consulted parties, some suggested data topics will not be included as such topics are already available in other survey vehicles or are conceptually complicated and/or sensitive which would require more skillful enumerators with full training to obtain data on such topics.

13. C&SD clarifies that it has undertaken at the FA Panel discussion to conduct further studies on the feasibility of collecting information on sexual

minorities in 16BC in light of feedback from consultations conducted earlier. However, after further research, including consultation with professionals and academia in the relevant field and sexual minorities groups, C&SD has decided not to include data topics on sexual minorities in 16BC. For the data topic "marital status" in 16BC, C&SD has explained that respondents are required to indicate their status as regarded by themselves among the answer options "never married", "now married", "widowed", "divorced" and "separated", and are not required to produce any legal documents for verification of their answers. C&SD considers that the above available answer options are adequate. It is envisaged that even if a separate answer option of "same-sex partnership" or "same-sex cohabitation" was provided, a considerable number of respondents who have registered same-sex marriages or partnerships outside Hong Kong would be unwilling to disclose such status in the presence of other members of their households during the survey enumeration, particularly those who have not made known their registrations to families and friends in Hong Kong. Thus, there is concern that the number of persons who are in same-sex partnership or same-sex cohabitation would be grossly under-estimated. C&SD considers that with an unknown error margin and with a view to ensuring accuracy and reliability of statistics collected, 16BC should not include data topics on sexual minorities. Moreover, 16BC is a mandatory large-scale survey requiring respondents to provide truthful information. The mandatory requirement would cause difficulties to a considerable number of respondents who are unwilling to answer or provide true responses if related questions are asked, and these respondents may attract legal liability². Furthermore, C&SD has advised that census officers engaged for 16BC are mostly temporary workers or students with basic survey training only. They may not have the necessary skills to handle complicated and/or sensitive issues relating to sexual minorities. C&SD considers that it would be more appropriate to collect statistical information on sexual minorities through other channels, such as exploratory thematic/topical studies undertaken by academics.

14. Some members of the Subcommittee, including Hon CHAN Kam-lam and Dr Hon CHIANG Lai-wan, concur that topics relating to sexual minorities are sensitive and respondents may be unwilling to disclose such information in front of other members of the household during the interview by census officers. Including answer options of "third sex", "same-sex partners" or "same-sex marriage" in 16BC may arouse public debates. Hence, they do not support including data topics on sexual minorities in 16BC. They further note that

² Under the Census and Statistics Ordinance (Cap. 316) ("CSO"), specified persons are legally obliged to provide the information required by 16BC to the best of his knowledge and belief. Under Section 14 of CSO, every person, whether or not he is a specified person, in possession of the required information shall, to the best of his knowledge and belief, answer any question put to him by a census officer which is necessary for the completion of the survey. Any person who fails to do so commits an offence. Under Section 16 of CSO, any person who provides any particulars which he knows to be false or he does not believe to be true commits an offence.

some deputations have objected to providing a third option "others" on the data topic of sex. These deputations have pointed out that according to the laws of Hong Kong, only "male" or "female" is recognized as the sex of a person. Respondents should give answers on sex according to the sex specified on their birth certificates or Hong Kong identity cards. The provision of a third option on sex may confuse the public and would undermine the credibility of the 16BC results. Some deputations also object to including the option "same-sex partners" or "same-sex marriage" under the data topic of marital status on the ground that only opposite sex marriages are legally recognized and registered in Hong Kong.

15. Some members of the Subcommittee have expressed concerns about how respondents who have registered their same-sex marriage in jurisdictions outside Hong Kong should answer the question on marital status, and the difficulties for respondents who are transsexual or transgender persons to answer the question on sex in 16BC. These members opine that the Administration should not rule out those persons who have registered their same-sex marriage in other jurisdictions are willing to disclose their same-sex marriage status. Moreover, there are concerns about whether persons with same-sex marriage would contravene section 16 of the Census and Statistics Ordinance (Cap. 316) ("CSO") if they choose the option "never married" as they know that the information they provide is false, or whether they would be legally liable if, to the best of their knowledge and belief, they choose the option "now married". These members have suggested adding an answer option "partners (伴侶)" under the data topic "relationship to household head", or allowing respondents with registered same-sex marriage to choose the option "spouse (配偶)" when answering this question. Some other members of the Subcommittee opine that if a household consists of members of the same sex, answers to the question on their relationship to the household head may shed light on the sex orientation of the household members. Hence, it is not necessary to include separate answer options on "same-sex marriage" or "same-sex partners" in the 16BC questionnaire.

16. C&SD has advised that the reporting guidelines for 16BC will include an explanation that, for the purposes of 16BC, "married" refers to persons married to the opposite sex. Hence, respondents who have registered their same-sex marriage in other jurisdictions may then answer by choosing the option "never married". If the respondents provide answers that they believe to be true, they will not be regarded as having contravened section 16 of CSO. On the basis of the meaning of "married" for the purpose of 16BC, the answer option "spouse" under the data topic "relationship to household head" also refers to the opposite sex marriage relationship. Respondents who have registered their same sex marriage in other jurisdictions may indicate their relationship to the household head as "others (please specify)" and provide specifications (e.g. same sex partners) as appropriate. If the respondents provide answers that they

believe to be true, they will not be regarded as having contravened section 16 of CSO. Census officers will be trained to accept and record respondents' answers. As regards the question on "sex", respondents are required to provide, based on self-identification, the answer option that is deemed most suitable by themselves. If the respondents provide the answer that they believe to be true, they will not be regarded as attracting any legal liability.

17. The Subcommittee has stressed the need for C&SD to provide necessary training to census officers to ensure they would explain the details clearly to respondents in facilitating the latter in choosing the appropriate answers for data topics of "marital status" and "sex". Subcommittee members consider that the Administration should provide an undertaking on the above matter at the LegCo meeting when it conducts the relevant debate on the Order. C&SD has confirmed that the reporting guidelines for 16BC will be provided to the selected households and census officers will record the specifications provided by respondents who choose the option "others (please specify)" for the question on relationship to the household head. C&SD also took note of members' views relating to training for census officers.

18. While noting C&SD's views that data topics on sexual minorities should not be included in 16BC due to the sensitivity of the issues involved, some Subcommittee members consider that the Administration should develop an appropriate method for collecting such information.

19. C&SD has responded that it has the responsibility to assist Government bureaux/departments to collect information to facilitate their respective work and formulation of policies and measures. Government bureaux/departments will first have to propose the subjects and provide the necessary resources for C&SD to conduct the studies/surveys. In considering whether to accede to the requests of bureaux/departments, C&SD will consider a host of factors, including usefulness of the studies, willingness and ability of the respondents to answer the relevant questions, ability of C&SD's enumerators in handling the subjects, and existence of other data source/data collection channels. If the relevant bureau/department commissions a thematic household survey, which is a voluntary instead of mandatory survey conducted under CSO, to collect data on sexual minorities, respondents will be free from legal liabilities in answering the questions or refusing to answer the questions. C&SD is aware that there are studies conducted by academic institutions and voluntary organizations in Hong Kong on related issues.

Data topics on disabilities and nationality

20. In view of the ageing population in Hong Kong, some members of the Subcommittee have suggested including questions on disabilities and chronic diseases in the 16BC questionnaire. They opine that as 16BC will have a

larger sampling size than those of other surveys, more accurate information will be collected on the subject.

21. C&SD has advised that it had conducted a thematic household survey on people with disabilities ("PwDs") and chronic diseases throughout 2013, and uploaded the relevant findings in the website of C&SD. Given the lower non-sampling errors involved in conducting thematic household surveys than population censuses or by-censuses, C&SD considers that complicated subjects like PwDs should be pursued by thematic/topical surveys. The 2013 survey on PwDs and chronic diseases has provided accurate and reliable information on the subject. Moreover, the 16BC questionnaire already contains a total of 65 questions. C&SD estimates that it will take around an hour for a three-person or four-person household to complete the questionnaire. C&SD needs to strike a balance between including more data topics in 16BC and keeping the questionnaire at a reasonable length to avoid creating a burden on respondents. In light of suggestion by the Subcommittee, C&SD has agreed to consider the feasibility of including an option "Rehabus" for the questions on the mode of transport to place of study or place of work in the 16BC questionnaire.

22. On the data topic of nationality, the Subcommittee notes that there is no other answer option on nationalities for the Middle East countries in the 16BC questionnaire except "Turkish" and "Nationality of people in other Asian and Oceanian countries". To better reflect the population size of people coming from various countries of the Middle East, some members have suggested C&SD to consider providing a finer classification for countries in the Middle East for the question on nationality in consultation with the Security Bureau or relevant parties. C&SD took note of members' suggestion.

Data privacy protection and data security

23. Noting that 16BC will adopt a multi-modal and paperless approach in collecting data from respondents, the Subcommittee has examined the relevant data security measures, and measures to assist respondents to use the e-Q.

24. C&SD has explained that the computer systems for 16BC consists of the e-Q System and the Mobile Questionnaire Application ("m-Q App"). Respondents can use the e-Q System during the first stage (from 30 June to 15 July 2016) to complete the e-Q with the household reference numbers and the corresponding e-Q account activation keys mailed to them. The central application system will be hosted inside government-approved data centres, and installed with firewalls, intrusion protection system and antivirus software to guard against malicious attacks. To assist respondents, a procedural guide on using the e-Q System will be mailed to the sampled households. Besides, an online video demonstrating the necessary steps will be available in the e-Q System, and the households can call the By-census Service Centre for enquiry.

During the second stage (from 16 July to 2 August 2016), census officers will visit households that have not yet completed their e-Q, and use mobile tablets to conduct interviews with the households. The m-Q App will be installed in the mobile tablets. After a questionnaire is completed, the system will automatically upload the survey data to the central system when wireless connection is available, and the data will be removed from the tablets after completion of this process. All data in the tablets are protected by encryption. In case of loss of a tablet, the data therein can be remotely wiped out once the tablet is connected to wireless network. All data transmitted over the Internet between the central application system and the client browser, as well as between the central application system and the mobile tablets will be protected by HTTP Secure encryption. C&SD has confirmed that all the computer systems for 16BC will fully meet the government information technology security requirements specified by the Office of the Government Chief Information Officer. The systems will also be subject to security risk assessment and audit conducted by an independent security auditor.

25. While the Subcommittee supports promoting the use of the e-Q to respondents as it is a convenient, cost-efficient and environmentally friendly means to collect information for 16BC, members have stressed the need for the Administration to address concerns about risks that respondents' personal data may be compromised when they complete and submit the e-Q. For instance, respondents' computer systems may be attacked by hackers, and respondents (e.g. elderly people) who are not familiar with information technologies may seek help from a third party to complete the e-Q on their behalf thus obliging them to disclose their personal data to the third party.

26. C&SD has advised that the e-Q System was first adopted in 11C and the response rate was encouraging, with 32% of the households using the e-Q. C&SD will endeavour to achieve a higher usage rate for the e-Q in 16BC. To this end, C&SD will launch publicity and promotional activities, as well as making reference to overseas experience in encouraging respondents to use the e-Q. C&SD will inform the selected households through the notification letter of the options for them to use the e-Q or the face-to-face interviews. C&SD has undertaken to follow up on members' suggestions regarding measures to alert respondents about risks of data breach and the need to protect privacy of their personal data, and to consult the Office of Privacy Commissioner for Personal Data on the privacy concerns relating to the use of the e-Q and mobile tablets for collecting data from respondents.

Disposal of the mobile tablets used in the 2016 By-census

27. The Subcommittee enquires about the number of mobile tablets to be purchased, the estimated cost involved, and the disposal arrangement for the tablets upon completion of 16BC.

28. C&SD has responded that about 6 500 mobile tablets will be purchased for use by census officers, and the price per tablet is in the range of \$1,000 to \$2,000. C&SD will have due regard to the principles of value for money and fit for purpose in choosing the suitable model of the tablets. As regards the disposal of the tablets, they will be handled in accordance with the established procedures, including redeployment within C&SD or to other Government departments, donating to non-governmental organizations, or disposal through auction. The Subcommittee has urged C&SD to arrange timely disposal of the tablets as they may become obsolete quickly with the rapid development in information technologies. Some members have suggested that C&SD should liaise with relevant Government departments to donate the tablets to parties in need, including children from low-income families. Upon request of the Subcommittee, C&SD has agreed to provide an information paper to the relevant Panel(s) of LegCo soonest possible upon completion of 16BC reporting the disposal arrangement for the mobile tablets.

The definition of "occupant"

29. Section 6 of the Order imposes an obligation on an occupant to give particulars of matters specified in the Schedule to the Order. "Occupant" is defined to mean, among other things, "a person who has reached 15 years of age at the census reference moment". Under section 2 of the Order, "census reference moment" means "3 a.m. on 30 June 2016". The Subcommittee has enquired about the reason for determining the age of an occupant by reference to both a date and a particular time on that date, and whether an occupant would attract any liability if he/she was born on 30 June 2001 but is not sure whether he/she has reached the age of 15 because he/she cannot remember at what time he/she was born.

30. C&SD has explained that the term "census reference moment", among other criteria, is required for determining whether a person satisfies the statistical definition of Hong Kong Resident Population. The term is also required for defining a number of matters in the Schedule to the Order. Since the data collection lasted for a fairly long period (34 days), the use of a cut-off point would address the operational concern that respondents may query with respect to when a person should be considered as aged 15 years or above. Such definition of "occupant" was added during the preparation of the Order for 11C. As no operational difficulties were encountered in employing the definition in 11C, the same definition is adopted in the Order for 16BC. It is noted that according to section 3 of the Interpretation and General Clauses Ordinance (Cap. 1), "years of age" and words of like meaning, when used in reference to the age of any person, means years of age calculated from the date of birth. From this perspective, when a person is asked whether he/she is aged 15 years or above at the census reference moment, the age is to be calculated

from the date of birth, and not the specific hours or minutes of birth. The presence of the term "census reference moment" serves merely as a point of reference and will not affect the method a person's "years of age" is calculated. Despite that 3 am is not relevant in the calculation of years of age, it would be preferable to use "census reference moment" instead of "30 June 2016" in order to put emphasis on the fact that the census exercise is predicated on a common reference point in time, i.e. the census reference moment. On the concern about possible liability on an occupant if he/she cannot remember at what time he/she was born, C&SD clarifies that it has no intention to let an occupant attract any liability in this regard.

31. The Subcommittee notes the views of the Legal Adviser to the Subcommittee that Cap. 1 applies "save where the contrary intention appears" as provided in section 2(1) of Cap. 1. Given that the definition of "occupant", as presently drafted, is hinged on a particular time on a particular date (i.e. 3 a.m. on 30 June 2016), it is not clear as to whether the meaning of "years of age" under section 3 of Cap. 1 is still applicable to section 6 of the Order, or its application is displaced by section 2(1) of Cap. 1.

32. The Administration considers that section 6(1) of the Order does not show a contrary intention that the "years of age" is to be calculated by a method different from that provided in section 3 of Cap. 1. Having regard to the views of the Subcommittee, the Administration has agreed to review the application of "census reference moment" to the definition of "occupant" in the next Census exercise taking into account the operational experience of 16BC.

Recommendation

33. The Subcommittee will not propose any amendment to the Order and notes that the Administration will not move any amendment to the Order.

Advice sought

34. The Subcommittee Chairman gave a verbal report on the deliberations of the Subcommittee at the House Committee meeting on 4 December 2015. Members are invited to note the contents of this report.

Subcommittee on Census and Statistics (2016 Population Census) Order

Membership list

Chairman Hon Cyd HO Sau-lan, JP

Members Hon CHAN Kam-lam, SBS, JP
Hon Emily LAU Wai-hing, JP
Hon Alan LEONG Kah-kit, SC
Hon Steven HO Chun-yin, BBS
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Dr Hon Fernando CHEUNG Chiu-hung
Hon SIN Chung-kai, SBS, JP
Dr Hon CHIANG Lai-wan, JP

(Total : 10 members)

Clerk Ms Connie SZETO

Legal Adviser Miss Winnie LO

**Subcommittee on Census and Statistics
(2016 Population Census) Order**

**List of organizations/individual from which the Subcommittee
has received views**

1. Arthur CHAN
2. Association for Transgender Rights
3. Hong Kong Unison Limited
4. KWOK See Yuen
5. Liberal Party
6. Miss LAM Mei Kwan Annie
7. Ms TAM Chui Po Kiny
8. Ms TSANG Shui Ching
9. Ms TSANG Yuet Ming
10. Next Generation Orientation
11. Parents for The Family Association
12. Rainbow Action
13. Rainbow of Hong Kong
14. The Voice of Righteousness
15. Women Coalition of HKSAR
16. 商務及會計專業關愛社團
17. 性傾向條件家校關注組
18. 醫護界關愛社群組
19. 潘小姐
20. 關先生