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Panel on Constitutional Affairs

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 21 December 2015**

Review of voter registration system in 2015

Purpose

This paper provides background information on the review of the existing voter registration ("VR") system ("the Review") launched by the Constitutional and Mainland Affairs Bureau ("CMAB") in November 2015. It also summarizes the major views and concerns expressed by the Panel on Constitutional Affairs ("the Panel") at its previous discussion on the directions of the Review.

Background

Large increase in number of notices of objection in 2015 VR cycle

2. During the 2015 VR cycle, there was a substantial increase in the number of notices of objection received by the Registration and Electoral Office ("REO"). The number of claims/objections received during the 2011 to 2015 VR cycles and the number of electors involved are given below –

VR Cycle	Claims		Objections	
	No. of cases	No. of electors involved	No. of cases	No. of electors involved
2011	0	0	3	86
2012	8	8	1	1
2013	1	1	0	0
2014	0	0	0	0

VR Cycle	Claims		Objections	
	No. of cases	No. of electors involved	No. of cases	No. of electors involved
2015	0	0	49	1 451 ¹

3. According to the Administration, the substantial increase in the number of notices of objection aroused public concern over the following VR issues –

- (a) *Need for review of the deadline for updating registration particulars of electors*

It is suggested that the deadline for applying for updating the registration particulars should be advanced to a time before the provisional register ("PR") is released. By doing so, all requests for updating registration particulars will be reflected in PR for public inspection.

- (b) *Submission of registration particulars of electors by suspected bogus electors*

REO has received complaints from electors who suspected that a third party had impersonated them and submitted forms for new registration/updating registration particulars to REO. It is suggested that newly registered electors and existing electors must submit address proofs at the same time when submitting new applications or updating residential addresses.

- (c) *Inaccurate registration particulars*

It is suggested that REO should enhance cross-matching on registered addresses with other Government departments so as to

¹ The number of electors involved in objections received during the public inspection period of PR in the 2015 VR cycle:

Grounds for objection	Number of electors involved
(a) Electors not residing in the registered address	307
(b) Information on the registered address incorrect	156
(c) Incomplete, commercial or suspected non-residential addresses	117
(d) Same residential address with multiple electors or electors with multiple surnames	649
(e) Buildings already demolished or vacant buildings pending demolition	160
(f) Others (e.g. the elector was suspected to be registered without his consent, suspected duplicated registration or elector already deceased, etc.)	62
Total number of electors	1 451

ensure that the registration particulars are accurate. There are also views that REO should improve and enhance the data entry work.

(d) *Cases involving elderly institutions*

There were complaints alleging that certain elderly persons living in elderly institutions might have been impersonated in VR without their consent. Some are of the view that REO should enhance checking by proactively paying visits to these institutions regarding suspicious cases.

(e) *Penalties for provision of false information for VR*

Some are of the view that the penalties for provision of false information should be raised in order to enhance deterrent effect.

(f) *More time needed for handling VR applications and cases of claims and objections*

At present, REO has only 29 days to process new VR applications before PR is published. There are views that the above period should be extended to allow more time for REO to conduct checking work as necessary. Besides, some are of the view that the period between the objection is made and the completion of the hearing should be further extended to allow sufficient time for REO to investigate appeal cases as well as for the Revising Officer ("RO") to conduct hearings and handle reviews.

(g) *Suspected abuse of the objection mechanism*

There is concern that the objection mechanism has been abused by making an objection without sound justification. Besides, some suggested that for cases where the electors' registered addresses are confirmed to be correct after investigation by REO, they might not need to be passed to RO for hearing.

4. To tackle the above issues, the Administration indicated in September 2015 that it intended to conduct the Review. Details of the directions of the Review are in **Appendix**.

Consultation Document on Enhancement of VR System

5. CMAB published the Consultation Document on Enhancement of VR System ("Consultation Document") on 26 November 2015 for public consultation ending on 8 January 2016. A summary of the issues to be consulted and the proposed measures are set out in chapter five of the Consultation Document.

Major views and concerns expressed by members

6. The Panel discussed VR issues and the directions of the Review put forward by the Administration at a special meeting held on 30 September 2015. The major views and concerns expressed members are summarized in ensuing paragraphs.

Submission of fraudulent particulars by suspected bogus electors and requirement of address proofs

7. Some members expressed concern that an incumbent District Council member had reported that a third person had impersonated her and submitted a form to REO for changing her registered address by using a forged signature. These members urged REO to strengthen the verification of registration particulars when handling new VR applications or applications for updating particulars by electors. They suggested that when handling an application for updating registered address, REO should contact the elector concerned by telephone to confirm his/her submission of the application before processing it further.

8. The Administration advised that a total of 23 suspicious cases involving submission of fraudulent particulars by suspected bogus electors discovered after the publication of PR had so far been referred to the relevant law enforcement agencies for investigation and follow-up. The Administration advised that electors would be encouraged to provide their email address, phone number or any other communication means to REO as far as possible. REO would consider issuing a message to the electors concerned via mobile phone or email (if the phone number/email address was provided) to acknowledge receipt of such applications in future.

9. Some members considered that newly registered electors and existing electors must submit address proofs (such as water/electricity/gas bills) simultaneously when submitting new applications or updating residential addresses. The Administration explained that the proposal of introducing the

requirement for address proofs was put forward to seek public views during the public consultation exercise on VR system in 2012, but it was dropped in light of the reservations expressed by the public and Legislative Council ("LegCo") Members at that time. The Administration also considered that the proposal might warrant reconsideration in order to tackle the problem of provision of false addresses for VR purpose. Some other members, however, objected to the proposal as they considered that many young people would have practical difficulties in producing address proofs for VR purpose.

Mechanism for lodging claims and objections

10. Some members expressed concern that as many as 1 451 electors in respect of whom objections had been made in the 2015 VR cycle. They called on the Administration to take measures to prevent abuses of the objection mechanism. They suggested that objectors should be required to provide concrete evidence in lodging an objection. Some members also considered it unfair that under the existing objection mechanism, once an objection was made in respect of an elector even without sound justification, the elector concerned would still have to attend the hearing.

11. The Administration pointed out that in the 2015 VR cycle, there was a substantial increase in the number of notices of objections received by REO, and the number of electors objected jumped from 86 in the 2011 VR cycle to 1 451 in the 2015 VR cycle (there was no objection case in 2013 and 2014). The Administration noted that some members of the public had also suggested that the threshold for lodging objection should be raised in order to prevent abuses. Some members, however, stressed that public inspection and the existing mechanism for making claims and objections was an important part of the VR system to prevent "vote-rigging". They considered it unfair to criticize the objectors that they had abused the objection mechanism. These members, however, agreed that cases where the electors' registered addresses were already confirmed to be correct after investigation by REO might not need to be passed to the Revising Officer for hearing so as to minimize impact on the electors concerned and avoid overloading the Judiciary².

Verification work of REO

12. Some members considered that the accuracy and integrity of the registers of electors could only be maintained through REO's stringent verification work as well as public inspection and the mechanism for making claims and objections. They urged REO to make sustained efforts in strengthening its

² According to the existing statutory procedures, the Electoral Registration Officer must deliver copies of notices of objection to RO for hearing and ruling.

verification procedures. They enquired about the Administration's plan for further improving the checking arrangements. The Administration advised that consideration would be given to establishing a database of existing buildings in Hong Kong to facilitate detection of false addresses in buildings that did not exist or did not have the floor levels as shown in the registered addresses. Apart from the on-going measure of conducting cross-matching exercise with the Housing Department, the Hong Kong Housing Society and the Home Affairs Department ("HAD") with a view to updating the addresses of registered electors, REO would explore further if more up-to-date information on buildings already demolished/vacant buildings pending demolition could be made available from the Buildings Department and the Urban Renewal Authority. REO would also explore the feasibility of expanding the cross-matching work with more departments.

13. Some members expressed concern as to whether sufficient measures were taken to prevent elderly persons living in elderly institutions from being impersonated in VR without their consent. According to the Administration, there were a total of about 5 000 electors living in some 200 elderly homes. These electors were covered by REO's checking measures under the category of multiple electors or multiple surnames of electors registered with the same residential address. In the past VR cycles, REO had checked against those electors who had reported elderly homes as their residential address and required them to provide written confirmation that the relevant address was their only or principal residence. Following the above checking measure conducted on some 3 000 elderly home residents in the 2015 VR cycle, six cases had been referred to the law enforcement agencies for investigation and follow-up as the electors concerned claimed that they had not submitted relevant VR applications.

14. Members enquired about what had been done to deal with electors who failed to provide their contact information apart from their residential addresses to REO. The Administration advised that around 70% of the registered electors had provided their phone numbers and over 400 000 of the registered electors had also provided their email addresses to REO. In the 2015 VR cycle, HAD had assisted in conducting home visits to some 10 000 electors who had not provided other contact information to remind them to respond to the inquiry letters before the statutory deadline.

Recent development

15. The Panel has scheduled to discuss the Consultation Document at the next meeting on 21 December 2015.

Relevant papers

16. The relevant papers for the special meeting on 30 September 2015 are available on <http://www.legco.gov.hk/yr14-15/english/panels/ca/general/ca1415.htm#toptbl>.

Council Business Division 2
Legislative Council Secretariat
15 December 2015

Issues Concerning Voter Registration**(Extract)**

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31. Given public concerns over the VR issues above, we may consider ways to improve the current mechanism and arrangements from the following directions:

- (a) **Statutory deadlines of the VR cycle:** We can look into whether to change the deadline for updating of registration particulars to allow sufficient time for the ERO to go through the verification procedures before publishing the PR; and whether to further extend the period for handling claims and objections to allow sufficient time for the REO to review the cases of objections as well as for the RO to conduct hearings and handle reviews.
- (b) **Arrangements of submitting new applications, applying for change of particulars by electors and polling:** We can explore how to strike an appropriate balance between enhancing the accuracy of electors' particulars and facilitating the electors, including whether it is necessary to reconsider introducing the requirement of address proof, penalties for electors who fail to update their addresses and the requirement for electors to produce their polls card when voting.
- (c) **Checking arrangements:** We can explore how to further improve the checking arrangements, including reviewing the scope and frequency of various checking measures and enhancing cross-matching with other Government departments so as to minimise the chance of having inaccurate registered particulars, thereby enhancing the accuracy and completeness of the registration particulars and striking a balance between making effective use of resources and safeguarding the privacy of personal data, etc.
- (d) **Mechanism for lodging claims and objections:** We can look into whether to modify the mechanism for lodging claims and objections in order to avoid abuse of the mechanism and help the officers concerned handle the cases with greater efficiency. For example, we may require that unless the objectors attend the hearings and provide concrete evidence, the RO needs not deal with relevant objection cases.
- (e) **Penalties:** The Government introduced amendments to the subsidiary legislation under the Electoral Affairs Commission

Ordinance⁸ (Cap. 541) in 2014 to make offences of providing false information on VR as indictable offences so as to remove the six-month time bar for prosecution in order to enhance the effectiveness of law enforcement and deterrent effect. We can consider whether to increase the penalty for offences relating to VR to reinforce the deterrent effect against offences involving provision of false information.

- (f) **Public education:** We would examine how to strengthen publicity on VR, especially with regard to electors' submission and checking of their registered particulars. For example, we can further promote the OVIES and REO's hotline (2891 1001) to encourage electors to check their registration particulars and submit applications to update their registration particulars in a timely manner where necessary. This will be conducive to enhancing the accuracy of the registers of electors.

⁸ At present, there are two sets of offences related to VR. One is under the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541A) and the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541B). The other is under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554). Under Section 22 of Cap. 541A and section 42 of Cap. 541B, it is an offence for a person to make any statement which the person knows to be false in a material particular or recklessly make any statement which is incorrect in a material particular or knowingly omit any material particular from such an application in VR. It is also an offence for a person to cause another person to make such a false statement or to provide information which the first-mentioned person knows to be wrong in a material particular in VR. These provisions are enforced by the Hong Kong Police Force. According to section 7(5) of the Electoral Affairs Commission Ordinance (Cap. 541), the maximum penalty is a fine at level 2 (\$5,000) and imprisonment for six months.

Besides, under section 16 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), a person engages in corrupt conduct at an election if the person votes at the election knowing that the person is not entitled to do so, or 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. A person engages in corrupt conduct at an election if the person invites or induces another person to vote at the election knowing that the other person is not entitled to do so, or has given to an electoral officer information that was materially false or misleading, or omitted to give material information to an electoral officer. These provisions are enforced by the Independent Commission Against Corruption. According to section 6(1) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), the maximum penalty is \$500,000 and imprisonment for 7 years.