

立法會

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Panel on Constitutional Affairs

Background brief prepared by the Legislative Council Secretariat for the meeting on 23 February 2017

Review of objection mechanism in relation to voter registration system

Purpose

This paper gives an account of the past discussions held by the Panel on Constitutional Affairs ("the Panel") on the Administration's proposed review of the objection mechanism in relation to the voter registration ("VR") system.

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
2015	0	0	49	1 451 ¹

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

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*²

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*

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 ensure that the registration particulars are accurate. Besides, REO should improve and enhance the data entry work.

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

² Amendments to the the subsidiary legislation under the Electoral Affairs Commission Ordinance (Cap. 541) to advance the statutory deadline for change of registration particulars to the same statutory deadline for new registrations, and to change to use surface mail for all inquiries and notifications were gazetted on 22 January 2016 and tabled in LegCo on 27 January 2016 for negative vetting. The relevant amendment regulations came into operation on 18 March 2016.

(d) *Cases involving elderly institutions*

REO should take measures to address complaints alleging that certain elderly persons living in elderly institutions might have been impersonated in VR without their consent.

(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*

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 a review of the existing VR system ("the Review").

Public consultation exercise from end of 2015 to early 2016

5. On 26 November 2015, the Constitutional and Mainland Affairs Bureau ("CMAB") published the Consultation Document on Enhancement of VR System ("Consultation Document") for public consultation ending on 8 January 2016. A summary of the issues to be consulted and the proposed measures are set out in **Appendix I**. The Administration's proposed measures in relation to review of the objection mechanism are set out in items (e)-(h) in Appendix I.

6. On 21 January 2016, CMAB published the Consultation Report on Enhancement of VR System ("Consultation Report") setting out the views received during the public consultation exercise and the Government's position on the proposed measures after considering the views received. The Consultation Report was issued to members on 21 January 2016.

Views on the proposed measures in relation to the objection mechanism

7. According to the Administration, more views received during the public consultation exercise supported specifying in the law that the burden of proof rested on the objector and the objector should be required to appear at hearings. In addition, the majority of views received supported uploading information on objection cases to the REO website and empowering REO to handle indubitable objection cases. The Administration would study carefully how to formulate the legislative and administrative arrangements to implement these measures, with a view to introducing them in due course.

Discussions held by the Panel on the review of the objection mechanism

8. 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 Panel discussed the Consultation Document at its meeting on 21 December 2015. The major views and concerns expressed members on the review of the objection mechanism are summarized in ensuing paragraphs.

Mechanism for lodging claims and objections

9. 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.

10. 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 RO for hearing so as to minimize impact on the electors concerned and avoid overloading the Judiciary³.

11. Some members expressed objection to the Administration's proposal of uploading the information of the objection cases to the REO's website, including the names of the objectors. These members considered that the proposed arrangement might exert pressure on the objector and deter persons from making objections. They requested the Administration to provide figures and justifications to prove whether the existing objection mechanism had been susceptible to abuse.

12. The Administration advised that during the 2015 VR cycle, the total number of electors being objected to was 1 451. After the hearings, RO allowed the objections against 299 electors who were hence deleted from the registers of electors, while the remaining objections in respect of 1 152 electors were dismissed and the registration status of these electors was maintained. According to the Administration, it was noted that some objections had been raised without advancing sufficient justifications and the objector concerned was not required to attend the hearing to state his/her case. It was against this background that the Administration proposed to review the objection mechanism.

Burden of proof rests on the objector

13. Some members considered that the Administration was obliged to review the objection mechanism with a view to plugging loopholes and preventing abuses by objectors who made objections without much information or grounds of his/her suspicion. Some other members, however, questioned about the Administration's proposal to specify in the law that the burden of proof rested on the objector. They were of the view that an objector would have practical difficulties to conduct investigation as it might involve entry into another person's flat and to produce evidence to support his/her objection. These members considered it only reasonable to require an objector to provide reasonable grounds for his/her suspicion but not to require the objector to conduct investigation and produce evidence.

³ According to the existing statutory procedures, the Electoral Registration Officer must deliver copies of notices of objection to RO for hearing and ruling.

14. The Administration advised that its initial views were that it was justified to prescribe in the law that objectors should bear the burden of proof and should be required to appear at hearings so as to facilitate RO to better understand the justifications for the objections. The information provided by the objector to explain the grounds of his/her objection would also facilitate the investigation by REO before the hearings and RO to make rulings. The Administration advised that if this proposal was adopted, the concrete wording of the relevant amendment to implement this proposal could be further discussed during the legislative process.

Recent development

15. The Administration will brief the Panel on its proposed way forward in relation to the objection mechanism in relation to the VR system at the next meeting on 23 February 2017.

Relevant papers

16. A list of the relevant papers available on the Legislative Council website is in the **Appendix II**.

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17 February 2017

Chapter Five: Views Sought

5.01 The Government would like to consult the public on the following issues and proposed measures -

VR and checking arrangements

- (a) to advance the statutory deadline for change of registration particulars to a date before the publication of the PR and OL, and align it with the statutory deadline for new registrations (paragraphs 4.02 to 4.06);
- (b) to change to use ordinary surface mail for all inquiries and notifications (paragraphs 4.07 to 4.09);
- (c) to further improve the checking arrangements and strengthen verification of address information with other Government department, for example, enhancing liaison with the BD to collect the latest list of buildings that are demolished or vacated pending demolition; to explore the collection of information on buildings with acquisition and resident removal completed from the Urban Renewal Authority. The REO will also improve data entry work to enhance accuracy. In addition, we may explore the possibility of verifying at the same time whether electors' address information is correct or not when the REO conducts full-scale checking with the HD and HKHS in the future; we will consult the Office of the Privacy Commissioner for Personal Data when we study the feasibility of this proposal (paragraphs 4.10 to 4.12);

Penalties on VR offences

- (d) to raise the penalties for making false statements in VR as set out in the subsidiary legislation under the Electoral Affairs Commission Ordinance (Cap. 541) from the current maximum penalties of a fine of \$5,000 and imprisonment for 6 months to a fine of \$10,000 and imprisonment of 2 years in order to enhance the deterrent effect (paragraphs 4.18 to 4.20);

Review of the objection mechanism

- (e) to specify in the law that the burden of proof rests on the objector and unless the evidence provided by the objector is accepted by the RO, the registration of the elector being objected to shall stand (paragraphs 4.21 to 4.22);
- (f) to specify in the law that the objector is required to appear at the hearings conducted by the RO (paragraphs 4.21 to 4.22);
- (g) upon the REO's receipt of the notices of objection, to upload the information of the objection cases to the REO's website, including the dates and time of hearings and the names of the objectors and the electors being objected to (paragraphs 4.21 to 4.22);
- (h) to process indubitable objection cases through REO's seeking the approval of the RO in writing to correct the particulars of the electors concerned without the need of a hearing by the RO (paragraph 4.23);

Time limit for processing objection cases

- (i) to study whether to extend the time limit for the RO to conduct hearings, including reserving more time for the REO and the RO to process the objection cases and to conduct hearings and reviews. However, as this proposal may require further advancing the deadline for VR/ updating of registration particulars, we need to examine the implications of the proposal on the VR deadlines, especially the updatedness of the information in the FR, as well as the legislative amendments involved (paragraphs 4.24 to 4.25); and

Address proofs

- (j) to require applicants to submit address proofs when submitting applications for new registrations or change of registration particulars to facilitate the verification of the electors' identities. As regards the design of the VR application form, we would also consider requiring electors to fill in some useful information (e.g., the elector's

previous registered address for application for change of address) to facilitate the verification process (paragraphs 4.26 to 4.29).

Source : Consultation Document on Enhancement of Voter Registration System issued by the Constitutional and Mainland Affairs Bureau on 26 November 2015

Appendix II

Relevant documents on review of objection mechanism in relation to voter registration system

Committee	Date of meeting	Paper
Panel on Constitutional Affairs	30.9.2015 (Item I)	Agenda Minutes
	21.12.2015 (Item III)	Agenda Minutes
	--	Consultation Report on Enhancement of Voter Registration System

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