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Panel on Constitutional Affairs

**Updated background brief prepared by the Legislative Council Secretariat
for meeting on 23 February 2017**

2017 Voter registration campaign

Purpose

This paper provides background information on the voter registration ("VR") system and summarizes the discussion of the Panel on Constitutional Affairs (the "CA Panel") on issues relating to previous VR campaigns.

Background

Eligibility for Voter Registration

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. Also, only a registered elector is eligible to vote at a LegCo election. A registered elector is a person whose name appears on FR which is in force at the time of the election. The qualifications for registration as electors for GCs and functional constituencies ("FCs") (paragraphs 4 and 9 refer) 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 apply to the VR for GCs and FCs are set out in section 31 of LCO.

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"), omissions 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.

7. Section 32(4) of LCO states that in compiling PR, ERO must strike out the name and particulars of a registered elector from the register 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 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 from 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.

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.

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 the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (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),

- (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.

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 Cap. 554.

Measures to improve the VR system

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 2012². The enhanced checking measures are set out in **Appendix I**. From 16 January to 3 March 2012, the Administration also conducted public consultation on other proposed further improvement measures. In light of the views received, the Administration decided to implement the proposal of setting out electors in the registers according to their principal residential addresses in 2012.

13. The Online Voter Information Enquiry System, which is an electronic platform to facilitate the public to check their VR particulars, was launched on 1 September 2014. An elector can 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.

14. The Electoral Legislation (Miscellaneous Amendments) Bill 2014 was passed by LegCo on 10 July 2014. With the passage of the Bill, the deadline for VR application for GCs, FCs and Election Committee Subsectors has been advanced by 14 calendar days, in order to provide 10 more calendar days to the public for inspecting PR and OL and making claims and objections, and four more calendar days to the Revising Officer for arranging hearings for claims and objections. The new deadlines have already taken effect in the 2015 VR cycle.

15. After passage of the Bill, the six-month time bar applicable to the relevant provisions on making false or incorrect statement knowingly or recklessly or making material omissions knowingly in relation to VR under Cap. 541A, Cap. 541B and the Electoral Affairs Commission (Registration of Electors) (Rural Representative Election) Regulation (Cap. 541K) has been removed by making these offences indictable. According to the Administration, this would allow prosecution to be initiated irrespective of the time at which the matter arose. This would enhance enforcement effectiveness and the deterrent effect.

16. To address the public concerns on matters relating to the VR system in the 2015 VR cycle, the Administration conducted a public consultation exercise on enhancement of the VR system in late 2015. Having considered the views received, the Administration issued the Consultation Report on Enhancement of Voter Registration System ("Consultation Report") on 21 January 2016, proposing measures to improve the VR system. Some of the proposed measures have already been implemented in the 2016 VR cycle by amending the relevant subsidiary legislation and introducing administrative measures, which include:

² Following the implementation of the enhanced checking measures (see Appendix I), REO sent out about 296 000 inquiry letters in batches before 30 April 2012. As at the end of May 2012, REO received responses from about 41 000 electors and about 25 000 electors requested REO to update their addresses. The remaining 230 000 electors did not respond to REO before the statutory deadline to confirm or update their registered addresses. For the electors who did not respond to the inquiries before the statutory deadline, REO put their names and principal residential addresses on OL published on 15 June 2012 in accordance with the statutory requirements.

- (a) aligning the deadline for change of registration particulars with the deadline for new registrations;
- (b) changing to use surface mail instead of registered post for sending all inquiry letters and notifications to electors; and
- (c) strengthening the verification of address information with other Government departments and sources, etc.

As regards the longer term measures set out in the Consultation Report, including improving the objection mechanism, raising the penalties on offences relating to VR, and introducing the requirement of submitting address proofs by electors, the Administration has advised that a series of proposed measures are being formulated for consultation with the CA Panel in due course.

CA Panel's discussion on issues relating to VR campaigns

Checking measures implemented by REO

17. Some members queried whether some electors (especially the elderly) might have lost their voting rights simply because they were not aware of REO's inquiry letters or the need to respond to such letters. They considered that REO should step up publicity on the need to respond to the inquiry letters before the statutory deadline.

18. The Administration explained that the inquiry process would be initiated when REO had reasonable grounds to believe that the registered addresses of the electors concerned were no longer their only or principal residence in Hong Kong. In carrying out the checking process, REO would also contact the electors concerned by phone, email or fax according to the contact details they had provided, so as to remind them to confirm or update their registration particulars before the statutory deadline. For electors who had not provided any contact information apart from their residential addresses to REO, REO would collaborate with the Home Affairs Department ("HAD") to conduct home visits to the electors concerned and remind them to respond to the inquiry letters before the statutory deadline. To address members' concern about the intensity of the checking measures in the 2015 VR cycle, a supplementary information paper was provided by REO in May 2015 (relevant extract in **Appendix II**).

19. Some other members considered that REO should strengthen the conduct of random sample checks on electors to enhance the accuracy of the information in the registers of electors. REO advised that it would continue to implement checking measures and inquiry process in the 2015 VR cycle to improve the accuracy and completeness of VR records.

20. Some members suggested that REO should liaise with property management companies to solicit their support for setting up undelivered polling card collection boxes in housing estates, and REO should educate the general public that wrongly addressed polling cards should be returned to REO. The Administration informed the CA Panel that following the 2015 DC election, REO had received about 50 000 to 60 000 undelivered polling cards. REO would follow up with the electors concerned to update their registered addresses. REO would also appeal to property management companies for their support in returning any undelivered polling cards to REO.

21. Concern was raised about the need to take measures to prevent registration of elderly persons residing in elderly homes as electors without their knowledge. Some members suggested that the Administration should issue guidelines requesting elderly homes to keep records on visits conducted by organizations for VR purpose, and to forward any letters issued by REO to the elderly home residents to their family members. Moreover, the Administration should introduce penalties for non-compliance with such guidelines. These members also proposed that only relatives of the elderly electors should be authorized to take these electors to the polling stations.

22. The Administration advised that the "Clean District Council Election Information Booklet" published by ICAC had been disseminated to operators of elderly institutions through the Social Welfare Department ("SWD"). Before the 2015 DC election, SWD had issued letters to remind the elderly institutions about the guidelines to be observed in handling applications for conducting election-related activities on the premises. Any suspicious cases would be referred to law enforcement agencies for follow-up.

Election Petition

23. 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 to encourage timely updating of registered particulars.

VR publicity

24. Some members enquired about the availability of VR publicity materials in languages used by the ethnic minorities ("EMs"). They suggested that the Administration should contact various EM groups and organizations to seek their assistance in disseminating VR message, and the same should be done for new arrivals from the Mainland. The Administration advised that while the publicity documents were generally available in Chinese and English, promotional materials targeting EM were available in seven EM languages for distribution through non-governmental organizations. Moreover, EM eligible persons could obtain assistance in completing the application forms at the Centre for Harmony and Enhancement of Ethnic Minority Residents under Hong Kong Christian Service where interpretation service was provided.

25. Some members considered that more innovative ways should be explored to target young people aged between 18 and 30 for new registration. They suggested that consideration should be given to sponsoring community organizations to organize more VR promotional activities. The Administration informed the CA Panel that efforts had been made to reach out to young people through the social media platforms (e.g. Facebook, YouTube and Yahoo) and the registration counters at the five Registration of Persons Offices³ under the Immigration Department, sending VR forms and posters to tertiary education institutions and secondary schools, deploying VR assistants to tertiary education institutions and appealing to senior secondary school students to register as electors (when they turned 18) through the annual school visiting programme. The Administration advised that the registration rate of eligible young people aged between 18 and 20 was 49.9%, and that of eligible young people aged between 18 and 30 was 64.4% in 2015 (as compared to 59.7% in 2014).

26. Noting that there was an increase of 186 000 GC electors but a decrease of 3 200 FC electors according to the 2015 final registers, some members urged the Administration to take measures to promote VR in FCs. The Administration advised that various measures would be adopted to encourage VR in FCs, such as by sending appeal letters and notification letters to encourage and facilitate eligible persons to register as electors/voters in FCs/Election Committee ("EC") subsectors; appealing to umbrella organizations to encourage their members who were eligible for registration in FCs/EC subsectors; and placing advertisements on websites/journals of umbrella organizations in FCs.

³ VR can be arranged at the registration counters when members of the public visit the Registration of Persons Offices to apply for or collect their adult identity cards.

Recent development

27. The Administration has proposed to brief the CA Panel on the 2017 VR campaign at the next meeting on 23 February 2017.

Relevant papers

28. A list of relevant papers is in **Appendix III**.

Council Business Division 2
Legislative Council Secretariat
17 February 2017

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.

Checking Measures of the 2015 Voter Registration Cycle

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Checking Measures in the 2015 Cycle

4. Following the checking measures implemented in the 2012 VR cycle and with reference to the experience gained, the REO continues to implement the checking measures and inquiry process in the 2015 VR cycle which have been discussed in public and at the LegCo as mentioned above. The intensity of the checking measures and the coverage of electors in this cycle are similar to that of the 2012 VR cycle.

5. Based on the checking results and in accordance with the relevant electoral laws, the REO initiated the inquiry process for about 80,000 electors because the REO has reasonable grounds to believe that their registered addresses are no longer their only or principal residence in Hong Kong. The REO expects that 82,703 inquiry letters³ would be issued by registered mail⁴ from end April to end May 2015, requesting the electors concerned to complete and return the reply slip attached so as to confirm or update their registered addresses **on or before the statutory deadline of 2 July 2015**. The relevant breakdown is set out below:

³ In the 2012, 2013 and 2014 VR cycle, the REO issued 296,590, 35,335 and 24,242 inquiry letters respectively.

⁴ According to the electoral laws, an inquiry must be sent by registered post addressed to the elector from whom the inquiry is made.

Checking measures	Expected number of inquiry letters to be issued (as at 26 May)
(a) Follow-up inquiries on undelivered poll cards of the 2014 District Council By-Elections and other electoral documents	6,897
(b) Cases requiring further checking of electors' registered addresses after cross-matching of data with Housing Department, Hong Kong Housing Society and Home Affairs Department	41,720
(c) Checks on multiple electors or multiple surnames of electors registered with the same residential address	6,535
(d) Cases requiring further checking after conducting random sampling checks	24,175
(e) Checks on incomplete, commercial or non-residential registered addresses	2,479
(f) Checks on cases of buildings already demolished or vacant buildings pending demolition	897
Total	82,703

Response Required from Electors

6. To remind electors under the inquiry process to respond to the REO in a timely manner, all envelopes of the inquiry letters are stamped with a prominent reminder: "Important Document Please Reply Promptly" (See sample in Figure 1). If an elector has received a mail delivery notification card from the Hong Kong Post, he/she should collect the letter as soon as possible, otherwise he/she may not be able to pick up the letter after the collection period⁵ has expired. The elector just needs to simply confirm or update his/her registered addresses by completing and returning the reply slip enclosed on or before the statutory deadline of 2 July 2015.

⁵ Generally speaking, according to the rules of the Hong Kong Post, members of the public have to collect the registered mails from the post office within two weeks upon receipt of mail delivery notification cards. The registered mails will be returned by the Hong Kong Post to the REO after the collection period has expired.

7. About 40,000 out of the around 80,000 inquiry letters issued require the electors concerned to simply confirm or update their registered addresses by completing the reply slips.

8. For the remaining 40,000 inquiry letters, the REO, according to the objective information available, believes that the electors concerned have already moved out of their registered addresses or the relevant addresses are not for residential use. The electors are therefore required to confirm whether they are still residing in their registered addresses and provide address proofs⁶ at the same time. If the electors have already moved out of their registered addresses, they are only required to report their latest residential addresses to the REO by responding to the inquiry letters or submitting application forms for VR/change of particulars.

9. If electors have questions about the contents of the inquiry letters or the inquiry process, they may call the REO hotline at 2891 1001. Staff of the REO will provide assistance to the electors and explain the respective procedures. After receipt of replies from electors subject to the inquiry process, the REO will update their registration particulars as soon as possible. As at 26 May 2015, the REO has already received replies from about 10,000 electors under inquiry.

10. In carrying out the checking process, the REO will also contact the electors concerned by phone, email or fax according to the communication means they have provided, so as to remind them to confirm or update their registration particulars before the statutory deadline. Separately, the REO has launched various publicity measures (e.g., advertisements and broadcasting of publicity message) to remind the electors under inquiry to reply to the REO by the statutory deadline.

11. The REO has also reminded the electors concerned in the inquiry letters that if they fail to reply on or before the statutory deadline (i.e., 2 July 2015), their names will be included in the Omissions List to be published on or before 1 August 2015. The REO will issue reminder

⁶ Electors are required to provide documents as address proofs, such as rates/water/electricity/gas bills bearing their names; or address proof of another person who resides with the elector concerned at the registered addresses, together with a declaration made by the elector; or statutory declaration made through the District Offices. Free statutory declaration services are provided by the District Offices. Templates of the declaration made by an elector for the address proof of a person residing with the elector and statutory declaration can be downloaded at REO's website (<http://www.reo.gov.hk/en/voter/dra.htm>).

letters by surface mails to the electors whose names are included in the Omissions List before the end of July 2015 to remind them to take appropriate remedial action on or before the statutory deadline of 25 August 2015 in order to reinstate their registration status. The relevant electors should submit their claims or update their registered addresses if they wish to keep their registration status. If their claims are approved by the Revising Officer, their names will be included in the final registers of electors to be published in September 2015.

Way Forward

12. The existing VR system is based on the principle of honest reporting and facilitation for electors. It is essential for the public to fulfil their civic responsibilities in providing true and accurate residential addresses for VR. In implementing the checking measures, the REO will strive to facilitate the electors but also calls on the public to cooperate. The Government will continue to improve and suitably adjust the checking measures having regard to the effectiveness of the measures and needs.

Registration and Electoral Office
May 2015

Figure 1

Sample Envelope of Inquiry Letter

Appendix III

Relevant documents on 2017 voter registration campaign

Committee	Date of meeting	Paper
Panel on Constitutional Affairs ("CA Panel")	16 October 2012 (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 Minutes
	17 March 2014 (Item III)	Agenda Minutes
House Committee	13 June 2014	Report of the Bills Committee on Electoral Legislation (Miscellaneous Amendments) Bill 2014
CA Panel	20 October 2014 (Item V)	Agenda Minutes
	15 December 2014 (Item IV)	Agenda Minutes
House Committee	19 June 2015	Report of the Bills Committee on Electoral Legislation (Miscellaneous Amendments) Bill 2015

Committee	Date of meeting	Paper
CA Panel	18 May 2015 (Item III)	Agenda Minutes
	30 September 2015 (Item I)	Agenda Minutes
	21 December 2015 (Items III & IV)	Agenda Minutes
	--	Consultation Report on Enhancement of Voter Registration System

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