

立法會
Legislative Council

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Panel on Constitutional Affairs

**Updated background brief prepared by the Legislative Council Secretariat
for meeting on 16 October 2017**

2018 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 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 7 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. 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.

7. 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.

Offence

8. 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.

9. 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

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.

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

10. After the 2011 DC Election, there were complaints and media reports on cases of suspected false addresses of electors. To address public concern and to maintain the integrity of the VR system, the Registration and Electoral Office ("REO") has implemented a number of measures to improve the VR system starting from 1 January 2012.² 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.

11. 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.

12. 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

² The enhancement measures for VR include:
(a) enhanced checking performed by REO;
(b) strengthening of publicity measures;
(c) checks on lists of buildings already or to be demolished; and
(d) enhanced cross-matching with other Government departments on the registered addresses of electors.

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.

13. 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.

14. 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:

- (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 consulted the Panel on these proposals at the meetings on 23 February and 19 April 2017.

Panel's discussion on issues relating to VR campaigns

Checking measures implemented by REO

15. 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. Some members also requested the Administration to note that residents of remote rural areas might only provide REO the address of a nearby grocery as their communal address as they were unable to install postal boxes at their village houses.

16. 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. Besides, REO had changed to use surface mail, instead of registered post, for sending all inquiries and VR notifications to electors to address the concern that some electors had difficulties in acknowledging receipt of REO's letters. 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, REO provided a supplementary information paper detailing such measures to the Panel in May 2015 vide LC Paper No. CB(2)1576/14-15(01).

17. 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 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.

18. 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.

19. 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

20. 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

21. 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.

22. During the discussion of the 2017 VR campaign, some members expressed concern that in the 2016 FR, the registration rate of eligible young people aged between 18 and 30 was 68.2%, which was lower than the overall registration rate of 78.9% for GCs. Some members suggested that more innovative ways should be explored to target young people aged between 18 and 30 for new registration and consideration should be given to sponsoring community organizations to organize more VR promotional activities. There was another view that the procedures for online registration (e.g. the use of e-certificate for authentication

of identity) were cumbersome and should be improved through developing a mobile app for users to fill out and sign an e-form on computers and mobile devices. The Administration advised 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.

23. With a view to boosting the registration rate of eligible persons aged between 18 and 30, Hon IP Kin-yuen suggested that the Administration might consider lowering the age requirement for VR to 16 or 17 (while the age requirement for voting remained at 18 or above) with reference to the practices in certain overseas jurisdictions. At the request of the Panel, the Administration has provided a written response (in **Appendix I**).

24. Some members considered it necessary for the Administration to take measures to promote VR in FCs also. 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.

Recent development

25. The Administration will brief the Panel on the 2018 VR campaign at the next meeting on 16 October 2017.

Relevant papers

26. A list of relevant papers is in **Appendix II**.

Council Business Division 2
Legislative Council Secretariat
12 October 2017

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.

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Ms Joanna MAK
Clerk to Panel on Constitutional Affairs,
Legislative Council Complex,
1 Legislative Council Road,
Central,
Hong Kong.

14 March 2017

Dear Ms MAK,

Legislative Council Panel on Constitutional Affairs Supplementary Information on Voter Registration Campaign

After the meeting of the Panel on Constitutional Affairs held on 23 February 2017, a Member raised concern about the registration rate of eligible persons aged between 18 and 30 and suggested the Administration to consider lowering the age requirement for voter registration (“VR”) to 16 or 17 (while the age requirement for voting remains at 18 or above) with reference to the practices in certain overseas jurisdictions with a view to boosting the registration rate. The following supplementary information is provided for Members’ reference.

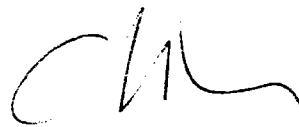
Pursuant to the Legislative Council Ordinance (Cap. 542), a person is eligible for registration as an elector if he/she is a permanent resident of Hong Kong who has reached 18 years of age, holds an identity document and ordinarily resides in Hong Kong. The cut-off date for registration eligibility of reaching 18 years of age refers to the statutory deadline for the Electoral Registration Officer to publish the final registers (“FR”), i.e., 25 July in non-District Council election year and 25 September in District Council election year. For the 2017 VR cycle, the statutory deadline for applications for new registration falls on 2 May 2017. **An eligible young person may apply for VR on or before 2 May if he/she will reach 18 on or before 25 July this year (i.e., the statutory deadline for publishing the 2017 FR).** For example, if an applicant will reach 18 on 25 July 2017, he/she may submit an application for VR to the Registration and Electoral Office (“REO”) starting from 3 May 2016 under the existing electoral law.

Young people have all along been the major target of VR campaigns. The REO appeals to senior secondary students to register as electors through the annual school visiting programme, as well as sending posters and VR forms to secondary schools and soliciting the assistance of the schools to collect VR forms submitted by their students. The REO has also collaborated with the Immigration Department (ImmD) and deployed REO staff to the offices of ImmD where applications for adult identity cards are made in order to encourage young people reaching the age of 18 to register as electors. The REO will continue to enhance publicity measures in VR campaigns to appeal to and encourage young people to register as electors.

The proposal of revising the statutory age requirement for VR involves significant change to the VR system. In fact, subject to different historical, institutional, cultural and other factors of each place, the age requirement for VR and the relevant electoral arrangements in different overseas jurisdictions vary and there is no universal standard. The existing electoral law in Hong Kong already allows young people who will soon reach 18 years of age to register as electors. In addition, the REO proactively adopts multi-pronged and targeted measures to encourage secondary students who will soon become eligible to register as electors. Taking into account the considerations above, the Government has no plan to review the policy regarding the age requirement for VR at present.

Members are invited to note the above.

Yours sincerely,



(Ryan CHIU)

for Secretary for Constitutional and Mainland Affairs

c.c. Chief Electoral Officer, Registration and Electoral Office

Appendix II

Relevant documents on 2018 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
	23 February 2017 (Items III & IV)	Agenda Minutes
	19 April 2017 (Item IV)	Agenda Minutes

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