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12 June 2018

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

Dear Ms Mak,

**Meeting of Panel on Constitutional Affairs
Consultation Report on Review of Electoral Arrangements and
Proposed Amendments to Electoral Legislation**

At the meeting of this Panel on 21 May 2018, Members requested the Constitutional and Mainland Affairs Bureau to submit a written response in respect of the issue of polling hours in the Consultation Report on Review of Electoral Arrangements, and two technical details on the proposed amendments to electoral legislation. We herewith provide supplementary information as follows –

(1) Polling Hours

At the meeting, Hon Regina Ip requested the Constitutional and Mainland Affairs Bureau to make known the Government's concrete timetable on shortening the polling hours of Legislative Council ("LegCo") and District Council ("DC") elections, as well as reviewing other related issues.

As mentioned in the Consultation Report, among the written submissions received during the public consultation period, the political parties which supported slightly shortening the polling hours pointed out

that Hong Kong's polling hours were the longest as compared to other countries and regions. The advantages of shortening the polling hours are that the relevant counting work can commence earlier, thereby enabling the venues of the polling stations to be returned as early as possible on the day after the polling day, alleviating the fatigue suffered by the stakeholders concerned, as well as lessening the disturbance caused to the neighbourhood of the counting stations. On the other hand, some political parties and quite a few members of the public who opposed to shortening the polling hours pointed out that if the closing time of the poll was advanced, some electors might not be able to or find it inconvenient to vote because the revised polling hours might conflict with their working hours. After carefully considering all the views and recommendations received for the public consultation, we proposed that the present polling hours of LegCo and DC elections should be maintained for the time being before the Government completes a holistic review on other issues related to polling hours.

We will study a host of issues related to polling hours, including the feasibility of extending the time of procurement of venues for setting up as polling and counting stations, use of information technology in the counting process, and formulating alternative arrangements for electors who are unable to go to polling stations in person on the polling day to vote due to the shortening of polling hours, etc. We will critically examine the various operational details and legal issues involved, with an aim to ensuring that elections are conducted in a fair, open and honest manner. These measures, if implemented, would help facilitate early announcement of election results and alleviate the fatigue suffered by relevant stakeholders.

We will proactively study and follow up on these issues, with a view to realising some of the measures as early as in the 2020 LegCo election. We will relay the proposals related to polling hours to the Electoral Affairs Commission (“EAC”) for consideration at an appropriate juncture in the future.

(2) Review of the objection mechanism under the voter registration system

Regarding the paper submitted by the Government and discussed at meeting of the Panel on Constitutional Affairs which states that “it is

the duty of the claimant or objector to provide sufficient particulars relevant to the case”, Hon Au Nok-hin enquired at the meeting about the meaning of this provision and requested the Government to clarify the relevant standard of proof and whether the Government would specify the relevant standard of proof in the amendment Bill; and if so, how it would be specified.

On improvements to the objection mechanism, one of the proposals is to specify in the law that it is duty of the claimant or the objector to provide sufficient particulars relevant to the case so as to inform the Revising Officer, the Electoral Registration Officer (“ERO”) and the elector(s) being objected to of the grounds of the claim or objection.

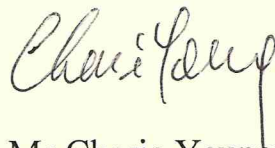
The reason that we use the wording of “provide sufficient particulars” in the legislative proposal is to state clearly that it is the duty of the claimant or the objector to provide sufficient particulars relevant to the case. Nonetheless, the claimant or the objector is not required to justify beyond doubts or bear the burden of proof. As for the specific grounds and information that should be provided, it depends on the details and circumstances of the case. For example, if an objector lodges an objection because the relevant floor in the reported address of an elector does not exist, such information already indicates that the relevant address was incorrect. In such case, the relevant objection is supported by sufficient information to inform the Revising Officer, the ERO and the elector being objected to of the grounds of the objection.

(3) Classification of certain ballot papers as clearly invalid to streamline the counting process

Hon Au Nok-hin also enquired at the meeting about the reason that overmarked ballot papers from electors in the Chief Executive (“CE”) and Election Committee Subsector (“ECSS”) elections, and ballot papers with vote recorded for a candidate/a candidate list with the only candidate/all candidates on the list deceased or disqualified from electors in the LegCo and DC elections are to be treated as clearly invalid and not to be counted. In accordance with the existing legislation, the aforementioned ballot papers are regarded as questionable ballot papers.

In accordance with the relevant EAC regulations for LegCo, DC and Rural Representative elections, certain overmarked ballot papers are to be treated as clearly invalid and not to be counted. It is proposed that similar provision be introduced to the CE and ECSSE elections. Besides, we propose to stipulate in the relevant EAC regulations for LegCo and DC elections that a ballot paper with vote recorded for a candidate/a candidate list with the only candidate/all candidates on the list deceased or disqualified is to be treated as clearly invalid and not to be counted. Our proposals intend to streamline the counting process. The existing arrangement which allows candidates and their agents to inspect questionable or clearly invalid ballot papers would remain unchanged.

Yours sincerely,



(Ms Cherie Yeung)

for Secretary for Constitutional and Mainland Affairs

cc: Hon Au Nok-hin, Member of LegCo Panel on Constitutional Affairs
Chief Electoral Officer (Attn: Ms Bertha Lee)