

# 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 20 January 2020**

### **2020 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 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 ("GCs") 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 Legislative Council ("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 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 FCs<sup>1</sup> may choose to be registered for their own FCs or for the DC (second) FC.

#### Offence

8. Under section 22 of the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (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 \$10,000 and imprisonment for two years. 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

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<sup>1</sup> 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.

- (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 is the enforcement agency of the offences under Cap. 554.

### **Measures to improve the voter registration 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.<sup>2</sup> 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.

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<sup>2</sup> 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.

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 advanced by 14 calendar days, in order to provide 10 more calendar days to the public for inspecting the provisional registers ("PRs") and the omission lists ("OLs") 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 on 21 January 2016, proposing measures to improve the VR system.<sup>3</sup> Some of the proposed measures have already been implemented 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;
- (c) strengthening the verification of address information with other Government departments and sources, etc.; and

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<sup>3</sup> The proposed measures to enhance the VR system were:

- (a) VR and checking arrangements (including to advance the statutory deadline for change of registration particulars, and to change to use ordinary surface mail for all inquiries and notifications);
- (b) raising penalties on VR offences;
- (c) review of the objection mechanism;
- (d) time limit for processing objection cases; and
- (e) requiring applicants to submit address proofs when submitting applications for new registrations or change of registration particulars.

- (d) requiring electors to submit address proof when submitting applications for change of registration particulars involving change of registered address, and further advancing the statutory deadlines for change of registration particulars to 2 April (for non-DC election year) and 2 June (for DC election year) (taken effect from 1 February 2018 onwards).

15. As for the remaining proposed measures, they are included in the Electoral Legislation (Miscellaneous Amendments) Bill 2018 which was passed by LegCo on 16 January 2019. With the passage of the Bill, the mechanism for appeals, claims and objections relating to registration of electors/voters has been streamlined<sup>4</sup>. In addition, the maximum penalty for making false statements in VR has been increased from a fine at level 2 (currently \$5,000) and imprisonment of six months to a fine at level 3 (currently \$10,000) and imprisonment for two years to enhance deterrent effect (paragraph 8 above refers).

### **Panel's discussion on issues relating to voter registration**

#### Checking measures implemented by the Registration and Electoral Office

16. During discussion of the 2018 VR, some members raised concern that some 46 000 electors had been included in OL in the 2018 VR cycle due to failure to respond to the inquiry process. They enquired about the relevant checking measures and what remedial actions could be taken by these electors in order to retain their right to vote in the coming election. Members were concerned 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.

17. The Administration explained that REO continued to implement checking measures and carry out statutory inquiry process in the 2018 VR cycle.<sup>5</sup> After

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<sup>4</sup> The measures for streamlining the VR system include (a) specifying in the law that it is the duty of the person lodging a claim or an objection ("appellant") to provide sufficient information relevant to the case; (b) empowering the Revising Officer ("RevO") to dismiss the case direct if the appellant or his/her representative does not attend the hearing; and (c) allowing the Electoral Registration Officer to seek the RevO's ruling on incontrovertible claim and objection cases by written submissions in lieu of hearings.

<sup>5</sup> According to the Administration, the checking measures included follow-up inquiries on undelivered poll cards of the 2018 LegCo By-election and other electoral documents; checks with the Housing Department on the data of tenants whose tenancies had been terminated; checks on residential addresses with multiple electors or multiple surnames of electors; random sample checks on existing electors; checks on addresses with incomplete information, commercial or suspected non-residential addresses; and checks on addresses situated at buildings already demolished or vacant buildings to be demolished.

implementing the checking measures, REO initiated the inquiry process in accordance with the relevant electoral law for about 57 300 electors because it had reasonable grounds to suspect that their registered addresses might no longer be their only or principal residence. From January to April 2018, inquiry letters were issued to these electors requesting them to update or confirm their registered address. About 46 000 electors who did not respond to the inquiry process had been included in OL.

18. The Administration further explained that in carrying out the checking process, REO had contacted the electors concerned by telephone, mobile phone short message service, electronic mail or fax based on the contact information (if any) they provided, and reminded them to update or confirm their registered addresses. In addition to the inquiry letters issued by REO during the inquiry process, REO issued reminding letters<sup>6</sup> on 31 May 2018 to those electors included in OL to remind them to reinstate their registration status by taking appropriate remedial action by 25 June 2018, including lodging a claim or confirming/updating their registered addresses. Upon approval by the Revising Officer, their names and residential addresses would be included in the 2018 FRs. 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.

19. When the 2019 VR was discussed, some members expressed concern about the measures in place to prevent the use of personal data of an elector by a third-party to make an application to REO for changing the elector's registered address. They urged the Administration to step up publicity to impress upon the public the consequences of "vote-planting" and providing false information in VR, as well as to remind the public of the channels through which they could file reports if their personal data had been used by third parties for making applications for VR or change of VR particulars.

20. The Administration explained that applications for change of VR particulars were made on a voluntary basis. Such applications did not necessarily have to be made in person and could be submitted by post or other means. However, relevant application forms must be signed by the electors concerned. REO would send notifications to the electors concerned after processing the applications and those who had not made such applications could contact REO for follow-up. The Administration stressed that submission of VR-related applications with forged signatures was a criminal offence under the law. REO had all along handled relevant complaints seriously and would refer suspected

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<sup>6</sup> According to the Administration, the envelope of the reminding letters issued by REO was beige in colour and stamped with a red reminding message, "Immediate action required. Your voting right is at stake".

cases to the relevant law enforcement agencies for investigation and follow-up. The Administration assured members that REO would continue to implement checking measures and step up publicity efforts to promote understanding of the VR system and procedures in the 2019 VR cycle.

#### Address proof requirement for applications for change of registered address

21. During discussion of the 2019 VR, members enquired whether the new address proof requirement had dampened electors' incentive to report changes of registered address to REO as some electors might have difficulty in providing address proofs (paragraph 14(d) above refers). The Administration advised that since the new requirement took effect on 1 February 2018, around 11 000 applications for change of registered address had been received in the 2018 VR cycle, and only around 500 electors were unable to provide address proofs. The Administration further advised that if the elector concerned had no address proof, he/she could provide to REO a statutory declaration made before a Commissioner for Oaths (at any of the District Offices)/a Justice of the Peace/a practising solicitor to substantiate his/her claim of residing at the reported address. Alternatively, the elector concerned could provide an address proof bearing the name of another person who lived with him/her and submit a declaration signed by himself/herself to confirm that such person was living with him/her at the same address. Sample of such declaration was available on REO's website.

#### Voter registration for young people

22. Some members expressed concern that in the 2018 FR, the registration rate among eligible young people aged 18-30 (70.8%) was low when compared with that of other age groups which was on average about 80%. These members suggested that more innovative ways should be explored to target young people for new registration and consideration should be given to creating accounts on social media platforms such as Facebook, Instagram and Youtube. The Administration was also suggested to provide resources to bodies such as student associations to set up VR counters at their respective tertiary education institutions to help young people register as electors. There was another view that the Administration should step up promotional efforts in the 2018 VR campaign targeting at different age groups, instead of targeting only at the young people.

23. The Administration advised that young people had been a key target of VR campaigns given their relatively lower VR rate. Efforts had been made to reach out to young people through social media platforms and the registration counters at the five Registration of Persons Offices<sup>7</sup> under the Immigration Department,

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<sup>7</sup> 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.



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. .

24. With a view to boosting the registration rate of eligible persons aged between 18 and 30, some members 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. The Administration advised that the existing electoral law in Hong Kong already allowed young people who would soon reach 18 years of age to register as electors. At the request of the Panel, the Administration has provided supplementary information in this regard (LC Paper No. CB(2)995/16-17(01)).

#### Voter registration in functional constituencies

25. Some members considered it necessary for the Administration to take measures to promote VR in FCs as well. 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.

26. During discussion of the 2019 VR, some members expressed concern that many eligible persons had yet to register as electors in the DC (Second) FC and urged the Administration to take measures to promote VR in that FC. The Administration advised that the VR application form had been revised to the effect that when registering as an elector in a GC, the applicant would also become an elector in the DC (Second) FC unless he/she expressly indicated otherwise. REO had also sent letters to appeal to some tens of thousands of registered GC electors who had not registered as electors in the DC (Second) FC to make the relevant registrations and more than 10 000 of them had subsequently done so. The Administration undertook that REO would step up efforts in promoting VR in the DC (Second) FC in the run-up to the next LegCo General Election.

#### Voter registration support measures

27. Some members enquired about the availability of VR publicity materials and VR application form 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 VR application form at the Centre for Harmony and Enhancement of EM Residents under Hong Kong Christian Service where interpretation service was provided. It was also planned that the VR application form would include translation in EM languages of each item of information sought.

28. Some members expressed concern that there was inadequate support for elderly people to apply for VR or changes in their registered VR particulars. They pointed out that many elderly electors lived in remote areas and had mobility problems. Besides, the small prints on the relevant VR forms were illegible for some elderly people, and they often lacked the computer proficiency to handle the applications online. The Administration was suggested to set up VR counters at major railway/bus termini, deploying mobile VR vehicles, and using large prints in the VR forms to facilitate the elderly people. The Administration undertook to consider these suggestions.

### **Recent development**

29. The Administration will brief the Panel on the 2020 VR campaign at the next meeting on 20 January 2020.

### **Relevant papers**

30. A list of relevant papers is in the **Appendix**.

## Relevant documents on 2020 voter registration campaign

Committee	Date of meeting	Paper
Panel on Constitutional Affairs	18 May 2015 (Item III)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	30 September 2015 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	21 December 2015 (Items III & IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	--	<a href="#">Consultation Report on Enhancement of Voter Registration System</a>
	23 February 2017 (Items III & IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	19 April 2017 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	16 October 2017 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	21 May 2018 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	22 June 2018 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	17 December 2018 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>