

**Consultation Document on
Enhancement of Voter Registration System**

Constitutional and Mainland Affairs Bureau

November 2015

Content

Chapter One:	Introduction	1
Chapter Two:	Voter Registration System	2
Chapter Three:	General Principles of the Review	10
Chapter Four:	Concerns Regarding Voter Registration Matters and Proposed Measures	12
Chapter Five:	Views Sought	23
Chapter Six:	Channels for Submission of Views and Recommendations	26
Annex I:	Consultation Report on the Improvement Measures of the Voter Registration System Published on 16 April 2012 - the Consultation Results on the Proposals, Final Positions of the Government on the Proposals and Follow-up Work	28
Annex II:	Existing Statutory Deadlines for Voter Registration Cycles	31
Annex III:	Checking Measures Conducted by the Registration and Electoral Office	32

Chapter One: Introduction

- 1.01 In light of the recent public concerns about the voter registration (VR) system (please see Chapter Four for details), the Government has embarked on a review of the existing VR system and the relevant arrangements. The preliminary views of the Legislative Council (LegCo) Members on the directions of the review were sought at a special meeting of the LegCo Panel on Constitutional Affairs on 30 September 2015.
- 1.02 The Government has drawn up a series of proposed measures. This Consultation Document sets out the proposed measures and the relevant considerations.
- 1.03 The VR system and arrangements and the proposals stated in this Document are applicable to the VR work for District Council (DC) elections, LegCo geographical constituencies (GC) and functional constituencies (FC) elections as well as Election Committee Subsector (ECSS) elections.
- 1.04 The Government wishes to consult the public on this matter and will give due consideration to the views collected before deciding the way forward.

Chapter Two: Voter Registration System

The existing VR system

2.01 In Hong Kong, voting right is a fundamental right safeguarded by the Basic Law¹ and VR is voluntary. Persons fulfilling the relevant criteria² may apply for registration as electors for the GC according to the address of their only or principal residence in Hong Kong. Registered GC electors may vote at the respective DC constituency and LegCo GC. In addition, GC electors eligible for registration in the respective FC and/or ECSS may also apply for registration and vote at the respective FC and/or ECSS election.

2.02 The Government all along attaches great importance to maintaining the openness, honesty and fairness of the electoral system. In order to ensure the accuracy and integrity of the registers of electors, the design of the existing VR system comprises the following components and work flow:

- (a) **Applicants' declaration:** The existing VR system is based on the principles of honest reporting and facilitation for electors. When an applicant applies for registration as an elector or when a registered elector applies for change of registration particulars, he/she must declare in the application form that the particulars he/she has provided are true and accurate;

¹ According to Article 26 of the Basic Law, "permanent residents of the Hong Kong Special Administrative Region shall have the right to vote and the right to stand for election in accordance with law."

² Under sections 27 to 31 of the Legislative Council Ordinance (Cap. 542), a person is qualified for registration as an elector and is entitled to vote at the DC and LegCo elections only if he/she fulfills the following conditions, namely, that he/she:

- (a) is aged 18 or above;
- (b) is a permanent resident of Hong Kong;
- (c) at the time of applying for registration, ordinarily resides in Hong Kong and the residential address in his application for registration is his only or principal residence in Hong Kong;
- (d) holds an identity document; and
- (e) is not subject to any disqualification from registration.

- (b) **Registration and Electoral Office's (REO's) verification procedures:** When processing an application, appropriate procedures³ will be taken by the REO to verify the registration particulars. In addition, the REO has since 2012 implemented a number of enhanced checking measures. These measures include conducting cross-matching exercises with other Government departments; conducting random sampling checks on all electors in Hong Kong; and conducting checks on multiple electors or multiple surnames of electors registered at the same residential address so as to enhance the accuracy of the information in the registers of electors; and
- (c) **Highly transparent mechanism for public inspection and making claims and objections:** Every year before the publication of the final registers (FR), the REO will make available the provisional registers (PR) and the omissions lists (OL) for public inspection. Members of the public may inspect the relevant registers in person at the District Offices or the REO. Electors may also check their registration status and particulars through the Online Voter Information Enquiry System (OVIES) (www.voterinfo.gov.hk) launched in September 2014 or the REO's telephone hotline (2891 1001). The public may lodge claims or objections against the entries in the PR or the OL before the statutory deadlines. In accordance with the law, all claims and objections shall be referred to an independent Revising Officer (RO) for ruling. The Electoral Registration Officer (ERO) will correct, add or delete entries in compiling the FR according to the rulings

³ Upon receipt of an application form, the REO will check if the information (including Hong Kong identity card number, name and residential address, etc.) provided is complete before entering the information into the computer system. If the information provided in the application form is incomplete, e.g., the address is incomplete, staff members of the REO will contact the applicant concerned for clarification or request him/her to provide supplementary information. After completing the data input, the REO will pass the identity card number of the applicant to the Immigration Department for checking of important personal particulars such as the applicant's permanent resident status, age and name to further verify his eligibility to be registered as an elector. A registration notice will be issued to the applicant after the above checking and verification processes have been completed so that the elector may check his/her own registration particulars and notify the REO for correction as soon as possible if any entry is found inaccurate.

by the RO.

- 2.03 The above VR system aims to ensure the fairness and credibility of the electoral system as well as to facilitate eligible persons to register as electors and exercise their rights to vote, and strives to strike the right balance between these two aims.

Review and public consultation conducted in 2011 and 2012

- 2.04 After the 2011 DC Election, there were complaints from members of the public and media reports about suspected cases of electors using false addresses for VR. To address public concerns about the accuracy of electors' registered addresses, the Government conducted a review on the VR system between late 2011 and March 2012 and sought views from the LegCo as well as the public on the matter. At the same time, The REO started implementing a number of enhanced checking measures⁴ (please see **Annex III** for details) from early 2012 onwards. The Constitutional and Mainland Affairs Bureau issued the Consultation Paper on Improvement Measures of the Voter Registration System⁵ on 16 January 2012 and the consultation ended on 2 March 2012⁶. In light of the reservation expressed

⁴ The enhancement measures for VR include:

- (a) enhanced checking performed by the 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.

⁵ The proposed measures set out in the Consultation Paper on Improvement Measures of the Voter Registration System include (please see **Annex I** for details):

- (a) to introduce the requirement of address proof;
- (b) to introduce penalty for electors who fail to report change of addresses;
- (c) to amend the VR statutory deadlines in order to allow sufficient time for the checking and the verification processes, and for the public to inspect the registers and to lodge claims and objections;
- (d) to set out electors in the registers of electors in accordance with their principal residential addresses;
- (e) to introduce the requirement for electors to produce the poll cards at the polling stations before voting; and
- (f) to transfer the VR offences on false declaration under the Electoral Affairs Commission Regulations to the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).

by the public and LegCo Members, the Government decided not to pursue some of the proposed measures, including the proposed mandatory requirement of address proof and the proposed penalty concerning electors' failure to update their residential addresses. The proposal of setting out electors in the registers according to their principal residential addresses was implemented in 2012. The proposed amendment of statutory deadlines for VR and making offences of providing false information on VR as indictable offences were implemented through the Electoral Legislation (Miscellaneous Amendments) Ordinance 2014 enacted by the LegCo on 10 July 2014. The results of the public consultation in 2012, the final position of Government on the proposed measures and the follow-up actions are set out in **Annex I**.

- 2.05 Apart from the measures above, the REO launched the OVIES in September 2014 to facilitate the public to check whether they are registered electors and whether their registration particulars are accurate. The public may log on to the system (www.voterinfo.gov.hk) anytime to check whether they are registered as electors and their latest registration particulars including registered addresses and respective constituencies.

Statutory deadlines for the VR cycles

- 2.06 The statutory deadlines for the VR cycles as provided in the relevant electoral laws are detailed in **Annex II**. Taking the 2015 VR cycle (2015 is a DC election year) as an example, eligible persons who wish to register as electors but have yet to do so must submit their applications on or before 2 July 2015 so that their registration particulars can be included in the FR to be published in September 2015, and that they can vote in elections conducted thereafter. As for registered electors, there is no need for re-registration. If there is any change in the registration particulars, such as the residential address, the elector should report the change to the REO on or before 25 August 2015 so that his/her updated particulars can be included in the FR to be published on or before 25 September 2015. The REO will, in

⁶ LegCo Panel on Constitutional Affairs held a special meeting to discuss the Consultation Paper on Improvement Measures of the Voter Registration System on 17 February 2012 and met with the representatives from organisations and Government officials.

accordance with the law, process applications for new registration lodged after 2 July and changes of registration particulars lodged after 25 August in the next cycle; in other words, the relevant VR information will not be included in the FR to be published in September 2015.

Checking measures

- 2.07 As stated in paragraph 2.04 above, in light of the public concerns about the accuracy of the registered addresses contained in the registers of electors, the REO has since 2012 implemented a number of enhanced checking measures and continued to enforce the inquiry process so as to enhance both the accuracy and integrity of the registration particulars. The details of the checking measures are set out in **Annex III**.

Mechanism for making claims and objections

- 2.08 The REO publishes the PR, OL and FR each year for public inspection to facilitate public supervision and to ensure that a highly transparent VR system is maintained. During the public inspection period, members of the public may make objections or claims to the ERO against the entries on the PR and OL. According to the statutory procedures, the ERO must deliver copies of notices of objection or claim to the RO for hearing and ruling.
- 2.09 During the 2015 VR cycle, 49 notices of objection, involving a total of 2 001 electors, were received by the REO. Subsequently, as 6 objectors withdrew their objections to 550 electors after lodging their notices, the total number of electors being objected to is 1 451. No notice of claim has been received during the 2015 VR cycle. The number of claims or objections received and the number of electors involved in the VR cycles from 2011 to 2015 are given below:

VR Cycle	Claims		Objections	
	Number of cases	Number of electors involved	Number of cases	Number 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

2.10 According to the electoral laws, the RO will inform the objector and the elector being objected to of the date, time and place for holding a hearing. They may choose whether they would:

- (a) appear at the hearing in person and make representations, or
- (b) be represented at the hearing by a legal practitioner or any other person authorised by him/her, who may make representations on his/her behalf, or
- (c) make written representations to the RO before the date of the hearing.

2.11 It should be noted that as a matter of general legal principle, under the standard of proof based on “balance of probabilities”, a claimant or an objector is required to submit proof in respect of his/her claim or objection. While the objector has the responsibility to explain at the hearing why the person being objected to is not qualified as an elector, there is no need for the ERO to prove beyond reasonable doubt the eligibility of that person in respect of the objection raised. However, as it is the responsibility of the ERO to prepare the registers of electors and in order to facilitate the RO to make a ruling, the REO will, if time and circumstances allow, initiate investigation (including cross-matching the relevant records with relevant departments such as the Housing Department and the Buildings Department) and render assistance to the RO as far as possible in terms of making clarifications and verifications of the relevant registration particulars. Therefore, upon receiving a notice of objection, the REO will try its best to contact the elector being objected to by telephone (if a contact number is provided by the elector concerned) and by mail, requesting him/her to confirm in writing that the registered address is his/her only or principal residence in

Hong Kong, or to provide an address proof to the REO before a deadline. If a reply is received before the hearing, even if the elector concerned chooses not to attend the hearing, the ERO would still report the findings to the RO at the hearing and the RO will make a ruling after considering the grounds advanced by the objector in support of the objection and the relevant evidence.

- 2.12 Among the 1 451 electors who were the subjects of the notices of objection in the 2015 VR cycle, after the hearings, the 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 of these electors was maintained (including 315 electors with their registered addresses updated upon the RO's approval). The REO has corrected, added or deleted the relevant entries according to the RO's rulings and released the FR on 25 September this year.

Offences concerning provision of false information in voter registration

- 2.13 At present, there are two sets of offences related to VR. One is under the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541A) and the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541B). The other is under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).
- 2.14 Under section 22 of Cap. 541A and section 42 of Cap. 541B, it is an offence for a person to make any statement which the person knows to be false in a material particular or recklessly make any statement which is incorrect in a material particular or knowingly omit any material particular from such an application in VR. It is also an offence for a person to cause another person to make such a false statement or to provide information which the first-mentioned person knows to be wrong in a material particular in VR. These provisions are enforced by the Hong Kong Police Force. According to section 7(5) of the Electoral Affairs Commission Ordinance (Cap. 541), the maximum penalty is a

fine at level 2 (\$5,000) and imprisonment for 6 months.

- 2.15 Besides, under section 16 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), a person engages in corrupt conduct at an election if the person votes at the election knowing that the person is not entitled to do so, or 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. A person engages in corrupt conduct at an election if the person invites or induces another person to vote at the election knowing that the other person is not entitled to do so, or has given to an electoral officer information that was materially false or misleading, or omitted to give material information to an electoral officer. These provisions are enforced by the Independent Commission Against Corruption. According to section 6(1) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), the maximum penalty is \$500,000 and imprisonment for 7 years.
- 2.16 The Government introduced amendments to the Electoral Affairs Commission Ordinance (Cap. 541) and its subsidiary legislation in 2014 to change the offences of providing false information on VR to indictable offences so as to remove the six-month time bar for prosecution in order to enhance effectiveness in law enforcement and deterrent effect. Such a legislative proposal has been implemented through the Electoral Legislation (Miscellaneous Amendments) Ordinance 2014, which was enacted by the LegCo in July 2014.

Chapter Three: General Principles of the Review

- 3.01 As mentioned in Chapter Two, the Government conducted a review on the VR system between 2011 and 2012 and sought views from the LegCo as well as the public on the measures to enhance the VR system. The REO also started implementing the enhanced checking measures since early 2012. Having considered the views expressed by the public and LegCo Members, the Government has implemented a series of improvement measures (please see **Annex I** for details).
- 3.02 In light of the recent public concerns about the VR system (please see Chapter Four for details), the Government puts forth in this public consultation some proposed measures to further improve the VR system and the relevant arrangements. On the premise of maintaining the integrity of the existing VR system, it is necessary for us to take into account the feasibility of the various proposed measures and the following established principles and considerations in respect of the VR system:
- (a) the Government attaches great importance to maintaining the openness, honesty and fairness of the electoral system;
 - (b) voting right is a fundamental right and voter registration is voluntary. The proposed measures aim at preventing fraud or corrupt conduct in order to maintain the fairness of elections and public confidence in the electoral system. At the same time, the proposed measures should not deprive the permanent residents of Hong Kong of the voting right enjoyed under the Basic Law and the Hong Kong Bill of Right, or seriously undermine the exercising of such a right;
 - (c) the proposed measures should be feasible and practicable, and should not create undue nuisance or disturbance to the registered electors; and

- (d) in view of the large volume of new applications for VR and applications for change of registration particulars⁷, and the tight time frame of the publication of PR and FR according to the statutory deadlines every year, there is a need to strike a proper balance in the scope and intensity of checking, the period of public inspection and the resource implications on the REO, etc.

⁷ The number of VR applications (for GCs) processed by the REO between the 2013 and 2015 VR cycles is as follows -

	2013 (non-election year)	2014 (non-election year)	2015 (DC election year)
New VR applications	56 621	77 261	262 633
Applications for change of registration particulars	116 146	120 961	414 934

Chapter Four: Concerns regarding Voter Registration Matters and Proposed Measures

4.01 The following set out the public concerns over VR matters, the improvement measures proposed by the Government as well as those to be implemented by the Government.

Deadline for updating registration particulars of electors

4.02 At present, electors may still request to update their registration particulars after the publication of the PR and OL every year (please refer to **Annex II** for the statutory deadlines). This arrangement enables the particulars in the registers of electors to be as up-to-date as possible. However, there are views that the current arrangement prevents the public from viewing the updated particulars of all electors in the PR. If a criminal impersonates an elector to update the latter's particulars after the publication of the PR and OL, the elector may only be made aware of that after the FR is published, by which time he/she would have missed the chance of making claims and objections.

4.03 We **propose** advancing the statutory deadline for updating registration particulars to before the publication of the PR and OL, i.e., to be the same as the deadline for new registrations. By doing so, all requests for updating registration particulars filed in that VR cycle will be reflected in the PR for public inspection. This proposed measure will prevent criminals from impersonating electors without the latter's knowledge by updating the latter's registration particulars (especially residential addresses) with malice after the publication of the PR.

4.04 Taking the 2016 VR cycle (non-DC Election year) as an example and assuming the aforementioned proposal of revising the deadline is adopted, the statutory deadline for filing requests for updating registration particulars and that for submitting applications for new registrations will both be 2 May 2016.

4.05 Under the current requirements, the REO will, in accordance with laws, process in the next VR cycle any requests for new registrations or updating registration particulars submitted after the statutory deadline, i.e., these particulars will not be included in the FR published in the current VR cycle. Therefore, taking the

2016 VR cycle as an example, if the proposal is implemented, applications for new registration or updating registration particulars submitted after 2 May 2016 will be processed in the 2017 VR cycle but not included in the FR published in July 2016.

- 4.06 This proposal involves amending subsidiary legislation under the Electoral Affairs Commission Ordinance (Cap. 541) by changing the statutory deadline for updating registration particulars to be the same as that for new registrations, i.e., 2 May (non-DC Election year) or 2 July (DC Election year).

Means of sending inquiry letters and notifications

- 4.07 According to the current electoral laws, inquiry letters⁸ (and some notifications relating to the decisions of the ERO) must be sent by registered post addressed to the relevant electors.
- 4.08 Generally speaking, according to the arrangements of the Hong Kong Post, if nobody is present on the spot to acknowledge receipt of a registered mail when it is delivered, the Hong Kong Post would issue a notification of collection of registered item and request the addressee to collect the registered mail from the post office within two weeks; otherwise, the registered mail will be returned to the sender. Some are of the view that since an elector who fails to acknowledge receipt of registered mail needs to collect the mail at the post office, this will cause inconvenience to many electors; in addition, some electors may have misunderstood that they are required to reply within two weeks after the issue of an inquiry letter. Besides, if an elector misses the deadline for collecting the registered mail sent by the REO, he/she would not be able to collect the mail and hence could not know the details of the inquiry letters. The elector would then not be able to respond to the REO's inquiry before the deadline and his/her VR would be cancelled as a result.

⁸ According to section 7(2) of the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541A) and section 22(3) of the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541B), an inquiry must be made in writing and sent by registered post addressed to the person from whom it is made.

4.09 Having considered that whether a correspondence is sent by ordinary surface mail or registered post would not result in any difference in its legal effect⁹, we **propose** using ordinary surface mail instead for all inquiries and notifications for the convenience of electors. This proposal involves making amendments to the subsidiary legislation under the Electoral Affairs Commission Ordinance (Cap. 541).

Accuracy of registration particulars

4.10 During the public inspection period of the PR, some members of the public raised that some of the registration particulars in the registers might be incorrect. For example, the registered addresses do not exist, the buildings do not have the floor levels/units as reported, the registered addresses are in buildings that have already been demolished or the buildings have already been vacated pending demolition, or the registered addresses contain incomplete information, etc. Some are of the view that the REO should enhance cross-checking of address information with other Government departments, including strengthening the verification of information when processing VR applications, so as to ensure that the registration particulars are accurate. There are also cases where staff of REO have made erroneous entries and there are views that the REO should improve the data entry work.

4.11 The REO **proposes** to adopt the following measures starting from the 2016 VR cycle to further improve the checking arrangements:

- (a) currently, the REO collects information on buildings that are demolished or vacated pending demolition from the Buildings Department (BD) and Rating and Valuation Department respectively so as to send inquiry letters to

⁹ According to section 8 of the Interpretation and General Clauses Ordinance (Cap. 1), “where any Ordinance authorizes or requires any documents to be served or any notice to be given by post or by registered post, whether the expression “serve” or “give” or “send” or any other expression is used, the service or notice shall be deemed to be effected by properly addressing, pre-paying the postage thereon and dispatching it by post or by registered post, as the case may be, to the last known postal address of the person to be served or given notice, and, unless the contrary is proved, such service or notice shall be deemed to have been effected at the time at which the document or notice would be delivered in the ordinary course of post.”

electors with registered addresses in such buildings. However, there is a time lag of several months between the collection of information, issue of inquiry letters and publication of the PR. The REO will enhance liaison with the BD to collect the latest list of buildings that are demolished or vacated pending demolition;

- (b) the REO will liaise with the Urban Renewal Authority to explore the collection of information on buildings with acquisition and resident removal completed so as to include electors who have yet to update their registered addresses in the inquiry process. Besides, the REO will explore with the District Offices to formulate a collaborative arrangement in order to identify buildings that will soon be demolished or are already vacated so as to facilitate follow-up actions; and
- (c) the REO will improve data entry work to enhance accuracy.

4.12 At present, the REO conducts full-scale checking with the Housing Department (HD) and Hong Kong Housing Society (HKHS) in election years regarding electors with registered addresses in public housing units so as to confirm if these electors are still residents of the public housing estates under the HD or HKHS. We **propose** to 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.

Communication channels with electors

4.13 Currently, the REO communicates with electors mainly by post, supplemented by other means of communication as provided by the electors¹⁰ (e.g., mobile phone short message service (SMS) or electronic mail).

¹⁰ The electoral law does not require that electors must provide telephone numbers and electronic mail addresses for the purpose of the REO's communication with electors. At present, about 83% of the registered electors have provided the REO with their telephone numbers (including fixed line/ mobile phone); and about 14% of the registered electors have provided their electronic mail addresses (and most of them have also provided their telephone numbers at the same time).

- 4.14 We **propose** that apart from sending inquiry letters by post, the REO will send SMS/electronic mail (if available) at the same time to remind electors to respond to inquiries; and after processing the applications for change of registration particulars, the REO will, apart from sending notifications to electors by post, alert the relevant electors via SMS/electronic mail (if available) at the same time that their registration particulars have been updated.
- 4.15 Since not all registered electors have provided their mobile phone numbers or electronic addresses (please see footnote 10 for details), we **propose** to step up publicity to encourage electors to provide their phone numbers and electronic mail addresses besides residential addresses, so as to enable the REO to contact them via various channels.

Public education and publicity

- 4.16 While there is no legal requirement on electors to notify the REO when they have changed addresses, the Government has always appealed to electors to notify the REO and update their registered addresses as soon as possible after they have moved, so as to ensure the accuracy of the registration particulars and allow electors to vote for their preferred candidate in the latest constituency they reside in.
- 4.17 As some electors do not update their registered addresses, we **propose** to enhance public education and publicity to promote the following messages:
- (a) electors should fulfil civic duty of updating registered addresses as soon as possible;
 - (b) encourage electors to use the OVIES (www.voterinfo.gov.hk) or the REO hotline (2891 1001);
 - (c) members of the public should provide true and correct information; and
 - (d) electors should respond to REO's inquiries as soon as possible.

Penalties on VR Offences

- 4.18 According to the subsidiary legislation under the Electoral Affairs Commission Ordinance (Cap. 541), penalties regarding provision of false statements in making VR are \$5,000 and imprisonment for 6 months. Some are of the view that the penalties should be raised in order to enhance the deterrent effect.
- 4.19 Taking into account the severity of the offence of making false statements in VR and public concerns over the accuracy of registration particulars, we **propose** 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. This proposal involves amendments to the principal and subsidiary legislation of the Electoral Affairs Commission Ordinance (Cap. 541).
- 4.20 The proposal to raise the penalties is targeted at criminals committing the offence of providing false statements in making VR. We do not think that the proposal will affect the eagerness to register as electors among the general public. Furthermore, the proposal would remind members of the public that they must provide true and accurate information when registering as electors or updating registration particulars so as to ensure the accuracy of the registration particulars.

Review of the objection mechanism

- 4.21 During the 2015 VR Cycle, the number of notices of objection received by the REO surged when compared with past years. There were views that the existing objection mechanism might be susceptible to abuse. For example, an objector may vexatiously raise objections without advancing sufficient justifications and he/she is not required to attend the hearing to state his/her case. We **propose** to review the objection mechanism and look into the feasibility of the following measures:
- (a) 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;

- (b) to require the objector to appear at the hearings conducted by the RO to facilitate the RO to understand the justifications for the objection; and
- (c) 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.

4.22 Regarding the proposed measures in paragraphs 4.21(a) and (b), since objection cases involve objection against the registration of other persons (i.e., electors already listed on the PR) and voting right is a fundamental right, we consider it 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 the RO to better understand the justifications for the objections. However, we need to carefully examine how the proposals may work. For example, various arrangements are involved in fixing the hearing dates and all hearings must be completed before the statutory deadline. In case an objector cannot appear at the hearing, then whether in the absence of the objector, the registration of the elector(s) being objected to shall stand without any hearing. The proposed measure in paragraph 4.21(c) aims at enhancing transparency and facilitating the parties concerned to attend the hearings; after a preliminary examination, there appears to be no major technical problem involved.

4.23 In addition to the above considerations, at present, a hearing would still be conducted even if the case only involves clerical errors in an elector's particulars or the elector being objected to has already provided updated or correct particulars. There were views that this arrangement brings unnecessary annoyance or inconvenience to the electors being objected to. We **propose** to study whether these kinds of indubitable objection cases may be processed 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. This will streamline the procedures for processing such kinds of objection cases, reduce the RO's burden and lessen the impact on the electors concerned. In examining this proposal, we will carefully consider how to clearly define the circumstances and the types of objection cases

for which hearings would not be needed, so as to ensure that the proposed measures are practicable in actual operation.

Time limit for processing objection cases

- 4.24 The Government has amended the relevant electoral law in 2014 and starting from the 2015 VR Cycle, the time limit for the RO to process hearings has been extended from 13 days to 17 days in a DC election year, and from 12 days to 16 days in a non-DC election year. This notwithstanding, since a large number of notices of objection were received in the 2015 VR cycle, some are of the view that if there are a large number of objection cases, the RO may not have sufficient time to conduct hearings. Theoretically, we may **consider** extending 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.
- 4.25 However, this proposal requires further advancing the deadline for VR/updating of registration particulars and will reduce the updatedness of the information in the FR. Besides, it would be difficult for us to accurately estimate the number of objection cases in each year so as to assess the time required for processing objection cases. For example, in the 2011 to 2014 VR cycles, the number of electors involved in objection cases in these four years was less than 100 in total. However, in 2015 alone, a total of 1 451 electors were involved in the objection cases. Hence, even if there is a need to extend the time limit for hearings, it would be difficult to assess how long it should be extended. We need to carefully study this proposal, including its implications on the VR deadlines and the legislative amendments involved.

Address proofs

- 4.26 Under the existing VR system, when members of the public apply for VR or existing electors apply for change of registration particulars, they are not required to submit address proofs at the same time. The REO would only require the electors concerned to provide address proofs in handling suspected cases¹¹.
- 4.27 The REO has received complaints from electors who claimed that they had never submitted any application form for new registration/updating registration particulars to the REO and suspected that a third party had impersonated them and submitted such forms to the REO.
- 4.28 In order to prevent criminals from impersonating others to submit application forms for new registration or change of registration particulars, we may **consider** requiring applicants to submit address proofs when submitting applications for new registrations or change of registration particulars. 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.
- 4.29 During the public consultation on the improvement measures of the VR System in 2012, some were of the view that the proposed requirement of address proofs might affect eligible persons'/ electors' eagerness to register or update their addresses. For example, some electors who cannot provide address proofs or wish to avoid trouble may rather give up registering or may not

¹¹ At present, when conducting VR checking measures, if 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 concerned would be required to confirm their registered addresses and provide address proofs at the same time. The documents that are accepted by the REO as address proofs include the following -

- (a) rates/water/electricity/gas bills bearing the elector's name, or a letter bearing the elector's name issued by reliable organizations such as banks, government departments, public authorities, schools or institutions, etc.;
- (b) address proof of another person who resides with the elector concerned at the registered addresses, together with a declaration made by the elector; or
- (c) a statutory declaration made before a Commissioner for Oaths/ a practicing solicitor/ a Justice of the Peace. Free statutory declaration services are provided by the District Offices.

notify the REO after they have moved. Nevertheless, we are of the view that provision of address proofs can effectively improve the accuracy of the information in the registers and bring positive effect to the credibility of the VR system as a whole. Therefore, we appeal to the public to discuss this proposal further and put forth their views.

Timetable for implementing the proposed measures

4.30 Some of the proposals in this Consultation Document can be implemented by means of administrative measures or through amending subsidiary legislation. On the other hand, some proposals would have greater impacts on the VR system and may involve amendments to principal ordinances, and therefore, are longer term measures. The Government considers that the proposals may be categorized as follows:

Measure that may be implemented in the near term

- (a) to advance the statutory deadline for change of registration particulars to the same statutory deadline for new registrations;
- (b) to change to use ordinary surface mail for all inquiries and notifications;
- (c) to further strengthen verification of address information with other Government departments;
- (d) to increase using other means of contacts to communicate with electors, apart from mailing;
- (e) to enhance public education and publicity on VR;

Measures that can be considered further in the longer term

- (f) to raise the penalties on offences relating to VR;
- (g) proposals to prevent abuse of the objection mechanism, including (i) specifying in the law that the burden of proof rests on the objector; (ii) specifying in the law that the objector is required to appear at the hearings; and (iii) uploading information on the objection cases to the REO's

website;

- (h) to empower the REO to process indubitable objection cases by means of only seeking the approval of the RO in writing;
- (i) to extend the time limit for processing objection cases and conducting hearing by the RO; and
- (j) to introduce the requirement of submitting address proofs by electors.

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).

Chapter Six: Channels for Submission of Views and Recommendations

6.01 The public is welcome to submit their views by mail, facsimile or email on or before 8 January 2016:

Address: Constitutional and Mainland Affairs Bureau
12/F, East Wing, Central Government Offices,
2 Tim Mei Avenue, Tamar, Hong Kong

Fax number: 2840 1976

Email address: vr@cmab.gov.hk

6.02 It is optional for any member of the public to supply his/her personal data upon providing views on this Consultation Document. The submissions and personal data collected may be transferred to the relevant Government bureaux and departments for purposes directly related to this consultation exercise. The Government bureaux and departments receiving the data are bound by such purposes in their subsequent use of such data.

6.03 The names and views of individuals and organizations who/which put forth submissions in response to this Consultation Document (senders) may be published for public viewing. This Bureau may, either in discussion with others, whether privately or publicly, or in any subsequent report, cite comments submitted in response to this Consultation Document.

6.04 To safeguard senders' data privacy, we will remove senders' relevant data, such as residential/return addresses, email addresses, identity card numbers, telephone numbers, facsimile numbers and signatures, where provided, when publishing their submissions.

6.05 We will respect the wish of senders to remain anonymous and/or keep the views confidential in part or in whole. If the senders request anonymity in the submissions, their names will be removed when publishing their views. If the senders request confidentiality, their submissions will not be published.

- 6.06 If the senders do not request anonymity or confidentiality in the submissions, it will be assumed that the senders can be named and the views can be published in their entirety.
- 6.07 Any sender providing personal data to this Bureau in the submission will have rights of access and correction with respect to such personal data. Requests for data access and correction of personal data should be made in writing to:

Address: Assistant Secretary (3A)
Constitutional and Mainland Affairs Bureau
12/F, East Wing, Central Government Offices,
2 Tim Mei Avenue, Tamar, Hong Kong

Fax number: 2840 1976

Email address: vr@cmab.gov.hk

Constitutional and Mainland Affairs Bureau
November 2015

**Consultation Report on the Improvement Measures of the
Voter Registration System published on 16 April 2012**

**Consultation results on the proposals, final positions of the
Government on the proposals and follow-up work**

Proposed measures	Consultation results	Final positions of the Government on the proposals and follow-up work
<p><i>(1) Proposed requirement of address proof -</i> Address proof should be provided as supporting evidence at the same time when a person applies for registration as a geographical constituency elector or when a registered elector applies for change of his registered address after he/she has moved.</p>	<p>About 60% of submissions were against the proposed requirement as the proposal was considered too cumbersome and might deter the public from registering. The proposal could be replaced by enhancing the checking performed by the REO instead.</p>	<p>In light of the views received, the Government decided not to pursue the proposal at that time. However, starting from 2012, the Government has stepped up the extent of checks, including using a more targeted approach, as well as conducting random checks on new applications, so as to uphold the accuracy of the registers.</p>
<p><i>(2) Proposed penalty concerning update of addresses -</i> To introduce penalty for registered electors who fail to report change of addresses or to introduce penalty for registered electors who fail to report change of addresses before the statutory deadline for reporting change of registration particulars and vote in an election afterwards.</p>	<p>About 65% of submissions were against the proposal as it would cause excessive nuisance to the public and affect the public's eagerness to register as electors.</p>	<p>In light of the views received, the Government decided not to pursue the proposal at that time.</p>

Proposed measures	Consultation results	Final positions of the Government on the proposals and follow-up work
<p>(3) Proposed amendment to the statutory deadlines - Statutory deadlines for voter registration (VR) should be advanced to allow sufficient time to complete the checking and the verification processes, and for the public to inspect the registers and to lodge claims and objections.</p>	<p>Only a small number of submissions had views on this proposal. Although about 62% of submissions inclined towards the proposal to advance the deadlines, some were of the view that the proposal might affect the eagerness to register as electors and the voter turnout rates at elections.</p>	<p>The Government proposed to extend the deadline for the public to inspect the provisional registers and omissions lists, lodge claims and objections from 14 days to 24 days, and to extend the time for the Revising Officer to conduct hearings from 13 days to 17 days (for a District Council election year¹²). The relevant amendment proposals have been implemented through the Electoral Legislation (Miscellaneous Amendments) Ordinance 2014 enacted by the Legislative Council in July 2014.</p>
<p>(4) Proposed amendment to the register format - Registers of electors for public inspection should set out electors in accordance with principal residential addresses so as to show the relevant electors' names in the same address, which will facilitate the public to identify irregularities in respect of residential addresses.</p>	<p>About 60% of submissions supported the proposal.</p>	<p>The Government has implemented the proposal in the 2012 VR cycle.</p>

¹² Starting from the 2015 voter registration cycle, the public inspection of the provisional registers and the omissions lists and the deadline for lodging claims and objection in non-District Council election year have been extended from 14 days to 24 days, and the period for the Revising Officer to conduct hearing been extended from 12 days to 16 days.

Proposed measures	Consultation results	Final positions of the Government on the proposals and follow-up work
<p>(5) Proposed requirement to produce poll cards – Electors are required to produce their poll cards at the polling stations before they can cast vote.</p>	<p>About 73% of submissions were against the proposal. They generally considered that this would cause unreasonable inconvenience to the electors and might infringe upon the voting rights of the permanent residents of Hong Kong.</p>	<p>In light of the views received, the Government decided not to pursue the proposal at that time.</p>
<p>(6) Proposed transfer of offences to the Elections (Corrupt and Illegal Conduct) Ordinance – The existing offences on false statements under the Electoral Affairs Commission Regulations should be transferred to the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) as corrupt conduct or illegal conduct and enforced by the Independent Commission Against Corruption, and whether the existing penalty level for such offences should be raised.</p>	<p>Only a small number of submissions had views on this proposal. Although the majority of these submissions supported the proposal as it would enhance the deterrent effect and enforcement efficiency, these submissions did not indicate clearly to what extent the existing penalty level should be raised.</p>	<p>The Government proposed to change the existing offences on false statements under the Electoral Affairs Commission Regulations to indictable offences in order to remove the six-month time bar for prosecution. The relevant amendment proposals concerned have been implemented through the Electoral Legislation (Miscellaneous Amendments) Ordinance 2014 enacted by the Legislative Council in July 2014.</p>

Existing Statutory Deadlines for Voter Registration Cycles¹³

	Statutory Deadline in Non-District Council Election Year	Statutory Deadline in District Council Election Year
The public to submit new voter registration application or existing electors to submit applications for de-registration	2 May	2 July
The Electoral Registration Officer (ERO) to publish the provisional registers and omissions lists	1 June	1 August
The public to submit claims and objections; electors to apply for change of registration particulars	25 June	25 August
The Revising Officer to conduct hearings and make rulings on claims and objections (including reviews of rulings)	11 July	11 September
The ERO to publish the final registers	25 July	25 September

¹³ The statutory deadlines for voter registration cycles shown in this table means that the relevant action has to be made on or before the relevant date as listed.

**Checking Measures Conducted
by the Registration and Electoral Office**

According to the relevant electoral laws, the Registration and Electoral Office (REO) would carry out appropriate inquiries every year to confirm if the addresses of electors recorded in the current final registers are still their principal addresses so as to maintain the accuracy of the registers. The relevant checking measures include:

- (a) inquiries on undelivered and returned poll cards or letters;
- (b) cross-checking of electors' registered addresses with Housing Department, Hong Kong Housing Society and Home Affairs Department;
- (c) checks on multiple electors or multiple surnames of electors registered with the same residential address;
- (d) random sampling checks against registered and newly registered electors;
- (e) checks on incomplete or suspected non-residential registered addresses; and
- (f) checks on cases of buildings already demolished or vacant buildings pending demolition.

Moreover, during election year, the REO would conduct a full-scale checking of electors' registered addresses in public housing units with the Housing Department and Hong Kong Housing Society.

