



# Consultation Report on the District Council Appointment System

June 2012

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## Chapter One Introduction

### District Council Appointment System

- 1.1 Since the first term of the District Councils (“DCs”) of the Hong Kong Special Administrative Region (“HKSAR”), the DCs comprise elected, appointed and ex officio members. The numbers of appointed members and ex officio members were maintained at 102 and 27 respectively from the first to the third terms of the DCs. With an increase in the population of the districts, the number of elected members has been increased progressively from 390 in the first term to 405 in the third term of the DCs. For the fourth term of the DCs which commenced on 1 January 2012, the number of elected members has been increased to 412.<sup>1</sup>
- 1.2 The DC appointment system has been implemented for many years. The appointed members come from different major sectors of the community. Their working background, expertise and experience as well as their commitment to community services have enabled them to give significant contributions to the work of the DCs and to district administration. The appointment system has also provided community leaders and persons with different professional expertise and experience with a channel to serve the community.
- 1.3 While we recognize the substantive contributions of the appointed members to the DCs, there are calls to review the role of the appointed members in district administration with the constitutional development in Hong Kong. In the past, the Government has put forth proposals to abolish the DC appointment system, such as the Constitutional Reform Package introduced in late 2005. The package eventually did not receive the two-thirds majority support of the Legislative Council (“LegCo”) and could not be passed. The proposals relating to the abolition of appointed seats could not be implemented.

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<sup>1</sup> The first term of the DCs commenced on 1 January 2000. The second term of the DCs commenced on 1 January 2004. The third term of the DCs commenced on 1 January 2008. The composition of the first term to the fourth term of the DCs is at the [Annex](#).

- 1.4 In early 2010, the Government put forth a constitutional reform package which proposed amendments to the methods for selecting the Chief Executive (“CE”) and for forming the LegCo in 2012. On 21 June 2010, the CE announced the acceptance of the “one-person-two-votes” proposal and stated that the Government would put forth proposals for the abolition of the DC appointment system and consult the LegCo and the public. On 24 and 25 June 2010, the LegCo passed by a two-thirds majority the motions put forth by the HKSAR Government concerning the draft amendments to the methods for selecting the CE and for forming the LegCo in 2012.
- 1.5 The Legislative Council (Amendment) Ordinance 2011 enacted by the LegCo in March 2011 provides that only elected DC members are eligible to be nominated as a candidate for the District Council (second) functional constituency (“DC (second) FC”) election at which around 3.2 million eligible electors would elect five Members in the territory-wide constituency on a “one-person-one-vote” basis. For the DC (second) FC, only elected DC members can nominate candidates to stand for the election of the constituency. As for the District Council (first) functional constituency (“DC (first) FC”), only elected DC members can nominate candidates to stand for the election of the constituency and be nominated as a candidate for the election of the constituency. Also, the Chief Executive Election (Amendment) Ordinance 2011 enacted provides that only elected DC members can nominate candidates to stand for the elections of the Election Committee DC subsectors and be nominated as a candidate for the elections of the subsectors. As a result, the role of the appointed DC members in the LegCo and the Election Committee subsector elections will be changed.

### **Proposal for the Abolition of the District Council Appointment System**

- 1.6 In light of the above-mentioned progress of the constitutional development and taking into account the public views, the Government announced on 14 September 2011 that the DC appointment system would be abolished in phases. In the fourth term of the DCs, the appointed seats were reduced by one-third, i.e. appointing only 68 members instead of 102 as in the previous three terms. The number of appointed seats in each DC was basically reduced by one-third (the details are set out at the Annex). As to

the remaining 68 appointed seats, we are prepared to consider abolishing them over one term or two terms. How this issue should be dealt with would be open for public discussions after the DC election in November 2011.

- 1.7 The Government published the Consultation Paper on the DC Appointment System (“Consultation Paper”) on 20 February 2012. The Consultation Paper states that as to whether the remaining 68 appointed seats should be abolished over one term or two terms, the Administration’s inclination is to abolish them over one term. In other words, starting from the fifth term of the DCs which will commence operation on 1 January 2016, there will be no appointed seats. The Administration considers that this is more compatible with the steps Hong Kong has taken in constitutional development, including the continued democratisation of the LegCo election and the changes in the role of appointed DC members in the LegCo election and the Election Committee for the CE election. The Administration shall examine the views collected during the public consultation before making a recommendation on whether to adopt the proposal to abolish the 68 appointed seats over one term for consideration of the fourth-term HKSAR Government.

## **Chapter Two Public Consultation on the District Council Appointment System**

- 2.1 The Government published the Consultation Paper on 20 February 2012 to consult the public on the abolition of the DC appointment system. The two-month public consultation period ended on 20 April 2012.

### **Written Submissions**

- 2.2 During the public consultation period, various groups, organisations and individual members of the community were invited to submit their views on how to abolish the remaining 68 appointed seats and on the DC appointment system as set out in paragraph 3.8 of the Consultation Paper to the Constitutional and Mainland Affairs Bureau (“CMAB”) by mail, facsimile or email. 68 written submissions were received. Of which 14 were submitted by mail, facsimile or other delivery methods and 49 were submitted via email. During the consultation period, five written submissions were forwarded to CMAB from the Constitutional Affairs Panel (“CA Panel”) of the LegCo. We have also received copies of 2 247 submissions on the ex officio member system submitted to the CA Panel of the LegCo by the Rural Committees (“RCs”).

### **Meeting District Council Chairmen and Vice Chairmen**

- 2.3 During the public consultation period, CMAB met with the Chairmen and Vice Chairmen of the 18 DCs on 15 March 2012 to listen to their views on the Consultation Paper.

### **Constitutional Affairs Panel of the Legislative Council**

- 2.4 CMAB attended the meeting of the CA Panel on 19 March 2012 to listen to the views of organisations and individuals on the Consultation Paper. A total of 14 organisations and individuals attended the meeting and gave their views.
- 2.5 Chapter 3 set out in detail the written submissions received and the results of the opinion polls conducted during the public consultation period.

2.6 The written submissions on the abolition of the DC appointment system submitted by members of the public and organisations by means including mail, email and facsimile are at the Appendix and are available for public inspection at CMAB. The Appendix is also available at the website of CMAB.

## **Chapter Three Views on the Abolition of the District Council Appointment System**

- 3.1 In the Consultation Paper, we invited the public to express views on:
- (a) how to abolish the remaining 68 appointed seats; and
  - (b) any other views on this issue.

### **Written Submissions**

#### *Abolition of DC appointed seats*

- 3.2 During the consultation period, we have received 68 written submissions from individuals, organisations and political parties. 57 submissions (84%) support the abolition of all DC appointed seats over one term. 18 out of these 57 submissions demand the immediate abolition of the appointed seats. Generally speaking, those who support the abolition over one term suggest that with the constitutional development, DC members shall be elected and serve the DCs with the mandate of the electors. DCs comprising only elected members will be more able to reflect public views, with its legitimacy enhanced at the same time. On the contrary, the appointment system may not be consistent with the direction of constitutional development. After the enactment of the Legislative Council (Amendment) Ordinance 2011, the DC (second) FC will be established whereby only elected DC members are eligible to be nominated as a candidate at an election for the DC (second) FC or the DC (first) FC. Similarly, only elected DC members are eligible to be nominated as a candidate at an election for the Election Committee DC subsectors. As a result, the role of the appointed members in the LegCo election and the Election Committee subsector elections has changed.
- 3.3 There are 3 submissions that object to the abolition of all DC appointed seats over one term starting from 2016. There are views that the appointed DC members have been promoting the general well-being of the whole Districts. They have made substantive and important contribution. Therefore the pace of abolition should be slowed down such that all appointed seats

should be abolished by 2020 or 2024. This arrangement will minimise the impact on the operation of the DCs and ensure that the DCs will continue to provide comprehensive services to the public. There are also views that the appointment system shall be retained. Most of the appointed members are not affiliated with a political party and they come from the professional field. Therefore, they can provide impartial and practical advice on the district issues to the District Officers and balance different interests in the Districts. This helps maintain a harmonious community. Against the above reasons, the concerned submissions suggest the retention of a certain number of appointed seats instead of abolishing them all.

- 3.4 For the political parties, except one which demands the immediate abolition, all the political parties which have submitted their views support the abolition of appointed seats over one term, i.e., no more appointed seats in the fifth term of the DCs starting from 1 January 2016. At the same time, there are views that the Government should effect the abolition of the DC appointment system by amending the District Councils Ordinance (Cap. 547).

#### *Number of elected seats*

- 3.5 In the Consultation Paper, the Administration proposes that after the abolition of the appointed seats, the number of elected seats will not be increased as a result. The rationale is that the number of elected seats and its increase is generally linked to the population. The number of elected seats is based on a population quota<sup>2</sup> (now stands at 17 282). The ratio has been kept between 17 043 and 17 282 in the previous terms of the DCs. We consider the existing population quota appropriate. Rapidly increasing the number of elected seats will mean a drastic decrease in the population to seat ratio and deviate from the well-established arrangement.
- 3.6 11 out of the 68 written submissions express views on the above. Of these 6 support an increase in elected seats and 5 consider that the status quo should be maintained. Views which support an increase in elected seats broadly fall into two groups:

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<sup>2</sup> Section 17(1)(b) of the Electoral Affairs Commission Ordinance (Cap. 541) stipulates that the population quota means the total population of Hong Kong divided by the total number of elected members to be returned in the DC ordinary election.

- (a) elected seats should be correspondingly increased after the abolition of the appointed seats in the DCs. This will ensure that the DCs will continue to operate efficiently and that the workload of the current elected DC members will not increase drastically following the abolition of the appointed seats. In addition, the provision of more elected seats will provide more channels for nurturing political talents; and
- (b) elected seats which will be correspondingly increased after the abolition of the appointed seats should be returned by the proportional representation system. As for the DC constituency areas (“DCCAs”), consideration may be given to merge several DCCAs to form a bigger DCCA. Such arrangement enables an elected DC member to represent a bigger DCCA or even the whole DC.

*Other views on the DC appointment system*

3.7 The written submissions contain other views on the DC or DC appointment system. They are set out below:

- (a) professionals should be appointed to an advisory body to be set up within the DCs. This will enable the professionals to continue to serve the community. Members of the advisory body will not have right to vote in the DCs and will not receive any remuneration;
- (b) elected members will shoulder more duties and responsibilities after the abolition of the appointed seats. The Administration should consider to increase their remuneration and provide sufficient resources for them so that more talents will join the DCs to serve the public;
- (c) the work of appointed members is recognised. Those appointed members who wish to continue to serve the public may join the DCs through the channel of election; and
- (d) the Administration should review the structure of district administration including the functions of the DCs, Home Affairs Department and District Offices after the abolition of the appointed seats.

### *Ex officio members*

- 3.8 18 out of the 68 written submissions received express their views on the ex officio seats other than views on the DC appointment system. In addition, as mentioned in paragraph 2.2, RCs have given their views on the subject by letters to the CA Panel of the LegCo.
- 3.9 Generally speaking, the organisations and individuals who object to the abolition of ex officio seats consider that there is a need to retain ex officio membership in the DCs due to their unique functions and historical background. Their legitimacy and the fact that they have a wide electorate basis meet the requirement of a democratic political system and are consistent with the district administration model of the HKSAR Government. Ex officio membership also meets the actual needs and well-being of the rural residents. Ex officio members are elected in the following ways: first the village representative election will return the Indigenous Inhabitant Representatives and Resident Representatives. They will then elect among themselves the RC Executive Committee members among whom the RC Chairman will be elected. Or the RC Chairman will be elected in an RC general meeting. The RC Chairman is an ex officio member of the DC under the District Council Ordinance. The submissions say that there are several hundred thousand indigenous inhabitants in the New Territories whose traditional lawful rights are protected by Article 40 of the Basic Law. The 27 RC Chairmen are representatives of the rural residents. Undoubtedly, rural residents require the service of these ex officio members who were born and raised locally and whose functions are irreplaceable.
- 3.10 The views that support the abolition of the ex officio seats consider that there are loopholes in returning these ex officio members: the formation of the RCs is not subject to any statutory regulation; different methods are used to return the 27 RCs; and the fact that ex officio members are not necessarily elected reflects the inadequacy in their democratic representation. Also, many DCCAs in the New Territories may have more than one member which is not fair to the electors in the urban area. For one DC, non-elected members including the ex officio members are the majority.

## Opinion Polls

- 3.11 During the public consultation period, opinion polls on the abolition of the appointment system were conducted by a research institute of the university. The Hong Kong Institute of Asia-Pacific Studies of the Chinese University of Hong Kong conducted a poll in late February in which some 1,000 people aged 18 or above were interviewed. The poll shows that 58.2% of the respondents support the Government to abolish all the DC appointed seats over one term starting from 2016. 25.5% of the respondents support to abolish the appointed seats in phases by 2020 while 4.1% consider that the appointed seats should be retained. The poll also reveals that 55.2% of the respondents consider that elected seats should be increased while 19.4% object to any increase in elected seats.
- 3.12 Separately, the Government has commissioned the Hong Kong Institute of Asia-Pacific Studies of the Chinese University of Hong Kong to conduct a poll in late March in which over 1,000 people aged 18 or above were interviewed. 71.2% of the respondents accept the abolition of all the DC appointed seats starting from 2016 whilst 11.1% accept the complete abolition starting from 2020. 7.3% consider that the appointed seats should be retained. 83.6% of the respondents consider that a certain number of elected seats should be added after the abolition of the appointed seats but 8.8% think otherwise. 37.6% of the respondents consider that the current population quota of 17 000 appropriate, 27.3% an undervalue and 25.2% an overvalue.

## Chapter Four Conclusion

4.1 In collating and analysing the written submissions and the results of the opinion polls, the Administration has the following recommendations on how to abolish the remaining 68 DC appointed seats and related matters for the consideration of the fourth-term HKSAR Government:

- (a) to abolish the remaining 68 appointed seats over one term, i.e. there will be no appointed seats starting from the fifth term of the DCs which will commence operation on 1 January 2016;
- (b) to amend the District Councils Ordinance to implement the abolition. The proposed legislative work should start at the beginning of the fourth-term HKSAR Government in order to implement the abolition starting from 1 January 2016; and
- (c) using the population quota to determine the number of elected seats is a well-established arrangement. However, in reviewing the implication of the population for the number of DC elected seats, consideration may be given to whether there is a need to upwardly adjust the population quota after the abolition of the appointed seats. In considering the population quota, we could also consider whether there is a need to adjust the DCCAs.

4.2 Currently, public opinions differ on whether to retain the ex officio seats in the DCs. Heung Yee Kuk, individuals and organisations from the New Territories support the retention of ex officio seats and strongly object to their abolition. On the other hand, some members of the public consider that the ex officio seats should be abolished in the light of democratic development. Since the public have yet to reach an extensive consensus on this issue, we suggest the fourth-term HKSAR Government to conduct in-depth deliberation and more extensive consultation with the stakeholders before deciding on the way forward. On the other hand, we also recommend that the fourth-term HKSAR Government may make reference to and study the views collected on district administration and the operations of the DCs.

**Numbers of Elected, Appointed and Ex officio members of the 1st - 4th Terms of District Councils**

District Council	No. of seats in first term (2000-2003)			No. of seats in second term (2004-2007)			No. of seats in third term (2008-2011)			No. of Seats in fourth term (2012-2015)		
	Elected	Appointed	Ex officio	Elected	Appointed	Ex officio	Elected	Appointed	Ex officio	Elected	Appointed	Ex officio
1. Central and Western	15	4	-	15	4	-	15	4	-	15	3 (-1)	-
2. Eastern	37	9	-	37	9	-	37	9	-	37	6 (-3)	-
3. Kowloon City	22	5	-	22	5	-	22	5	-	22	3 (-2)	-
4. Kwun Tong	34	8	-	34	8	-	34	8	-	35	5 (-3)	-
5. Sham Shui Po	21	5	-	21	5	-	21	5	-	21	3 (-2)	-
6. Southern	17	4	-	17	4	-	17	4	-	17	3 (-1)	-
7. Wan Chai	11	3	-	11	3	-	11	3	-	11	2 (-1)	-
8. Wong Tai Sin	25	6	-	25	6	-	25	6	-	25	4 (-2)	-
9. Yau Tsim Mong	16	4	-	16	4	-	16	4	-	17	3 (-1)	-
10. Islands	7	4	8	8	4	8	10	4	8	10	3 (-1)	8
11. Kwai Tsing	28	7	1	28	7	1	28	7	1	29	5 (-2)	1
12. North	16	5	4	16	5	4	16	5	4	17	3 (-2)	4
13. Sai Kung	17	5	2	20	5	2	23	5	2	24	3 (-2)	2
14. Sha Tin	36	9	1	36	9	1	36	9	1	36	6 (-3)	1
15. Tai Po	19	5	2	19	5	2	19	5	2	19	3 (-2)	2
16. Tsuen Wan	17	5	2	17	5	2	17	5	2	17	3 (-2)	2
17. Tuen Mun	29	7	1	29	7	1	29	7	1	29	5 (-2)	1
18. Yuen Long	23	7	6	29	7	6	29	7	6	31	5 (-2)	6
	<b>390</b>	<b>102</b>	<b>27</b>	<b>400</b>	<b>102</b>	<b>27</b>	<b>405</b>	<b>102</b>	<b>27</b>	<b>412</b>	<b>68 (-34)</b>	<b>27</b>

