

# LCQ1: External voting arrangement

Following is a question by the Hon Alvin Yeung and a reply by the Secretary for Constitutional and Mainland Affairs, Mr Erick Tsang Kwok-wai, in the Legislative Council today (October 28):

Question:

It has been reported that the Government is studying the issue of allowing Hong Kong people residing in the Guangdong-Hong Kong-Macao Greater Bay Area (Greater Bay Area) to vote, in their residing places, in the Legislative Council General Election to be held next year (external voting arrangement). Some members of the public are worried that the arrangement will contravene the well-established and effective election approach and undermine the fairness of the election. In this connection, will the Government inform this Council:

(1) of the actual commencement time of the study on the external voting arrangement; as there are comments that the arrangement is obviously in conflict with the requirement that an elector must ordinarily reside in Hong Kong as set out in section 28 of the Legislative Council Ordinance, whether this issue has been considered in the study; if so, of the justifications for implementing the arrangement; of the policy bureau or government department which takes the lead in the study, and whether any Mainland authorities have participated in the study; if so, of the names of such Mainland authorities;

(2) of the respective expected numbers of Hong Kong people who, according to the external voting arrangement under examination, are eligible to vote in the Greater Bay Area, other Mainland places outside the Greater Bay Area, Taiwan Region, and other places outside China; and

(3) of the legislative timetable and roadmap for the external voting arrangement; the mechanism to be put in place by the Government to guard against election-related corrupt conduct outside Hong Kong and to ensure that candidates have equal opportunities to conduct canvassing activities in the Greater Bay Area?

Reply:

President,

Our reply to the Hon Alvin Yeung's question is as follows:

(1) At present, legislation concerning public elections in the Hong Kong Special Administrative Region (HKSAR) requires electors to vote in person. In other words, registered electors who are outside HKSAR must return to Hong Kong to cast their votes at the stations allocated to them on the polling day, otherwise they cannot exercise their right to vote. For many years, there have been calls in the society that the Government should explore

arranging voting outside Hong Kong and implement the initiative as soon as practicable. As a matter of fact, the issue of voting outside Hong Kong was discussed in the Legislative Council (LegCo) on various occasions, and enquiries on whether the Government would explore or implement the arrangement were raised by Members at the meetings of the Panel on Constitutional Affairs in 2014, 2017, 2018 and 2019. There were even views that the Government should consider allowing eligible electors who are Hong Kong permanent residents working or residing in the Mainland to cast their vote at the offices of the Government in the Mainland.

The fact that the seventh term LegCo General Election originally scheduled for last September could not be held as planned owing to the severe epidemic situation further reveals that the current electoral system is probably unable to deal with very exceptional circumstances. It was mentioned in the Electoral Affairs Commission's (EAC) Report on the 2020 LegCo General Election released on October 12 that the Government should study the policy perspectives and the legal aspects, and to consider objectively such factors as the overall impact of the epidemic on the election, feasibility in setting up polling stations outside Hong Kong, and the number of eligible electors in the places concerned in order to draw up the necessary proposals to amend the law.

With the integration of Hong Kong into the national development, the Central Government and the HKSAR Government have been introducing policy initiatives which incentivise Hong Kong residents to live and develop in the Mainland. Hence, exploring how to facilitate Hong Kong residents living in the Mainland to cast their votes is in line with the direction of such development. The HKSAR Government has always adopted an open mind to the idea of voting outside Hong Kong. In response to the attention over the issue of voting outside Hong Kong in the community, the Constitutional and Mainland Affairs Bureau, which is responsible for formulating electoral policies, in conjunction with the Department of Justice and the Registration and Electoral Office, have been studying the views received. We shall proactively study the recommendations in the EAC's Report on the 2020 LegCo General Election as well as suggestions from various sectors of the community on how existing electoral arrangements can be enhanced, and consider further improving the electoral arrangements, including the feasibility of voting outside Hong Kong.

(2) The HKSAR Government and the EAC all along strive to ensure that all public elections are conducted in an open, fair and honest manner. When considering whether and how to implement voting outside Hong Kong, ensuring that elections are held in an open, fair and honest manner is always the top priority. The Government would need to consider various factors in a holistic approach, including whether and how to make arrangements for advance registration for voting outside Hong Kong, how to ensure that ballot papers and ballot boxes can be delivered to and from polling stations outside Hong Kong effectively and safely, arrangements during the poll and the count, how to apply Hong Kong's electoral laws and regulations to the poll and the count, risks involved during the process, how to deal with emergencies at stations outside Hong Kong, how to maintain order at the stations and

enforcement actions in relation to breaches of electoral law.

With regard to the eligibility of electors, sections 27 to 29 of the Legislative Council Ordinance (Cap 542) provide clear eligibility criteria of voter registration, i.e. the applicant must be a Hong Kong permanent resident aged 18 years or above who ordinarily resides in Hong Kong, and the residential address notified in the person's application for registration is the person's only or principal residence in Hong Kong. At present, the HKSAR Government has no plan to change this requirement.

Regarding the statistics of Hong Kong residents in different places outside Hong Kong as raised in the question, the Census and Statistics Department estimated that, by making use of passenger movement records, as of mid-2019, around 330 000 Hong Kong permanent residents aged 18 or above were ordinarily staying in the Guangdong Province. We are now collecting more statistics on the number of Hong Kong residents outside Hong Kong for our study and reference.

(3) The HKSAR Government, the EAC and the Independent Commission Against Corruption (ICAC) are all along committed to promoting clean and fair elections, with a view to establishing a good election culture. The Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) (ECICO), enforced by the ICAC, aims to uphold the honesty and integrity in public elections and prevent the occurrence of corrupt and illegal conduct. Section 5 of the ECICO states that the Ordinance applies to all conduct concerning an election, whether the conduct is engaged in within Hong Kong or elsewhere. In other words, any person who engages in corrupt conduct or illegal conduct breaches the law no matter whether the conduct takes places in Hong Kong or elsewhere. The ICAC will investigate relevant cases in accordance with the law and will carry out law enforcement actions including search and arrest depending on the actual circumstances of the case.

As mentioned above, the Government is proactively studying the recommendations in the EAC's Report on the 2020 LegCo General Election as well as suggestions and recommendations from various sectors of the community on how existing electoral arrangements can be enhanced. After we have worked out feasible options, and if such options involve amendments to electoral legislation, we shall submit the proposal to the LegCo for scrutiny in line with the procedures.

Thank you, President.