

LEGISLATIVE COUNCIL PANEL ON PUBLIC SERVICE

Civil Servants Standing for Elections and Participating in Electioneering Activities

Purpose

This paper presents for Members' information the current guidelines on civil servants' standing for elections and participating in electioneering activities.

Guiding Principle and Arrangement

2. The guiding principle underpinning the Government's policy on civil servants' participation in elections and electioneering activities is to strike the appropriate balance between civil servants enjoying their civil and political rights as citizens on the one hand, and civil servants remaining impartial and avoiding any actual or potential conflict of interest on the other.

3. Aside from the restrictions laid down in the laws of Hong Kong, the Government has put in place rules and regulations for civil servants on standing for elections and participating in electioneering activities in their personal capacities. There are also regulations and guidelines on the prevention of conflict of interest, public communications by civil servants, and requirements on civil servants to seek approval for outside activities. These rules, regulations and guidelines are subject to review – and amendment as appropriate – from time to time, having regard to changing circumstances and needs. Prior to each election for the Chief Executive, the Legislative Council (“LegCo”) and the District Councils (“DCs”), Bureaux and Departments will re-circulate the regulations and guidelines to all civil servants. Where circumstances so warrant, the Civil Service Bureau (“CSB”) will update or revise relevant regulations and guidelines prior to re-circulation.

Existing Policy

4. All civil servants, irrespective of whether they are on active duty or during final leave (including pre-resignation leave and pre-retirement leave), are disqualified under the Chief Executive Election Ordinance (Cap. 569) from being nominated as candidates for the Chief Executive Election and from being elected at the election. They are also disqualified from being nominated as candidates for election to, and from being elected as Members of, LegCo and DCs in accordance with the Legislative Council Ordinance (Cap. 542) and the District Councils Ordinance (Cap. 547).

5. Apart from the above stated legal restrictions, there is no objection in principle to civil servants (except for those stated in paragraph 7 below), irrespective of whether they are on active duty or during their final leave, and in their personal capacities,

- (a) participating in the Election Conference for the HKSAR Deputies Election to the National People's Congress ("NPC") Elections and/or seeking election as HKSAR Deputies to the NPC;
- (b) standing as candidates for election to the Election Committee for the Chief Executive Election, and election as Village Representatives ("VRs"); and
- (c) serving in the afore-mentioned capacities upon being elected,

subject to there being no actual or potential conflict of interest and compliance with all relevant civil service rules and regulations.

6. There is also no objection in principle to civil servants (except for those listed in paragraph 7 below), irrespective of whether they are on active duty or during their final leave, and in their personal capacities, undertaking electioneering activities for all elections, including the CE/LegCo/DC elections, subject to there being no actual or potential conflict of interest and compliance with all relevant civil service rules and regulations. Under our guidelines, electioneering activities include involvement in signature campaigns or public rallies, distributing political publications, making speeches publicly in support of political organisations, promoting or advocating publicly the political views or electioneering platforms of candidates, and canvassing or campaigning on behalf of political organisations, etc.

Restricted Group

7. Four groups of civil servants (hereinafter referred to as “the Restricted Group”) are subject to greater restrictions in respect of standing for certain specific elections and participation in electioneering activities in general in view of the nature of their duties and responsibilities. They are: directorate officers, administrative officers, information officers, and all disciplined officers of the Hong Kong Police Force. Civil servants acting in the aforesaid grades and ranks with a view to substantive appointment thereto are also included in the Restricted Group.

8. Prior to 2 January 2008, civil servants in the Restricted Group, irrespective of whether they were on active duty or during their final leave, were –

- (a) prohibited from seeking election as HKSAR Deputies to the NPC and from becoming a member of the Election Conference for the HKSAR Deputies Election to the NPC;
- (b) prohibited from standing for election to the Election Committee for the Chief Executive Election, and elections for the CE, LegCo and DCs;
- (c) prohibited from participating in electioneering activities of the elections quoted at items (a) and (b) above; and
- (d) required to apply for exceptional permission from the Secretary for the Civil Service (“SCS”), on a case-by-case basis, to stand as candidates for the VR elections and undertake related electioneering activities, and prohibition applies until permission is given.

9. We have recently reviewed the above stated restrictions applicable to the Restricted Group, having regard to the guiding principle as stated in paragraph 2 above and to the circumstances prevailing in Hong Kong since the reunification. We have concluded that there is a case to refine the restriction on standing for NPC-related elections and undertaking NPC-related electioneering activities, while keeping all the other restrictions unchanged.

10. We have advised the civil service, through a circular memorandum, that with effect from 2 January 2008, those civil servants in the Restricted Group who are on their final leave may apply for permission from SCS, on a case-by-case basis, to participate, in their personal capacities, in election or electioneering activities relating to HKSAR Deputies to the NPC and in the

Election Conference for the HKSAR Deputies Election to the NPC, subject to certain conditions and safeguards. These include –

- (a) confirmation that the applicant is on final leave when applying to stand for the concerned NPC-related election and/or participate in the NPC-related electioneering activities;
- (b) advice from the relevant Permanent Secretary/Head of Department/Head of Grade that allowing the applicant to stand for the concerned NPC-related election and/or participate in the NPC-related electioneering activities would not give rise to any conflict of interest with his previous official duties; and
- (c) requirement for the applicant (upon the granting of permission from SCS) to comply with the Official Secrets Ordinance (Cap. 521) and with all relevant civil service regulations and circulars on outside work or activities and public communications, and to refrain from acting in ways which could call into question the good name and impartiality of the civil service.

Way Forward

11. We will continue to review periodically our policy, guidelines and regulations on civil servants' participation in elections and electioneering activities in the light of changing circumstances and needs.

Civil Service Bureau
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