

CHAPTER 3

CRITERIA FOR DELINEATION

3.1 Section 20 of the EAC Ordinance defines the criteria for delineating the GCs. The Commission shall ensure that the population in each proposed GC is as near as is practicable to the number which results (“the resulting number”) when the population quota is multiplied by the number of members to be returned to the LegCo by that GC [s 20(1)(a)]. Where it is not practicable to comply with the above requirement, the Commission shall ensure that the extent of the GC is such that the population in that GC does not exceed or fall short of the resulting number applicable to that GC, by more than 15% thereof [s 20(1)(b)].

3.2 Under section 17(1), the “population quota” is defined as, in relation to a LegCo general election, the total population of Hong Kong divided by the total number of members to be returned for all the GCs in that election.

3.3 For the purpose of section 20(1), the Commission shall

- (a) endeavour to estimate the total population of Hong Kong or any proposed GC in the year in which the election to which its recommendations relate is to be held; and
- (b) if it is not practicable to comply with paragraph (a), estimate the population of Hong Kong or the GC having regard to the available information which is the best possible in the circumstances for the purpose of making recommendations

[s 20(6)].

3.4 By section 20(2), it is provided that in making the recommendations the Commission shall ensure that each proposed GC is constituted by 2 or more contiguous whole District Council constituencies. A District Council constituency means an area delineated in the Schedule to the order entitled “Declaration of Constituencies (District Councils) Order 1999” and published in the Gazette as L.N. 131 of 1999 on 28 May 1999 [s 2].

3.5 By virtue of section 20(3) of the EAC Ordinance, in making the recommendations, the Commission shall have regard to

- (a) community identities and the preservation of local ties; and
- (b) physical features such as size, shape, accessibility and development of the relevant area of any part thereof.

3.6 Under section 20(4) of the EAC Ordinance, the Commission shall also have regard to

- (a) existing boundaries of Districts; and
- (b) existing boundaries of the Urban Council (“UC”) Area and the Regional Council (“RC”) Area.

3.7 The Commission may depart from the strict application of the provisions of section 20(1)(a) or (b) only where it appears that a consideration referred to in section 20(3) renders such a departure necessary or desirable [s 20(5)].

3.8 Sections 18 and 19 of the Legislative Council Ordinance, Cap.

542 operate closely with the provisions of the EAC Ordinance regarding the delineation of GCs of the LegCo. Section 18(1) of the Legislative Council Ordinance provides that for the second term of office of the LegCo there are to be 5 GCs for the purpose of returning members at elections for those GCs. Section 18(2) of that Ordinance provides that the Chief Executive in Council may, by order, declare areas of Hong Kong to be GCs and give names to the GCs. Section 18(3) of that Ordinance provides that when making an order under the section, the Chief Executive in Council must have regard to the recommendations made by the EAC in its report submitted in accordance with section 18 of the EAC Ordinance. Section 19 of the Legislative Council Ordinance provides that 24 LegCo members are to be returned for all GCs for the second term of office of the LegCo, and that the number of such LegCo members to be returned for each GC is to be a number, not less than 4 nor greater than 6, specified in the order declaring the area of the constituency in accordance with section 18(2) of that Ordinance.

3.9 Regarding the recommendations to be made by the Commission in respect of the delineation of GCs of the LegCo, the joint effect of the relevant provisions of the Legislative Council Ordinance and the EAC Ordinance is as follows:

- (a) the Commission must delineate 5 GCs for the second LegCo general election;
- (b) the number of members of the LegCo to be returned for each of the 5 GCs delineated is to be not less than 4 nor greater than 6;
- (c) the population in a GC shall be as near as is practicable to the resulting number when the population quota is multiplied by the number of members to be returned to LegCo by that GC, and where it is not practicable to comply with this requirement,

the population in that GC shall not exceed or fall short of the applicable resulting number by more than 15% thereof;

- (d) the Commission may depart from the strict application of (c) above only where it appears that one or more of the considerations provided in section 20(3) of the EAC Ordinance, namely, community identities, the preservation of local ties and physical features such as size, shape, accessibility and development of the relevant area, render a departure necessary or desirable;
- (e) each GC is to be composed of whole and contiguous District Council constituency areas (“DCCAs”); and
- (f) the Commission shall have regard to the existing boundaries of Districts, of the UC Area and of the RC Area.