

Our Ref.: CAB C5/7/1
Your Ref.: LS/S/1/01-02

Tel No.: 2810 2159
Fax No.: 2840 1976

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Mr Stephen LAM
Assistant Legal Adviser
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Stephen,

**Election Committee (Registration) (Voters for Subsectors)
(Members of Election Committee) (Appeals) Regulation (L.N. 197)**

Thank you for your letter dated 15 October 2001. Our replies to your questions are set out in the following paragraphs.

Section 3(2)(c)(ii)

Q1: Does it envisage the circumstance in which a legal practitioner may represent the absent appellant?

A1: The short answer is yes. Section 3(2)(c)(ii) is drafted in such a way that whether or not the appellant appears in person at a hearing, he/she may be represented by a legal practitioner or any other person authorized in writing by him/her.

Section 3(5)

Q2: It refers to the publication of the relevant Election Committee provisional register. In such case, should the reference to “Election Committee register” be replaced by “an Election Committee provisional register”?

A2: While a notice of claim or a notice of objection is submitted as regards a particular entry or registration in an Election Committee (“EC”) provisional register, it is, in effect, concerned about the inclusion or exclusion, of a person’s name in the EC final register. For instance, a person who objects to the registration of another person as a member of EC is actually objecting to the inclusion of the latter’s name in the EC **final register**. We therefore consider that it is more appropriate to use “EC register” in this subsection, which by definition means an “EC provisional register” or an “EC final register”.

Section 5(a)

Q3: It is noted that, in the worst scenario, the Revising Officer only has 4 days before the polling date for a subsector to hear a case under section 3(3)(a). Would it be practicable, bearing in mind that there may be public holiday in between, to require the Revising Officer to conclude the hearing under section 3(3)(A) not late than the third working day before the polling date?

A3: The Judiciary has been consulted on the practicality of the hearing dates. Both the Judiciary and the Registration and Electoral Office (REO) will take necessary steps to ensure that the appeal cases will

be handled as expeditiously as possible. Furthermore, the number of cases under section 3(3)(a) is, according to experience in past elections, expected to be very few and the Revising Officer should be able to conclude the hearings before the statutory deadline..

Section 6

Q4: Would it be appropriate to provide for the legal consequence of failure of the Revising Officer to conclude the hearing before the respective time limits?

A4: Section 6 is modelled on section 5 of the Registration of Electors (Appeals) Regulation (Cap. 542, sub. leg.) (“the existing regulation”) under which the appeal handling procedures in relation to the registration of subsector voters used to be provided for. It has been our established practice to require the Revising Officer (RO) to hand down his rulings before a specific deadline, the purpose of which is to ensure that the Electoral Registration Officer will be able to reflect the RO’s decision in the relevant final register if directed to do so in a timely manner.

While we do not consider it necessary to provide for the legal consequence of failure of the RO to complete the hearing before the required time limit, administrative procedures will be adopted by the Judiciary and REO to ensure the prompt handling of the appeal

cases so that the RO will be able to make the rulings before the statutory deadlines.

Section 7

Q5: Would it be appropriate to provide for the legal consequence of failure of the Revising Officer to conclude the review proceedings before the respective time limits?

A5: Again, this section is modelled on section 6 of the existing regulation made under the Legislative Council Ordinance. The procedures prescribed therein follow the established practice in respect of review by the RO. Although no legal consequence is provided for the failure of the RO to comply with the statutory deadlines, necessary administrative measures will be taken to ensure that the RO will be able to complete the hearings within the required time limits.

Yours sincerely,

(Ms Doris Ho)
for Secretary for Constitutional Affairs

c.c. CEO/REO (Attn: Mr Stanley TO)
JA (Attn: Mrs Anita LO)
S for J (Attn: Ms Rayne CHAI)
CLC (Attn: Mrs Percy MA)

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