

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 18 October 2001. After consulting our colleagues in the Department of Justice, we set out in the following paragraphs our replies to your questions.

Section 3(6)(a)(iii)

Q1: The Chinese version of “on a date not later than 1 day before the date of hearing” is “在該聆訊日期前”. It is appreciated that in this context the meaning of the Chinese version is clear. However, would it be appropriate in this case to change the corresponding English text to “on a date before the date of hearing” so as to align the English text with the Chinese text more closely?

A1: We agree that the English text should be amended “*before the date of the hearing*” to improve the clarity of this section. Section 3(2)(c)(iii) & (d)(iii) where a similar expression has been adopted will also be amended accordingly.

Q2: It is also noted that, for calculation of time, “date” is used in the provisions. However, in similar circumstance under section 5(2)(d)(I)(C) of Election Committee (Appeals) Regulation (L.N. 196), the term “clear day” is used. Would it be policy intent that different method of calculation of time is to be used in the two circumstances.

A2: The short answer is yes. You may wish to note that the Regulation in question and the Election Committee (Appeals) Regulation (L.N.196) are modelled on different regulations made under the Legislative Council Ordinance (Cap. 542). We are of the view that it is not necessary for the relevant provisions of the two Regulations to be tallied with each other. Rather, we consider that it is more appropriate to adopt a consistent approach in handling appeals in respect of voter registers. Therefore, it is our intention for the time limits set out in the Regulation (which deals with appeals against Election Committee (EC) subsector and EC registers) to follow those of the Registration of Electors (Appeals) Regulation (which are concerned about appeals against geographical constituencies and functional constituencies registers).

Section 5(a)

Q3: For clarity, would it be appropriate to add “beginning from 25 days before such polling date” after “21 days”?

A3: This provision is modelled on a similar provision of the Registration of Electors (Appeals) Regulation (Cap. 542, sub. leg.) which sets out the deadline for the Revising Officer to notify the Electoral Registration Officer of his rulings. We consider that by making reference to section 3(3)(a) wherein the calculation method is set out in detail, the provisions are sufficiently clear as to how the period of 21 days should be calculated. Repeating the same phrase in these sections seems to be unnecessary.

Section 3(4)(c)

Q4: For clarity, would it be appropriate to replace “that following year and ending on 11 May in the same year” by “that next following year and ending on 11 May in that year”?

A4: Again, this section is modelled on a similar section of the

Registration of Electors (Appeals) Regulation under which the fixing of hearing dates by the Revising Officer is provided for. There is only one reference to "*following year*" in the earlier part of the section. Therefore, the reference to "*that following year*" in the latter part cannot be mistaken to mean any other year. As regards the expression "*the same year*", we consider that this expression is clearer than the expression "*that year*" as to which year is being referred to.

As agreed at the Subcommittee meeting held on 23 October 2001, the Administration will move a motion to amend the Regulation as set out above at the Legislative Council sitting scheduled for 14 November 2001 i.e. the last sitting before the expiry of the negative vetting period.

Yours sincerely,

(Ms Doris Ho)
for Secretary for Constitutional Affairs

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

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