

Our Ref.:
Your Ref.: LS/S/2/01-02

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

7 November 2001

Miss Connie Fung
Assistant Legal Adviser
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Connie,

**Subsidiary legislation gazetted on 12 October 2001
(Legal Notices No. 205, 206, 208 and 209 of 2001)**

Thank you for your letter dated 29 October 2001. After consulting our colleagues in the Department of Justice, we set out in the following paragraphs our responses to your comments.

Election Committee (Subscribers and Election Deposit for Nomination) Regulation (L.N. 205)

- (a) In section 4(1)(c) and (d) and section 4(2)(b) and (c), should the word “the” which appears before “notice of the death”, “notice of the variation” and “declarations” be repealed to bring the drafting of the section in line with that of section 8(4)(c)?**

In section 4(1)(c) and (d) and (2)(b) and (c), the word “the” is necessary in order to emphasize that the *notices* and *declarations* are those referred to in section 23(1), (2), (4) and (5) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) which should be given or made in specified form in accordance with the regulations made under the Electoral Affairs Commission Ordinance (Cap. 541).

In section 8(4)(c), however, the emphasis is on “and the Returning Officer *gives* notice.....”. We consider that the distinction between the two is appropriate and no amendment is necessary.

(b) In section 6, should the reference to “those sections” be amended to “sections 4 and 5” to make the English and Chinese texts match?

We propose to repeal “notwithstanding those sections,” and “儘管有第 4 及 5 條的規定,” from the two texts. The omission would not affect the meaning of this section while enabling the matching of the two texts.

(c) Section 6(1)(a)

In the Chinese text, the group of words “凡”, “但” and “則” is used to improve readers’ understanding of the sequence of events. In the English text, on the other hand, the pairing of “where” and “and” is more appropriate in the use of English. We therefore do not consider it necessary to make any changes.

(d) Section 7

On the suggestion to add “任何” before “通知”, we do not consider that it is necessary to do so. In the Chinese text, it is sufficient to qualify “通知” by “為施行本規例而發出的”. The meaning of this phrase is clear even without the reference to “any” as appeared in the English text.

(e) Section 8(3)

We propose to amend the English text to “that can be subscribed *by the voter* under subsection (2) *for the same election*” so as to align the English text with the Chinese text.

(f) Section 8(4)(e)

The group of words used in the Chinese text is “除了.....之外” and “其他”. Such phrases matches “any other than” adopted in the English text. We therefore do not see a need to introduce any amendment.

Legislative Council (Subscribers and Election Deposit for Nomination) (Amendment) Regulation 2001 (L.N. 206)

- (a) In section 7(2A)(d), as added by section 8 of the Amendment Regulation, since the Chinese text refers to conviction of an offence prescribed by subparagraph (i), (ii) or (iii) of section 18(e) of the Schedule to the Chief Executive Election Ordinance (Cap. 569), should “in the manner” in the English text be amended to “of an offence” to make both tests match? In any case, it would appear more appropriate to refer to conviction of an offence having regard to the way section 18(e) of the Schedule to Cap. 569 is drafted.

You may wish to note that section 7(2A)(d) is modelled on section 16(5)(d) of the Chief Executive Election Ordinance. We consider that it is more appropriate to adopt same wordings for these two sections because of their similar nature - both provide for the conditions under which an EC member will be disqualified from being a subscriber in the relevant election.

(b) Section 7(2B)

In the Chinese text, “該委員” means “任何選舉委員會委員” referred to in section 7(2A), whereas in the English text, “a member” means “a member of the Election Committee” referred to in section 7(2A). The expressions are clear and appropriate in both texts and no amendment is considered to be necessary.

Electoral Affairs Committee (Nomination Advisory Committees (Election Committee)) Regulation (L.N. 208)

- (a) In sections 4(3) and (4), 6(4) and 7(3), since the English text refers to “notice published in the Gazette” should “刊登” be included in the corresponding Chinese text to make both texts match? As you are aware, the Chinese text for a similar reference in the Electoral Affairs Committee (Nomination Advisory Committees (Legislative Council)) Regulation (Cap. 541, sub. leg.) is “憲報刊登的公告”.

The way the above provisions are drafted is in line with the existing drafting practice of the Department of Justice. You may wish to note that the reference to “by notice published in the Gazette” which appears in section 18 of the Chief Executive Election Ordinance is also translated as “藉憲報公告”.

- (b) In section 6(13), should “by a Committee” be added after “a request is made” to make the English and Chinese texts match?**

We propose to amend the English text to “a request is made under subsection (12)(a)(ii) *by a Committee* may,” so as to align the English text with the Chinese text.

- (c) In section 6(16), should “the Chief Electoral Officer” be added after “received” to make the English and Chinese texts match?**

We will amend the English text to “is not received under subsection (4) *by the Chief Electoral Officer* on or before”.

- (d) In section 7(4), should “or” be added after paragraph (a) and “as the case may be” be added at the end of subsection (4) in line with a similar section (i.e. section 6(4) in the Electoral Affairs Commission (Nomination Advisory Committees (Legislative Council)) Regulation (Cap. 541 sub. leg.)?**

The provision, as it currently stands, is clear in meaning. There is therefore no need to add “or” and “as the case may be” as proposed.

- (e) Section 8(c)**

We will amend the English and Chinese texts to “any written notification” and “任何書面通知” so that the two texts can match with each other.

We will move a motion to amend the relevant Regulations as set out above at the Legislative Council setting scheduled for 21 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
Miss Leonora IP)
CLC (Attn : Mr Stephen LAM
Mrs Percy MA)

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