

LEGISLATIVE COUNCIL BRIEF

Electoral Affairs Commission Ordinance (Cap. 541)

ELECTORAL AFFAIRS COMMISSION (NOMINATIONS ADVISORY COMMITTEE (ELECTION COMMITTEE)) REGULATION

ELECTORAL AFFAIRS COMMISSION (NOMINATIONS ADVISORY COMMITTEE (LEGISLATIVE COUNCIL)) (AMENDMENT) REGULATION 2001

INTRODUCTION

On 27 September 2001, the Electoral Affairs Commission (“EAC”) made:

- (a) the EAC (Nominations Advisory Committee (Election Committee)) Regulation (“the new Regulation”) (Annex A) for the appointment of Nominations Advisory Committees (“NACs”) to advise on nominations for the ordinary elections or by-elections of Election Committee (“EC”) subsectors and sub-subsectors, and on nominations or supplementary nomination for the religious subsector; and
- (b) the EAC (Nominations Advisory Committee (Legislative Council))(Amendment) Regulation 2001 (“the Amendment Regulation”) (Annex B) to amend the EAC (Nominations Advisory Committee (Legislative Council)) Regulation (“the existing Regulation”).

BACKGROUND

2. The existing Regulation was made under section 7 of the EAC Ordinance (Cap 541) to provide for the appointment of NACs to advise on nominations in respect of a geographical constituency, a functional constituency and the EC for the elections of the Legislative Council (“LegCo”), and on nominations in respect of a subsector or a sub-subsector for the formation of the EC before the election of the LegCo.

3. The existing EC was constituted under the LegCo Ordinance (Cap. 542) on 14 July 2000. Apart from being responsible for returning a LegCo Member in a by-election should a vacancy arise among the 6 Members returned by the EC during the second term of the LegCo, the existing EC will also, in accordance with the Chief Executive Election Ordinance (Cap. 569) (“the Ordinance”), elect the second term Chief Executive (“CE”).

4. Under the Ordinance, the membership of the EC will be updated before it is called upon to elect a new CE or a LegCo Member in a LegCo by-election (except in the case a new EC is to be formed before the election of the CE). Any vacancy left by an EC member who has died, resigned, or ceased to be registered or eligible to be registered as an elector for a geographical constituency will be filled by means of supplementary nominations for the religious subsector or by-elections for the other subsectors and sub-subsectors. The existing Regulation does not provide for the NAC services in respect of nominations for EC subsector by-elections and supplementary nominations. We therefore propose to make a new regulation to provide for the appointment of NACs that are established solely for the purpose of EC subsector elections.

THE NEW REGULATION

5. The new Regulation is made to provide for the appointment of NACs to advise on nominations for the EC subsectors. It adopts the same arrangements and procedures laid down in the existing Regulation. NACs will be appointed to serve during –

- (a) an ordinary election or a by-election in respect of a subsector or a sub-subsector; and
- (b) a nomination or a supplementary nomination in respect of the religious subsector.

THE AMENDMENT REGULATION

6. The Amendment Regulation is made to amend the existing Regulation by repealing those provisions relating to the appointment of NACs for nominations for the EC subsectors. The existing Regulation as amended will henceforth be applicable only to nominations for LegCo general elections and by-elections.

PUBLIC CONSULTATION

7. There is no need for public consultation since the new Regulation and Amendment Regulation are made to tie in with the changes arising from the enactment of the Ordinance.

BASIC LAW IMPLICATIONS

8. The Department of Justice advises that the new Regulation and Amendment Regulation do not conflict with those provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

9. The Department of Justice advises that the new Regulation and Amendment Regulation are consistent with the human rights provisions of the Basic Law.

FINANCIAL AND STAFFING IMPLICATIONS

10. There are no significant financial and staffing implications.

LEGISLATIVE TIMETABLE

11. The new Regulation and Amendment Regulation will be published in the Gazette on 12 October 2001 and tabled in the LegCo on 17 October 2001. They will come into operation on 23 November 2001.

PUBLICITY

12. A press release will be issued to announce the publication of the two Regulations in the Gazette. A spokesman will be available for answering enquiries from the media.

Registration and Electoral Office
3 October 2001