

Legislative Council Panel on Constitutional Affairs

Printing of Organization Names and Emblems, or Personal Emblems, and Candidate Photographs on Ballot Papers for the Legislative Council Elections

Introduction

This paper sets out the revised preliminary proposal of the Electoral Affairs Commission (“EAC”) to print the following items on the ballot papers for use in the Legislative Council (“LegCo”) elections –

- (a) the names and emblems of political parties or organizations or non-political organizations to which candidates belong, or the personal emblems of independent candidates; and
- (b) the photographs of candidates.

Background

2. After the 1998 LegCo elections, a number of political parties and individuals suggested to the EAC that a candidate should be allowed to have his emblem (or the name and emblem of the organization to which he belongs) printed on ballot papers in future LegCo elections to facilitate identification by electors.

3. Following public consultation in June 1999, the EAC enacted the Electoral Affairs Commission (Printing of Name of Organization and Emblem on Ballot Paper) (Legislative Council) Regulation (L.N. 306 of 1999) (“the Regulation”).

4. The Regulation was published in the Gazette on 10 December 1999. Although many LegCo Members expressed their support in principle for the proposal, a number of Members had reservations over some of the basic features of the scheme. Among others, they were of the view that –

- (a) the Regulation was too rigid and lengthy;
- (b) the EAC should not limit the time for accepting applications for registration to a specified period before a general election was to be held;
- (c) there should not be a requirement for renewal of registration for every general election; and
- (d) consideration should be given to printing photographs of candidates on the ballot papers, in addition to names and emblems of organizations.

As a result, the Regulation was repealed by LegCo on 19 January 2000.

5. In the course of preparing for the 2004 LegCo elections, the Administration invited the EAC to revisit the subject with a view to streamlining the procedures of the registration scheme and refining the provisions in the light of the concerns expressed by LegCo Members.

The proposal

6. Taking into account comments made by LegCo Members, the EAC has now come up with a preliminary proposal for a revised scheme. Under the proposal, the EAC will allow the following to be printed on the ballot papers –

- (a) **for a candidate or a list of candidates belonging to a political party or organization or a non-political organization:** the name (or abbreviated name) and emblem of the political party or organization, or non-political organization and also a photograph (be it a photograph of one or more candidates or a group photograph of all candidates); and
- (b) **for an independent candidate or two or more independent candidates appearing on a list:** the personal emblem of one candidate and also a photograph (be it a photograph of one or more candidates or a group photograph of all candidates).

7. Before a name, abbreviated name or emblem can be used on the ballot papers, it must first be registered with the EAC. This registration mechanism will act as a screening process to prevent candidates from using the name and emblem of other organizations, and from using names and emblems which are obscene or offensive. The main features of the registration scheme are set out below.

Applications for registration

Who may make an application

8. A political party or organization or a non-political organization that intends to support a candidate in a LegCo election may apply to the EAC for registration of its name, abbreviated name and emblem. An individual may only apply for registration of his personal emblem.

Timing

9. Applicants may submit their applications at any time. The EAC will consider them on a yearly basis.

10. To ensure that applications will be considered during a particular annual registration cycle, they must be submitted before the relevant cut off date. The cut-off date will be set at –

- (a) 31 January 2004 for the first annual registration cycle; and
- (b) 15 March for all subsequent annual registration cycles.

11. Since it is expected that there will be much more applications during the first registration cycle, the relevant cut-off date has to be set earlier to allow for more processing time.

Vetting criteria

Name or abbreviated name

12. The EAC may refuse to grant an application made by an organization for the registration of its name or abbreviated name if –

- (a) it is identical to or so nearly resembles the name which has already been registered or is being used by another organization;
- (b) it is a Chinese name comprising more than 10 Chinese characters;
- (c) it is an English name comprising more than 10 English words;
- (d) it is obscene or offensive; or
- (e) it includes anything the utterance or publication of which may amount to the commission of an offence.

Emblem

13. The EAC may refuse to grant an application made by an organization or individual for the registration of an emblem if –

- (a) it is identical to or so nearly resembles an emblem which has already been registered or is being used by another organization or individual;
- (b) it comprises anything that may be confused with or mistaken for any other design used or to be used by the EAC on the ballot papers as part of the voting instructions;
- (c) it comprises anything that may induce an elector to believe that the applicant is connected with the Central People's Government of the People's Republic of China, the Government, any public body, any country or any authority outside Hong Kong;
- (d) it is or contains a photograph of any person;
- (e) it is obscene or offensive; or
- (f) it is of such character that its publication may amount to the commission of an offence.

Procedure for dealing with applications

Initial consideration, variation of applications and gazettal of preliminary decisions

14. All applications will be initially considered by the EAC. If the EAC is of the preliminary view that an application meets the vetting criteria, it will be published in the Gazette for public inspection.

15. On the other hand, if the EAC considers that an application may not meet the vetting criteria, the applicant will be given 14 days to explain why the EAC should not refuse to grant the application, or to make a request to vary his application. Upon receipt of the explanation or the variation request, the EAC will re-consider the case. The EAC will notify the applicant of its decision as soon as practicable. If it considers that the application (with or without variation) meets the vetting criteria, the application will be published in the Gazette for public inspection.

Handling of objections and gazettal of final decisions

16. Any member of the public may object to an application published in the Gazette within 21 days from the Gazette date. For applications that are not objected to, the EAC will inform the applicants, as soon as practicable after the objection period has ended, that their applications have been granted.

17. If an application is objected to, the EAC will hear the parties concerned and examine documents, evidence and witnesses. The EAC will then make a final decision on whether the application should be granted. The EAC will inform the applicant of its decision as soon as practicable.

18. The EAC will publish in the Gazette for reference the applications that it has granted.

Processing time of an application

19. If an application does not require variation and is not objected to by the public, the time required to process it will not be more than ten weeks (**Annex A**), if the application is made during the first registration cycle. If the application is made during any subsequent cycle, not more than eight weeks will be required (**Annex B**). We expect that this fast-track procedure will apply to the majority of

applications, especially those from long-established political parties or organizations.

20. If an application does not meet the vetting criteria during the “initial consideration” stage and needs to be varied, or if objection against the application is raised by the public, the total processing time may take not more than 19 weeks in the first registration cycle (**Annex C**), and not more than 14 weeks in any subsequent cycle (**Annex D**).

De-registration

21. A de-registration scheme will be introduced to ensure that the register will remain up-to-date and contain only the particulars of political parties or organizations and non-political organizations which actively field members to run in elections, and of individuals who are actively participating in elections as candidates. The scheme also caters for objection raised by the public against the continual use of the particulars by the registrants. Such objections may be raised any time, and the EAC will consider them in the course of the annual registration exercise.

22. For a political party or organization, or a non-political organization, the registered name, abbreviated name or emblem will be de-registered –

- (a) if the registered particulars have neither been used in two consecutive general elections, nor have been used in any by-election held between the said general elections; or
- (b) if proof is given to the satisfaction of the EAC that the political party or organization, or the non-political organization no longer exists; or
- (c) upon successful objection by other parties.

23. In case of an individual, the registered emblem will be de-registered –

- (a) if the registered emblem has neither been used in two consecutive general elections, nor has been used in any by-election held between the said general elections; or

- (b) if proof is given to the satisfaction of the EAC that the person has died or is not eligible to be nominated , or is disqualified from being nominated as a candidate for the LegCo elections; or
- (c) upon successful objection by other parties.

24. If the particulars of a political party or organization, or a non-political organization or individual are de-registered on the ground of paragraph 22(a) or 23(a), the body or individual concerned may apply for re-registration if it/he plans to participate in the coming elections and wishes to have its/his name or emblem printed on the ballot papers.

Printing of names, emblems and photographs on ballot papers

25. A candidate who wishes to print a registered name or emblem, or a personal photograph on the ballot papers must make the request to the Returning Officer during the nomination period. When making such a request, a candidate must inform the Returning Officer whether he belongs to a political party or organization or a non-political organization, or whether he is an independent candidate.

Design of the ballot papers

26. The size and position of the registered name (or abbreviated name) to be printed on the ballot papers will be decided by the EAC. Candidates will be allowed to decide whether to print just an emblem or a photograph, or both an emblem and a photograph in a particular space provided on the ballot papers. The size and position of that space will be decided by the EAC.

27. A possible design of the ballot paper will be tabled at the Panel meeting on 24 April 2003 for Members' reference.

Way Forward

28. Members are invited to give their views on the proposal.

29. Subject to Members' views on the proposal, the EAC will make subsidiary legislation for the implementation of the proposed registration scheme. The regulation will be subject to the scrutiny of LegCo by way of negative vetting.

Registration and Electoral Office
24 April 2003

Timeframe for Processing Straight Forward Applications in 2004
(Fast –Track Approach)

| Item | Task | Time required | Timeframe |
|-------------|---|------------------------|---|
| 1 | First applications | - | Any time after the new Regulation comes into force and before the cut-off date (31 January) |
| 2 | Initial consideration by EAC | Within 3 weeks | Not later than 21 February |
| 3 | Gazettal of initial applications | Within 2 weeks | Not later than 6 March |
| 4 | Public to raise objections | 3 weeks | Not later than 27 March |
| 5 | Notification of results / Gazettal | Within 2 weeks | Not later than 10 April |
| | Total no. of weeks required for processing the first applications | Not more than 10 weeks | - |

**Timeframe for Processing Straight Forward Applications after 2004
(Fast –Track Approach)**

| Item | Task | Time required | Timeframe |
|-------------|---|-----------------------|---|
| 1 | First applications | - | Any time after the new Regulation comes into force and before the cut-off date (15 March) |
| 2 | Initial consideration by EAC | Within 2 weeks | Not later than 29 March |
| 3 | Gazettal of initial applications | 1 week | Not later than 5 April |
| 4 | Public to raise objections | 3 weeks | Not later than 26 April |
| 5 | Notification of results / Gazettal | Within 2 weeks | Not later than 10 May |
| | Total no. of weeks required for processing the first applications | Not more than 8 weeks | - |

Timeframe for Processing Other Applications in 2004

| Item | Task | Time required | Timeframe |
|-------------|---|------------------------|---|
| 1 | First applications | - | Any time after the new Regulation comes into force and before the cut-off date (31 January) |
| 2 | Initial consideration by EAC | Within 3 weeks | Not later than 21 February |
| 3* | Variation of applications | Within 2 weeks* | Not later than 6 March |
| 4* | EAC to consider variations | Within 2 weeks* | Not later than 20 March |
| 5 | Gazettal of initial applications | Within 2 weeks | Not later than 3 April |
| 6 | Public to raise objections | 3 weeks | Not later than 24 April |
| 7* | Hearing | Within 3 weeks* | Not later than 15 May |
| 8* | Final consideration by EAC | Within 2 weeks* | Not later than 29 May |
| 9 | Notification of results / Gazettal | Within 2 weeks | Not later than 12 June |
| | Total no. of weeks required for processing the first applications | Not more than 19 weeks | - |

* If necessary

Timeframe for Processing Other Applications after 2004

| Item | Task | Time required | Timeframe |
|-------------|---|------------------------|--|
| 1 | First applications | - | Any time after the new Regulation comes into force and the cut-off date (15 March) |
| 2 | Initial consideration by EAC | Within 2 weeks | Not later than 29 March |
| 3* | Variation of applications | Within 2 weeks* | Not later than 12 April |
| 4* | EAC to consider variations | Within 2 weeks* | Not later than 26 April |
| 5 | Gazettal of initial applications | 1 week | Not later than 3 May |
| 6 | Public to raise objections | 3 weeks | Not later than 24 May |
| 7* | Hearing | Within 2 weeks* | Not later than 7 June |
| 8* | Final consideration by EAC | 1 week* | Not later than 14 June |
| 9 | Notification of results / Gazettal | 1 week | Not later than 21 June |
| | Total no. of weeks required for processing the first applications | Not more than 14 weeks | - |

* If necessary