

**立法會**  
***Legislative Council***

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Tel : 2869 9205

Date : 30 June 2004

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

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**Council meeting of 7 July 2004**

**Proposed resolution under section 34(2) of the  
Interpretation and General Clauses Ordinance**

I forward for Members' consideration a proposed resolution which the Secretary for Constitutional Affairs will move at the Council meeting commencing on 7 July 2004 under section 34(2) of the Interpretation and General Clauses Ordinance relating to the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2004. The President has directed that "it be printed in the terms in which it was handed in" on the Agenda of the Council.

2. The speech, in both English and Chinese versions, which the Secretary for Constitutional Affairs will deliver when moving the proposed resolution, is also attached.

(Ray CHAN)  
for Clerk to the Legislative Council

Encl.

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

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**RESOLUTION**

(Under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1))

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ELECTORAL AFFAIRS COMMISSION (ELECTORAL PROCEDURE)  
(LEGISLATIVE COUNCIL)(AMENDMENT) REGULATION 2004

RESOLVED that the Electoral Affairs Commission (Electoral Procedure)(Legislative Council)(Amendment) Regulation 2004, published in the Gazette as Legal Notice No. 84 of 2004 and laid on the table of the Legislative Council on 19 May 2004, be amended -

- (a) in section 2(a)(iii)(A), by repealing " (視何者適用而定)" and substituting "(視何者適用而定)";
- (b) in section 14, in the heading, by adding "某" before "地方選區";
- (c) in section 19(a), in the new section 28(1B), by repealing "200" and substituting "500";

(d) in section 19(a), in the new section 28(1C), by  
adding "any of the small polling" before  
"stations,";

(e) by adding -

**"27A. Presiding Officer to exhibit  
at polling station notice  
providing information for  
the guidance of electors**

Section 39 is amended by adding -

"(1A) The Presiding Officer of  
a small polling station must ensure  
that, before the commencement of  
the poll, a notice providing  
information of the main counting  
station designated for counting the  
votes of the small polling station  
is exhibited outside the small  
polling station.";

(f) by repealing section 29(a) and substituting -

"(a) in subsection (1) -

(i) in paragraph (a), by repealing  
"(17)(a)" and substituting  
"(17)";

(ii) by adding -

"(aa) conduct any activity  
for canvassing for  
votes, so that the  
sound of the activity

can be heard in the

no canvassing zone;"

(iii) in paragraph (ca) -

(A) by repealing "(17)(b)" and  
substituting "(18)";

(B) by adding "or wear" after  
"display";

(C) by repealing "or clothing"  
and substituting ",  
clothing or head-dress";

(D) by repealing subparagraph  
(ii) and substituting -

"(ii) makes direct

reference to -

(A) a body any

member of

which is

standing as

a candidate

in the

election; or

(B) a prescribed

body the

registered

name or

registered

emblem of  
which has  
been printed  
on any  
ballot paper  
for the  
election;  
or";";

(g) by repealing section 32(a) and substituting -

"(a) in subsection (1), by repealing "Presiding  
Officer" and substituting "Returning  
Officer, Assistant Returning Officer,  
Presiding Officer or any polling  
officer";";

(h) in section 32(b), in the new section 45(2)(b), by  
adding "或界別" after ")有關選區";

(i) in section 32(d), by repealing the full stop and  
substituting a semicolon;

(j) in section 32, by adding -

"(e) in subsection (7), by repealing  
everything after "an" and substituting -  
"offence -

(a) under subsection (2)  
is liable to a fine  
at level 2 and to

imprisonment for 6  
months;

(b) under subsection (1),  
(3), (4) or (5) is  
liable to a fine at  
level 2 and to  
imprisonment for 3  
months.".";

(k) in section 36, in the new section 53A, by adding -

"(8) In this section, references to  
"elector" are to be construed as including an  
authorized representative.";

(l) in section 37(c), in the new section 54(3)(a), by  
repealing "内";

(m) in section 37(c), in the new section 54(3)(b), by  
repealing "内" where it secondly appears;

(n) in section 42, in the new section 63A(3), by  
repealing everything after "boxes" and substituting  
", the sealed packets and the ballot paper accounts  
prepared by that Officer to the Presiding Officer  
of the main counting station.".";

(o) in section 49(b), in the new section 69(2), by  
repealing everything after "of the counting" where  
it first appears and substituting -

"station,

the Chief Returning Officer or the Returning

Officer, as may be appropriate, may order the person to leave the counting station or the vicinity of the counting station, as the case may be, immediately.";;

(p) by repealing section 50(a) and substituting -

"(a) in subsection (1), by repealing everything after "power under" and substituting -

"section 28(9)(a) -

(a) the Presiding Officer of a GC polling station which is also designated as a counting station (other than a main counting station) must deliver or arrange to be delivered to the central counting station the ballot boxes for the FC ballot papers from that

Officer's  
polling station,  
together with  
the sealed  
packets under  
section 63 and  
the ballot paper  
accounts  
prepared by that  
Officer for the  
functional  
constituencies;  
and

(b) the Presiding  
Officer of a GC  
polling station  
which is also  
designated as a  
main counting  
station must, in  
addition to the  
ballot boxes,  
sealed packets  
and ballot paper  
accounts  
referred to in



paragraph (a),  
deliver or  
arrange to be  
delivered to the  
central counting  
station the  
relevant ballot  
box or boxes,  
sealed packets  
and ballot paper  
accounts  
delivered to  
that Officer  
under section  
63A(3) for the  
functional  
constituencies.";  
";

(q) in section 55(c), by adding -

"(ia) in paragraph (a), by repealing "Chief  
Returning Officer or to the";";

(r) in section 63, in the new section 79A(1), by adding  
"recorded on the GC ballot papers for a  
geographical constituency (other than those  
recorded on the GC ballot papers to be handed over  
to the Returning Officer under section 74(8)(c))"

before "are counted";

- (s) in section 63, in the new section 79A(3), by repealing "completion of the count or re-count," and substituting "completion, of the count or re-count";
- (t) in section 63, in the new section 79A(5), by adding "under subsection (4)" after "constituency" where it first appears;
- (u) in section 63, by repealing the new section 79A(6), (7), (8), (9) and (10) and substituting -

"(6) After the Returning Officer has been notified of the results of the counting of votes of all the counting stations for the geographical constituency under subsection (5), that Officer must make known the results to the candidates or their election agents or counting agents at the place specified by the Returning Officer. If a candidate or the election agent of the candidate who is present at the specified place makes a request to the Returning Officer for a re-count of the votes of all the counting stations for the geographical constituency, that Officer must comply with the request unless the Officer is of the opinion that the request is unreasonable.

(7) After the Returning Officer has made known the results under subsection (6), that Officer must also make known the estimated number of GC ballot papers to be handed over to him under section 74(8)(c) for the geographical constituency (if any) to the candidates or their election agents or counting agents at the place specified by the Returning Officer. A candidate or the election agent of the candidate who is present at the specified place may make a request to the Returning Officer for a re-count of the votes of all the counting stations for the geographical constituency and the votes recorded on the GC ballot papers to be handed over to that Officer under section 74(8)(c) for the geographical constituency.

(8) Where there is no request for a re-count of the votes of all the counting stations for the geographical constituency under subsection (6) or such request is rejected by the Returning Officer, that Officer must add together -

- (a) the results made known under subsection (6); and

(b) the result of the counting of the votes recorded on the GC ballot papers handed over to that Officer under section 74(8)(c) for the geographical constituency (if any), and make known the aggregate result to the candidates or their election agents or counting agents at the place specified by the Returning Officer. If a candidate or the election agent of the candidate who is present at the specified place makes a request to the Returning Officer for a re-count of the votes referred to in paragraph (b), that Officer must comply with the request unless the Officer is of the opinion that the request is unreasonable.

(9) If the Returning Officer decides to comply with the request referred to in subsection (6), that Officer must require all the Assistant Returning Officers to instruct the Presiding Officers of the counting stations in their respective charge to conduct a re-count at the relevant counting stations forthwith.

(10) The Presiding Officer of each of the counting stations for the geographical constituency must make known the result of the re-count at the counting station to the candidates or their election agents or counting agents who are present at the counting station and must report that result to the relevant Assistant Returning Officer.

(11) After the Assistant Returning Officer has been notified of the results of the re-count of all the counting stations in his charge for the geographical constituency under subsection (10), that Officer must make known the results to the Returning Officer for the geographical constituency.

(12) After the Returning Officer has been notified of the results of the re-count of all the counting stations for the geographical constituency under subsection (11), that Officer must add together -

- (a) such results; and
- (b) the result of the counting of the votes recorded on the GC ballot papers handed over to that Officer under section

74(8)(c) for the  
geographical constituency  
(if any),

and make known the aggregate result to the candidates or their election agents or counting agents at the place specified by the Returning Officer. If a candidate or the election agent of the candidate who is present at the specified place makes a request to the Returning Officer for a re-count of the votes referred to in paragraph (b), that Officer must comply with the request unless the Officer is of the opinion that the request is unreasonable.

(13) Subject to subsection (14), if the Returning Officer decides to comply with a request referred to in subsection (7), that Officer must conduct a re-count of -

- (a) the votes of all the counting stations in accordance with the steps as described in subsections (9), (10) and (11); and
- (b) the votes recorded on the GC ballot papers handed over to that Officer under section

74(8)(c) for the geographical  
constituency,

and make known the final result to the  
candidates or their election agents or  
counting agents at the place specified by that  
Officer. When the final result has been made  
known, the counting of the votes and re-counts  
are completed for the purposes of section  
83(1).

(14) The Returning Officer must not  
conduct a re-count under subsection (7) -

(a) unless the request for such  
re-count is made immediately  
after that Officer makes known,  
under that subsection, the  
estimated number of GC ballot  
papers to be handed over to  
him under section 74(8)(c) for  
the geographical constituency;  
or

(b) if the estimated number of GC  
ballot papers to be handed  
over to that Officer under  
section 74(8)(c) for the  
geographical constituency is  
less than the difference

between the numbers of  
remaining votes cast for any 2  
lists of candidates for the  
geographical constituency, as  
determined in accordance with  
the counting system under  
section 49 of the Legislative  
Council Ordinance (Cap. 542).";

(v) by adding -

**"72A. Enforcement of provisions  
as to secrecy**

Section 96(10) is amended by repealing

"3" and substituting "6".";

(w) in section 78, by adding -

"(ba) in section 5(1) and (5), by repealing "or  
section 18 of Schedule 2 to that  
Ordinance";";

(x) by repealing section 78(c)(i) and substituting -

"(i) in subsection (1) -

(A) by repealing "or section 18 of  
Schedule 2 to that Ordinance";

(B) by adding "or the Presiding Officer,  
as may be appropriate," after  
"Returning Officer";".