

Legislative Council Panel on Constitutional Affairs

Printing of Name, Emblem and Photograph on Ballot Paper (Legislative Council) Regulation

Introduction

This paper outlines the essential features of the draft Printing of Name, Emblem and Photograph on Ballot Paper (Legislative Council) Regulation (“the Regulation”) to be made by the Electoral Affairs Commission (“EAC”) under the Electoral Affairs Commission Ordinance (Cap. 541). The draft Regulation will set out the procedures for printing the following particulars in respect of a candidate on the ballot papers for use in the Legislative Council (“LegCo”) elections -

- (a) the registered name and emblem of a prescribed body¹ or the registered emblem of a natural person; and
- (b) a photograph.

The Regulation

2. The Regulation is being drafted at present, and contains provisions for -

- (a) application for registration of name and emblem;
- (b) processing of application;

¹ A prescribed body means a political party or organization or a non-political organization.

- (c) request for printing of registered name and emblem, and photograph on ballot paper; and
- (d) de-registration of name and emblem.

The essential features of the Regulation are diagrammatically illustrated at **Annex A**. A sample design of the ballot paper is at **Annex B**.

Registration of name and emblem

Prescribed body (a political party or organization or a non-political organization)

3. A prescribed body intending to support a candidate in a LegCo election may apply at any time to the EAC for the registration of any or all of the following particulars -

- (a) the Chinese name of the body;
- (b) an abbreviation of the Chinese name of the body;
- (c) the English name of the body;
- (d) an abbreviation of the English name of the body; and
- (e) an emblem² of the body.

² Emblem means any sign or mark, in color or otherwise, that is visually perceptible and capable of being represented graphically and may include characters, words, letters of the English alphabet, numerals and figurative elements.

4. An application must be made in the specified form and signed by the applicant. It must contain a statement that the applicant is a political party or organization or a non-political organization and a statement that the applicant intends to allow one or more persons to have these particulars printed in respect of that person on a ballot paper. The application must also be accompanied by a copy of the relevant certificate³ of the applicant for the purpose of verifying its name. The EAC will approve the application for registration of the name as shown on the relevant certificate. If necessary, the EAC may also require the applicant to provide additional information or document for the purpose of considering the application.

Natural person

5. A natural person intending to run in a LegCo election may at any time apply to the EAC for the registration of an emblem of the person.

6. An application must be made in the specified form and signed by the applicant, and must contain a statement that the applicant is eligible to be registered as a geographical constituency elector. If necessary, the EAC may also require the applicant to provide additional information or document for the purpose of considering the application.

EAC may refuse to accept application

7. The EAC may refuse to accept an application for registration if the requirements listed in paragraph 4 and 6 are not complied with.

³ Examples of relevant certificate include a certificate of registration issued under the Companies Ordinance (Cap. 32) and a certificate of registration issued under the Societies Ordinance (Cap. 151).

Processing of application

Timing

8. The EAC must process any application made by a prescribed body or a natural person in any annual registration cycle⁴ -

- (a) if the application is made on or before the relevant cut-off date⁵ of that annual registration cycle, as soon as practicable after that cut-off date; or
- (b) if the application is made after the relevant cut-off date of that annual registration cycle, as soon as practicable after the relevant cut-off date of the next following annual registration cycle.

Preliminary processing

9. The EAC may refuse to grant an application made by a prescribed body for the registration of the abbreviation of a name if -

- (a) it is identical to the name or abbreviation of the name of another prescribed body;

⁴ Annual registration cycle means the period that begins on 1 January in any year and ends on 31 December in that year. For the first annual registration cycle, it means the period that begins on the date the Regulation comes into operation and ends on 31 December 2004.

⁵ Relevant cut-off date means, in relation to the first annual registration cycle after the commencement of the Regulation, 1 March 2004; or, in relation to any subsequent annual registration cycle, 15 March in that annual registration cycle.

- (b) it so closely resembles the name or abbreviation of the name of another prescribed body that the relevant abbreviation is likely to be confused with or mistaken for the name or abbreviation of the name of that other prescribed body;
- (c) it is likely to be confused with the voting instructions or mistaken as part of the voting instructions;
- (d) it is obscene, indecent or offensive; or
- (e) it includes anything the use of which is likely to amount to the commission of an offence.

10. The EAC may also refuse to grant an application made by a prescribed body or by a natural person for the registration of an emblem if -

- (a) it is identical to the emblem of another prescribed body or natural person;
- (b) it so closely resembles the emblem of another body or natural person that the relevant emblem is likely to be confused with or mistaken for the emblem of that other body or person;
- (c) it comprises anything that is –
 - (i) likely to be confused with or mistaken for any design used or to be used by the Commission on a ballot paper as part of the voting instructions; or

- (ii) likely to induce an elector to believe that the applicant is connected in any way with the Central People's Government of the People's Republic of China, the Government, any public body, any country, or any authority or organization outside Hong Kong;
- (d) it is or contains a photograph;
- (e) it is obscene, indecent or offensive; or
- (f) it is of such character that the use of which is likely to amount to the commission of an offence.

11. If the Commission is of the opinion that it may refuse to grant an application made by a prescribed body or natural person, it must give the applicant notice in writing. The applicant may, within 14 days after the notice is given, vary the application or make representation to the Commission on why it should not refuse to grant the application.

Further processing

12. If the EAC, having considered an application made by a prescribed body or a natural person, is of the opinion that it may grant the application, it must publish a notice in respect of the application in the Gazette -

- (a) specifying the name of the applicant and the subject of the application;

- (b) stating that the Commission may grant the application; and
- (c) inviting any person who objects to the granting of the application to make objection to the Commission.

13. Any person may, within 21 days after the publication of the Gazette, by notice in writing given to the Commission, object to the granting of the application. An objection may be made only on the grounds that -

- (a) the abbreviation concerned is identical to the name or abbreviation of the name of the objector, or so closely resembles the name or abbreviation of the name of the objector that is likely to be confused with or mistaken for that latter name or abbreviation; or
- (b) the emblem concerned is identical to or closely resembles a trademark registered by the objector as the proprietor under the Trade Marks Ordinance (Cap 559), or is identical to or closely resembles an emblem in relation to which the objector has an intellectual property right.

14. In the event of an objection, the Commission will conduct a hearing. The EAC will make a decision on whether the application should be granted after hearing the arguments and examining the relevant materials.

Decision

15. The EAC must, as soon as practicable after a decision is made to grant an application made by a prescribed body or a natural person, publish a notice in respect of the application in the Gazette -

- (a) specifying the name of the applicant and the subject of the application; and
- (b) stating that the Commission has granted the application and registered the subject of application.

Time needed to process application

16. 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 C), 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 D).

17. If an application does not meet the vetting criteria during the “preliminary processing” 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 E), and not more than 15 weeks in any subsequent cycle (Annex F).

***Request for printing of registered name and emblem,
and photograph on ballot paper***

Printing of registered name and emblem of prescribed body on ballot paper

18. A candidate may, during the relevant nomination period⁶, request the EAC to print any or all of the following particulars in respect of him on a ballot paper -

- (a) the registered Chinese name or the registered abbreviation of the Chinese name (but not both) of a prescribed body;
- (b) the registered English name or the registered abbreviation of the English name (but not both) of a prescribed body; and
- (c) the registered emblem of a prescribed body.

19. A request must be made in the specified form and signed by the requestor. It must contain the name of the requestor, and a statement requesting that the subject of the request be printed in respect of the requestor on a ballot paper. The request must be accompanied by a consent given, during the relevant nomination period, by the prescribed body concerned in relation to the request. If necessary, the EAC may also ask for additional information or document for considering the request.

⁶ Relevant nomination period means the nomination period for nominations for a geographical constituency or a functional constituency as the case may be.

20. The EAC may refuse to accept a request if the requirements listed in paragraph 19 are not complied with.

Printing of registered emblem of natural person on ballot paper

21. A candidate may, during the relevant nomination period, request the EAC to print either or both of the following particulars in respect of him on a ballot paper -

- (a) the registered emblem of the candidate; and
- (b) the English words “Independent Candidate” and the Chinese characters “獨立候選人”.

22. A request must be made in the specified form and signed by the requestor. It must contain the name of the requestor, and a statement requesting that the subject of the request be printed in respect of the requestor on a ballot paper. If necessary, the EAC may also ask for additional information or document for considering the request.

23. The EAC may refuse to accept a request if the requirements listed in paragraph 22 are not complied with.

Printing of photograph

24. A candidate may, during the relevant nomination period, request the EAC to print a photograph of the candidate alone.

25. A request must be made in the specified form and signed by the requestor. It must contain the name of the requestor, the subject of request, and a statement requesting that the subject of the request be printed in respect of the requestor on a ballot paper. If necessary, the EAC may also ask for additional information or document for considering the request.

26. The EAC may refuse to accept a request if the requirements listed in paragraph 25 are not complied with.

De-registration of name and emblem

Prescribed body

27. The EAC may de-register a subject of registration that is registered in relation to a prescribed body on the grounds that -

(a) no request has been made to print the registered name and emblem on ballot papers in two consecutive general elections and in any by-election held between such general elections; or

(b) the body ceases to exist.

Natural person

28. The EAC may also de-register a subject of registration that is registered in relation to a natural person on the grounds that -

- (a) no request has been made to print the registered emblem on ballot papers in two consecutive general elections and in any by-election held between such general elections; or
- (b) the person dies.

29. If the Commission de-registers any subject of registration, under paragraphs 27(a) and 28(a), it must, by notice in writing given to the prescribed body or natural person concerned, inform the body or person, as the case may be, of de-registration.

Way Forward

30. Members are invited to give views on the essential features of the draft Regulation.

31. Subject to Members' views, the EAC will finalise and make the Regulation. The Regulation will be subject to negative vetting by LegCo. A proposed timetable is at **Annex G**.

Background

32. After the 1998 LegCo elections, the EAC received a suggestion from a number of political parties and individuals 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.

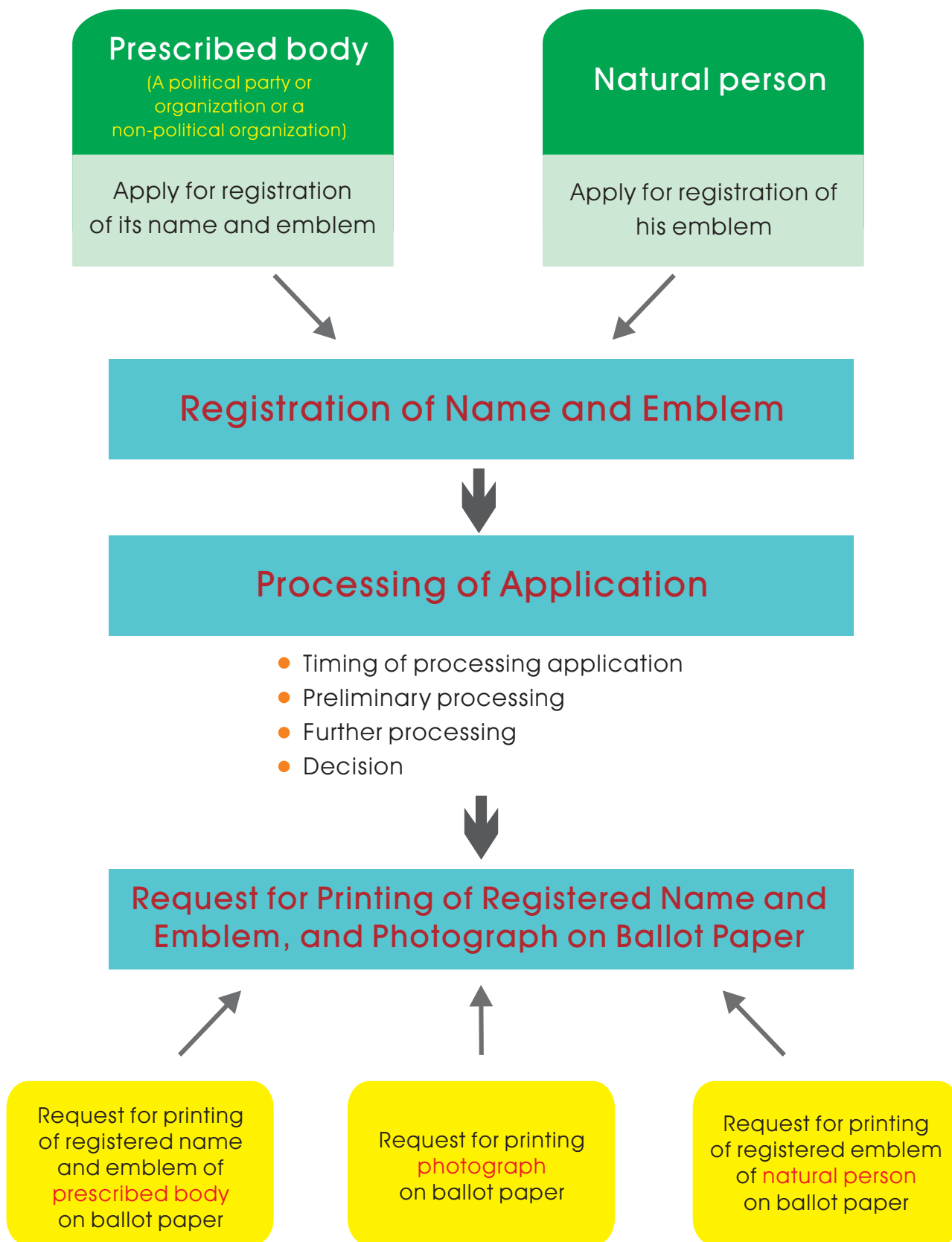
33. Following public consultation in June 1999, the EAC enacted the Electoral Affairs Commission (Printing of Name of Organization and Emblem on Ballot Paper) (Legislative Council) Regulation (L.N. 306 of 1999). This Regulation was published in the Gazette on 10 December 1999, and subsequently repealed by LegCo on 19 January 2000 due to reservations made by some Members on certain detailed features of the scheme.

34. In the course of preparing for the 2004 LegCo election, the Administration requested the EAC to revisit the proposed scheme in the light of the past comments made by LegCo Members. On 24 April 2003, we put forward a revised proposal to the LegCo Panel and noted Members' observations.

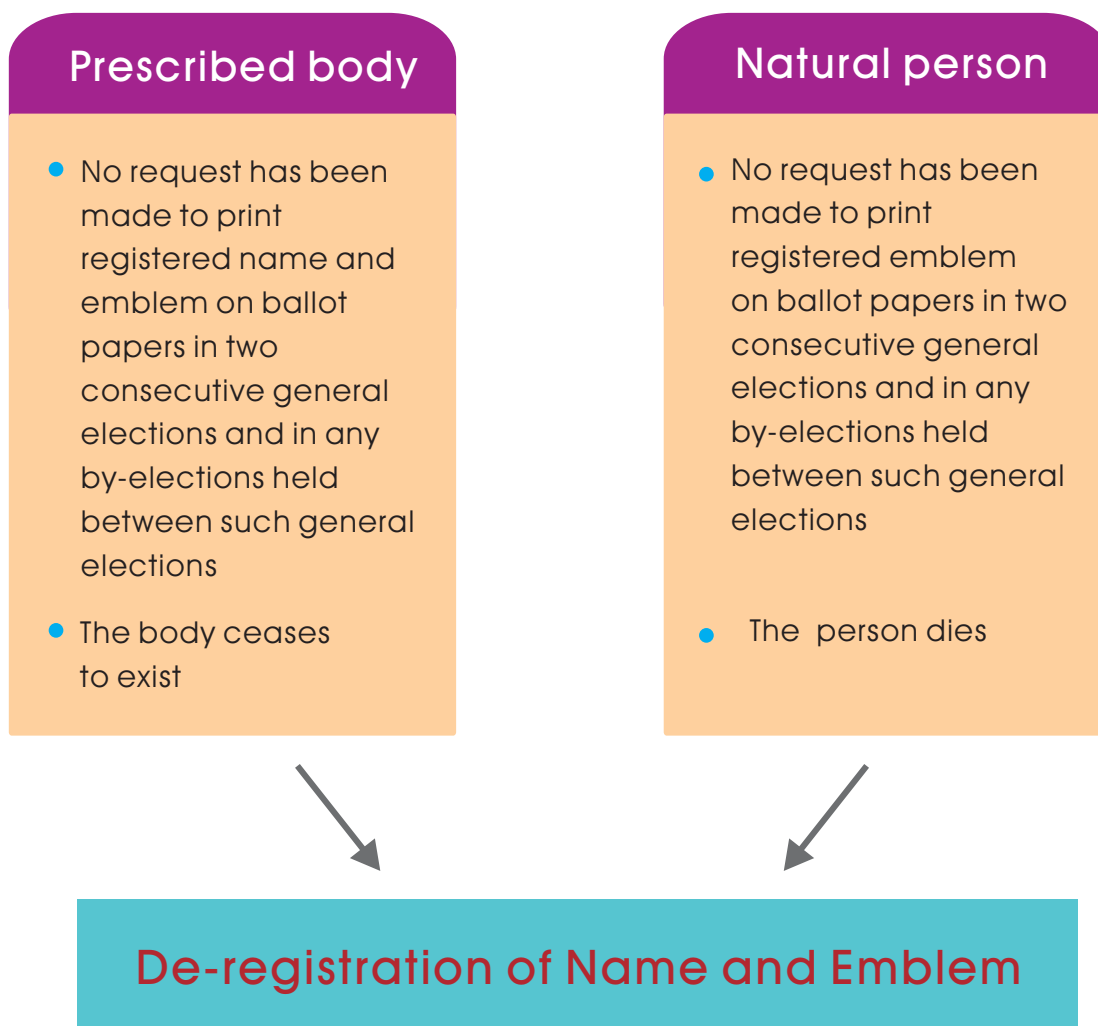
35. We have taken into consideration Members' reservations and observations in the process of making the Regulation.

Registration and Electoral Office
20 October 2003

Printing of Name, Emblem and Photograph on Ballot Paper (Legislative Council) Regulation



Printing of Name, Emblem and Photograph on Ballot Paper (Legislative Council) Regulation



1

 獨立候選人
Independent Candidate
歐謝芳桂 Au Tse Fong Kwei, Elizabeth
(Alias: Liz)


5

 香港社會事務會
Hong Kong Community Affairs Association
簡洪福 Kang Hung Fuk, Peter
容裕華 Yung Yue Wah, Paul
戴立公 Tai Lap Kung
邱玲麗 Yau Ling Lai, Mary
嚴典雅 Yim Din A


9

 香港居民會
WXYZA
 香港進步會
ABCDA
唐好學 Tong Ho Hok
洪美麗 Hung Mei Lai

2

 香港公共事務協會
Public Affairs of Hong Kong Association
古亮聰 Ku Leung Lai, Lily
高清秀 Ko Ching Sau

6

 香港進步會
ABCDA
蘇河 So Ho
陸海空 Luk Hei Hung
洪亮 Hung Leung
藍天 Lam Tin
白倩文 Pat Sin Man
雷天文 Lui Tin Man


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 香港豐碩促進會
JKLMN
 香港民生事務團
Hong Kong Public Affairs Group
 香港居民會
WXYZA
鄺萬菲非 Kwong Man Fei-fei Jacqueline
姚好學 Yiu Ho Hok
蘇萍 So Ping

3

 民意事務協會
Association for Public Affairs
莊玲玲 Chong Ling Ling, Patsy
唐文華 Tong Man Wah
袁清晨 Yuen Ching San

7

 香港民生事務團
Hong Kong Public Affairs Group
任飛翔 Yam Fei Cheung
文嘉惠 Man Ka Wai, Sandy
唐強健 Tong Keung Kin, David
盧天賦 Lo Tin Foo
譚然林 Siu Yin Lam, Linda
杜志興 To Chi Ko, Simon
鄭淑美 Kwong Suk Mei


11

 香港公共事務協會
Public Affairs of Hong Kong Association
 民意事務協會
Association for Public Affairs
 香港社會事務會
Hong Kong Community Affairs
Association
方怡 Fong Yee
姚大力 Yiu Tin Lik
區小玲 Au Siu Ling

4

 香港居民會
WXYZA
關古 Kwan Kut
郭婉容 Kwok Yuen Yung, Ann
江淑德 Kong Suk Tak
程海天 Ching Hoi Tin

8

 香港市民福利促進會
Hong Kong Citizens Welfare Association
任美麗 Yim Mei Lai
鍾好學 Pong Ho Hok
林愛好 Lam Oi Ho
唐大力 Tong Tai Lik
姚小兵 Yiu Siu Bing
歐芳華 Au Fong Wah
盧思麗 Lo See Lai
彭美儀 Pang Mei Yee

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 香港民生事務團
Hong Kong Public Affairs Group
 香港市民福利促進會
Hong Kong Citizens Welfare Association
 香港進步會
ABCDA
常歡 Sheung Foon, Grace
呂文山 Lui Man Shan, Sampson
陳愛樂 Chan Oi Lok
招麗麗 Chi Lai Lai, Jane
劉志成 Lau Chi Sing
張少薇 Cheung Siu Mei
馬詠 Ma Wing, Winnie
蔡瑜 Choi Lun

Timeframe for Processing Straight Forward Applications in 2004

Item	Task	Time required	Timeframe
1	Applications	-	Any time after the new Regulation comes into force and before the cut-off date (1 March)
2	Initial consideration by EAC	Within 3 weeks	Not later than 22 March
3	Gazettal of initial applications	Within 2 weeks	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 number of weeks required for processing the applications	Not more than 10 weeks	-

Timeframe for Processing Straight Forward Applications after 2004

Item	Task	Time required	Timeframe
1	Applications	-	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 number of weeks required for processing the applications	Not more than 8 weeks	-

Timeframe for Processing Other Applications in 2004

Item	Task	Time required	Timeframe
1	Applications	-	Any time after the new Regulation comes into force and before the cut-off date (1 March)
2	Preliminary processing by EAC	Within 3 weeks	Not later than 22 March
3*	Variation of applications	Within 2 weeks*	Not later than 5 April
4*	EAC to consider variations	Within 2 weeks*	Not later than 19 April
5	Gazettal of initial applications	Within 2 weeks	Not later than 3 May
6	Public to raise objections	3 weeks	Not later than 24 May
7*	Hearing	Within 3 weeks*	Not later than 14 June
8*	Final consideration by EAC	Within 2 weeks*	Not later than 28 June
9	Notification of results / Gazettal	Within 2 weeks	Not later than 12 July
	Total number of weeks required for processing the applications	Not more than 19 weeks	-

* If necessary

Timeframe for Processing Other Applications after 2004

Item	Task	Time required	Timeframe
1	Applications	-	Before the cut-off date (15 March)
2	Preliminary processing 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	2 week	Not later than 28 June
	Total number of weeks required for processing the applications	Not more than 15 weeks	-

* If necessary

**Printing of Name, Emblem and Photograph on Ballot Paper
(Legislative Council) Regulation**

Timetable

Item	Task	Timeframe
1.	Consultation with LegCo CA Panel	20 October 2003
2.	Consideration by EAC	November 2003
3.	Gazettal of the Regulation	Early December 2003
4.	Negative Vetting	Mid December 2003 – February 2004 (28-day initial vetting plus 21-day extended vetting, if necessary)
5.	Applications for registration	February – 1 March 2004
6.	Processing of applications	Mid March – Mid July 2004