

立法會
Legislative Council

Ref : CB2/SS/6/05

LC Paper No. CB(2)2480/05-06

(These minutes have been seen
by the Administration)

**Subcommittee on Three Regulations under the Electoral Affairs Commission
Ordinance Gazetted on 19 May 2006**

**Minutes of the first meeting
held on Wednesday, 7 June 2006 at 9:00 am
in Conference Room B of the Legislative Council Building**

- Members present** : Hon Howard YOUNG, SBS, JP (Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon LEE Wing-tat
Hon Ronny TONG Ka-wah, SC
- Member absent** : Dr Hon LUI Ming-wah, SBS, JP
- Public Officers attending** : Item II
Mr Joseph LAI Yee-tak
Deputy Secretary for Constitutional Affairs

Mr Gary POON Wai-wing
Principal Assistant Secretary for Constitutional Affairs

Mr LAM Man-ho
Chief Electoral Officer
Registration & Electoral Office

Mr Alan CHONG
Government Counsel
Department of Justice
- Clerk in attendance** : Mrs Percy MA
Chief Council Secretary (2)3

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Mrs Eleanor CHOW
Senior Council Secretary (2)4

Action

I. Election of Chairman

Mr Howard YOUNG was elected Chairman of the Subcommittee.

II. Meeting with the Administration

(REO 23/40/5/6 – The Legislative Council Brief on the three Regulations

LS72/05-06 – The Legal Service Division Report

LC Paper No. CB(2)2269/05-06(02) – marked-up copy of the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) (Amendment) Regulation 2006

LC Paper No. CB(2)2269/05-06(03) – marked-up copy of the Electoral Affairs Commission (Nominations Advisory Committees (Election Committee)) (Amendment) Regulation 2006

LC Paper No. CB(2)2269/05-06(04) – marked-up copy of the Electoral Affairs Commission (Electoral Procedure) (Election Committee) (Amendment) Regulation 2006)

2. The Subcommittee deliberated (index of proceedings attached at **Annex**).
3. The Subcommittee completed scrutiny of the following Amendment Regulations –
 - (a) the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) (Amendment) Regulation 2006 (Amendment Regulation to Cap. 541B); and
 - (b) the Electoral Affairs Commission (Nominations Advisory Committees (Election Committee)) (Amendment) Regulation 2006 (Amendment Regulation to Cap. 541H).

The Subcommittee expressed support for the two Amendment Regulations.

4. The Subcommittee scrutinized the Electoral Affairs Commission (Electoral Procedure) (Election Committee) (Amendment) Regulation 2006 (Amendment Regulation to Cap. 541I). Members noted that “head-dress” had been proposed as one of the election advertisements (EAs) prohibited from being displayed or worn in a no canvassing zone. The Administration was requested to –

- (a) clarify whether a catch-all definition for EAs was provided in the Elections (Corrupt & Illegal Conduct) Ordinance (Cap. 554), and if so, explain the need for stipulating items such as head-dress and clothing as EAs in the Regulation; and
- (b) if not, consider including “distinctive marks on any part of the body” as one of the EAs prohibited from being displayed in a no canvassing zone.

5. The Administration was also requested to –

- (a) consider adding “sufficient or reasonable cause” as a condition for the Chief Electoral Officer to revoke the appointment of any Presiding Officer or polling officer under proposed section 34(3) and counting officer under proposed section 65(4);
- (b) explain the need to have a definition on “political body” in section 1 of the Regulation when such a definition was provided in the principal ordinance; and
- (c) clarify whether the conjunctive word “and” should be replaced by the disjunctive word “or” in section 77(1)(g).

(Post-meeting note : Taking into account the timing for the Subcommittee to report to the House Committee, the Chairman has instructed that the scrutiny period of the three Regulations should be extended to the Council meeting on 12 July 2006. The Chairman will move a motion to this effect at the Council meeting on 21 June 2006.)

III. Date of next meeting

6. The Subcommittee agreed that the next meeting would be held on Thursday, 22 June 2006 at 8:30 am.

7. The meeting ended at 10:46 am.

**Proceedings of the first meeting of the
Subcommittee on Three Regulations under the Electoral Affairs Commission
Ordinance Gazetted on 19 May 2006
on Wednesday, 7 June 2006 at 9:00 am
in Conference Room B of the Legislative Council Building**

| Time Marker | Speaker(s) | Subject(s) | Action required |
|--------------------|---|---|------------------------|
| 000000 - 000156 | Mr James TIEN Mr TAM Yiu-chung | Election of Chairman | |
| 000157 - 001647 | Chairman Admin Mr James TIEN Mr Ronny TONG | Introduction of the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) (Amendment) Regulation 2006 (Amendment Regulation to Cap. 541B) by the Administration Reasons for having an interim register of Election Committee (EC) members The Administration's advice that – (a) an EC subsector by-election would only be conducted when there was a need for the EC to elect a candidate to fill a vacancy in the office of the Chief Executive (other than that arising from the expiry of the terms of office of the CE); and (b) an interim register of EC would only be compiled after the EC subsector ordinary elections held every five year | |
| 001648 - 001801 | Admin | Introduction of the Electoral Affairs Commission (Nominations Advisory Committees (Election Committee)) (Amendment) Regulation 2006 (Amendment Regulation to Cap. 541H) by the Administration | |
| 001802 - 002439 | Chairman Admin Mr James TIEN | Clause-by-clause examination of Amendment Regulation to Cap. 541B and Amendment Regulation to Cap. 541H | |
| 002440 - 003123 | Admin Chairman Mr James TIEN | Introduction of the Electoral Affairs Commission (Electoral Procedure) (Election Committee) (Amendment) Regulation 2006 (Amendment Regulation to Cap. 541I) by the Administration | |

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| | | Custody of ballot papers and accounts etc by the Chief Electoral Officer (CEO) for at least six months from the date of the subsector elections, and destroy of such documents after the expiry of six months unless directed by an order of court | |
| 003124 - 003914 | Chairman Admin Mr TAM Yiu-chung Mr Ronny TONG Mr Jasper TSANG | <p>Clause-by-clause examination of Amendment Regulation to Cap. 541I</p> <p><u>Section 1</u></p> <p>Discussion on the proposal to include head-dress as one of the election advertisements (EAs) prohibited from being displayed or worn in a no canvassing zone</p> <p>The Administration was requested to clarify –</p> <p>(a) whether there was a catch-all definition of EAs in the Elections (Corrupt & illegal Conduct) Ordinance (Cap. 554), and if so, explain the need for stipulating items such as head-dress and clothing as EAs in the Regulation; and</p> <p>(b) if not, consider including “distinctive marks on any part of the body” as one of the EAs prohibited from being displayed in a no canvassing zone</p> | Admin to follow up |
| 003915 - 005448 | Mr Ronny TONG Chairman Admin Mr TAM Yiu-chung Mr Jasper TSANG Mr James TIEN SALA2 | <p><u>Proposed section 34(3)</u></p> <p>The Administration’s explanation on the circumstances under which CEO could revoke the appointment of any Presiding Officer (PRO) or polling officer (PO)</p> <p>Pros and cons of listing the circumstances under which CEO could revoke the appointment of any PRO or PO. Members held divided views on the issue</p> <p>The Administration was requested to consider adding “sufficient or reasonable cause” as a condition for CEO to revoke the appointment of any PRO or PO</p> <p>The Administration’s confirmation that –</p> <p>(a) in the event that proposed section 34(3) was so amended, similar</p> | Admin to follow up |

| Time Marker | Speaker(s) | Subject(s) | Action required |
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| | | <p>amendment would be considered for other related legislation;</p> <p>(b) in the LegCo election in 2004, CEO had not revoked the appointment of any PRO or PO; and</p> <p>(c) the scope of proposed section 34(3) covered assistant PROs and POs</p> | |
| 005449 - 010527 | <p>Chairman Mr Ronny TONG Admin SALA2</p> | <p><u>Proposed section 40(14)(aa)</u></p> <p>Members' discussion about the effect of the proposed section</p> <p>The Administration's advice that –</p> <p>(a) under section 45(4), a person who contravened section 40(14) would commit an offence; and</p> <p>(b) under proposed section 45(7), such a person was liable to a fine at level 2 and to imprisonment for 3 months</p> | |
| 010528 - 010930 | <p>Mr Ronny TONG Admin Chairman</p> | <p><u>Proposed section 40(15)</u></p> <p>The Administration's advice that this proposed section expressly spelt out that activity for canvassing for votes might be conducted by a person on polling day in a building within the no canvassing zone but with no polling station in it if he was allowed to enter the building</p> | |
| 010931 - 012046 | <p>Mr LEE Wing-tat Admin Chairman SALA2</p> | <p><u>Section 40(14)(d)(ii)</u></p> <p>The Administration's advice that –</p> <p>(a) under section 1 of Cap. 541I, "political body" had the meaning assigned to it by section 2(1) of the Societies Ordinance (Cap. 151); and</p> <p>(b) under section 2 of the Electoral Affairs Ordinance (Cap. 541), "political body" was defined to mean "a political body or an organization that purports to be a political party, or an organization whose principal function or main object is to promote or prepare a candidate for an election"</p> | |

| Time Marker | Speaker(s) | Subject(s) | Action required |
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| | | The Administration was requested to consider the need to have a definition on “political body” in both the Regulation and the principal ordinance | Admin to follow up |
| 012047 - 012311 | Admin Chairman Mr LEE Wing-tat | The Administration’s confirmation that the penalty level in proposed section 45(7) and (8) was in line with that for LegCo election | |
| 012312 - 013623 | Chairman Mr LEE Wing-tat Admin Mr Jasper TSANG | <p><u>Proposed section 54(1A) and (1B)</u></p> <p>The Administration’s advice that the proposed section provided the Electoral Affairs Commission with flexibility to determine how a ballot paper should be put into the ballot box, e.g. whether it should be folded or unfolded, and whether it should be contained in an envelope</p> <p>Discussion on the need to list out the four options in detail in proposed section 54(1B) of the Regulation</p> <p>The Administration’s advice that the actual manner in which a ballot paper was put into the ballot box would not affect the validity of the ballot paper</p> <p>Discussion on the design of the ballot box, ballot paper and the envelope used to contain the ballot paper</p> | |
| 013624 - 013901 | Mr Ronny TONG Chairman Mr Jasper TSANG | <p>The Administration was requested to –</p> <p>(a) consider adding “sufficient or reasonable cause” as a condition for CEO to revoke the appointment of a counting officer under proposed section 65(4); and</p> <p>(b) clarify whether the conjunctive word “and” should be replaced by the disjunctive word “or” in section 77(1)(g)</p> | Admin to follow up |
| 013902 - 014424 | Chairman Clerk Mr Ronny TONG Mr LEE Wing-tat Mr Jasper TSANG | The Subcommittee agreed that the Chairman would move a motion to extend the scrutiny period to the last Council meeting to 12 July 2006 | |
| 014425 - 014616 | Chairman | Date of next meeting | |