

L.N. 211 of 2006**CHIEF EXECUTIVE ELECTION (ELECTION PETITION) (AMENDMENT) RULES 2006**

(Made by the Chief Justice under section 40 of the Chief Executive Election Ordinance (Cap. 569))

1. Commencement

These Rules shall come into operation on 8 December 2006.

2. List of disputed ballot papers

(1) Section 10(1) of the Chief Executive Election (Election Petition) Rules (Cap. 569 sub. leg. E) is amended in the Chinese text by repealing “唯一或其中一個原因” and substituting “理由或其中一個理由”.

(2) Section 10 is amended by adding—

“(1A) If the ground or one of the grounds for lodging a petition is that the candidate declared by the Returning Officer under section 22(1AB)(c) of the Ordinance as not returned at the election was not returned because material irregularity occurred in relation to the counting of votes in respect of the election in that any vote was wrongly accepted or wrongly rejected by the Returning Officer, the petitioner shall file a list of such votes.”.

(3) Section 10(2) is amended by adding “or (1A)” after “subsection (1)”.

(4) Section 10(3) is amended by adding “or (1A)” after “subsection (1)”.

(5) Section 10(6) is amended by adding “or (1A)” after “subsection (1)”.

3. Election Petition

(1) The Schedule is amended in the second paragraph 1 by repealing the first subparagraph (b) and substituting—

“*(b) [*in an uncontested election*] that the poll was conducted on the above day, that (*name of candidate*) was the only candidate nominated at the election, and on (*date on which the candidate was declared elected*) the Returning Officer declared (*name of candidate*) to be elected under section 28(1)(a) of the Chief Executive Election Ordinance (Cap. 569) and that a notice of the result of the election was published in the Gazette on (*date of publication in the Gazette of the notice of the result of the election*) under section 28(1)(b) of that Ordinance; and”.

(2) The Schedule is amended by adding after the first subparagraph (b) of the second paragraph 1—

“(or) *(b) [*in an uncontested election*] that the poll was conducted on the above day, that (*name of candidate*) was the only candidate nominated at the election, and on (*date on which the Returning Officer declared that no candidate was returned at the election*) the Returning Officer declared under section 22(1AB)(c) of the Chief Executive Election Ordinance (Cap. 569) that no candidate was returned at the election and that a notice of the result of the poll was published in the Gazette on (*date of publication in the Gazette of the notice of the result of the poll*) under section 22(1AB)(d) of that Ordinance; and”.

(3) The Schedule is amended in the last subparagraph (b) of the second paragraph 1 by repealing “in a contested election, that the poll was held” and substituting “[*in a contested election*] that the poll was conducted”.

(4) The Schedule is amended in the last subparagraph (b) of the second paragraph 1 by repealing “section 28(a)” and substituting “section 28(2)(a)”.

(5) The Schedule is amended in the last subparagraph (b) of the second paragraph 1 by repealing everything after “*date of publication in*” and substituting “*the Gazette of the notice of the result of the election*) under section 28(2)(b) of that Ordinance; and”.

(6) The Schedule is amended by repealing the first paragraph 2 and substituting—

“*2. The Petitioner therefore requests, in the case of an uncontested election in which the Returning Officer declared under section 22(1AB)(c) of the Chief Executive Election Ordinance (Cap. 569) that no candidate was returned at the election, the Court to determine whether (*name of the only candidate nominated at the election*) is duly elected.”.

(7) The Schedule is amended by repealing the second paragraph 2 and substituting—

“(or) *2. The Petitioner therefore requests, in the case of an election at which a candidate was declared as elected, the Court to determine whether the candidate is duly elected.”.

Andrew LI
Chief Justice

11 October 2006

Explanatory Note

The Chief Executive Election and Legislative Council Election (Miscellaneous Amendments) Ordinance 2006 (10 of 2006) introduced a number of amendments to the Chief Executive Election Ordinance (Cap. 569) (“Election Ordinance”). One of the purposes of the amendments is to provide for the conduct of a poll where there is only one validly nominated candidate in a Chief Executive election. These Rules amend the Chief Executive Election (Election Petition) Rules (Cap. 569 sub. leg. E) (“principal Rules”) to—

- (a) provide for the requirement for the petitioner to file a list of disputed ballot papers for a petition on the ground that a sole candidate declared by the Returning Officer under section 22(1AB)(c) of the Election Ordinance as not returned at an election was not returned because material irregularity occurred in relation to the counting of votes in respect of the election;
- (b) amend the petition form to make reference to, in respect of an uncontested election, a declaration made by the Returning Officer under section 28(1)(a) of the Election Ordinance that the sole candidate is elected, or one made under section 22(1AB)(c) of the Election Ordinance that the sole candidate is not returned, as the case may be, after a poll at the election;
- (c) amend the petition form to set out the request of the petitioner for the Court of First Instance to determine—
 - (i) in the case of an uncontested election in which the Returning Officer declared under section 22(1AB)(c) of the Election Ordinance that no candidate was returned at the election, whether the candidate is duly elected; or
 - (ii) in the case of an election at which a candidate was declared as elected, whether the candidate is duly elected;
- (d) introduce a minor amendment to the Chinese text of section 10(1) of the principal Rules to achieve consistency with the Election Ordinance.