

政制及內地事務局
政府總部



CONSTITUTIONAL AND MAINLAND AFFAIRS BUREAU
GOVERNMENT SECRETARIAT

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HONG KONG

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By fax: 2877 5029
(Total: 4 pages)

Dear Miss Tam,

Amendment Regulations relating to Voting by Imprisoned Persons

Thank you for your letter dated 31 August 2009 requesting clarification from the Administration regarding the captioned amendment regulations. Please note our reply as follows-

- (a) Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2009 (L.N. 130)

Section 6(2)

Section 30 stipulates that the Chief Electoral Officer (“CEO”) should allocate polling stations to electors and authorized representatives. The new section 30(4)(aa) enables the CEO to allocate a geographical constituency (“GC”) elector who will be serving a sentence of imprisonment on the polling day to cast the vote at a dedicated polling station. As regards electors who are arrested, detained or remanded on the polling day, since it is impossible for the CEO to identify them in advance, such electors would be allocated to vote at a

dedicated polling station, as an alternative polling station, on the polling day in accordance with section 30(4A).

Section 10(1)

To make it clear that the appointment of polling agent by a candidate or a list of candidates for a dedicated polling station situated in a prison is in respect of each dedicated polling station instead of only one dedicated polling station, we propose amending the Chinese version of the new section 42(8A)(a) to read as follows-

"除(b)及(c)段另有規定外，一名候選人或一份候選人名單上的候選人，只可就每個位於監獄內的專用投票站，委任一名監察投票代理人；"

- (b) Electoral Affairs Commission (Electoral Procedure) (Election Committee) (Amendment) Regulation 2009 (L.N. 132)

Section 10(1)

Similar to the case of the new section 42(8A)(a) of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2009 (L.N. 130), we propose amending the Chinese version of the new section 42(5A)(a) to-

"除(b)及(c)段另有規定外，一名候選人只可就每個位於監獄內的專用投票站，委任一名監察投票代理人；"

- Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2009 (L.N. 131)

Section 11(1)

Similar to the case of the new section 42(8A)(a) of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2009 (L.N. 130), we propose amending the Chinese version of the new section 45(5A)(a) to-

"除(b)及(c)段另有規定外，一名候選人只可就每個位於監獄內的專用投票站，委任一名監察投票代理人；

(c) Electoral Procedure (Election Committee) (Amendment) Regulation 2009 (L.N. 133)

Section 7(1)

We agree that the typo should be rectified by replacing the full stop with a semi-colon.

(d) Electoral Procedure (Village Representative Election) (Amendment) Regulation 2009 (L.N. 134)

Section 5(3)

The amendment is proposed to give the Director of Home Affairs ("DHA") the flexibility to designate any other structure, premises, whether permanent or temporary, mobile or otherwise, or place which the DHA consider suitable as a polling station.

The addition of ", whether or not" before "hired" in section 28(2)(b) extend the amended paragraph (b) to cover all structures, places and premises other than those specified in section 28(2)(a).

Without the amendment, section 28 would not cover premises that are not occupied by the government and not hired by DHA. An instance is the owner or occupier allows the Home Affairs Department ("HAD") to use the premises as a polling station free of charge.

As regards section 28(4), we would make the relevant consequential amendment.

Section 15(2)

In a village representative election, a person under custody may be eligible for two votes – one for the Resident Representative election and another for the Indigenous Inhabitant Representative election. In such a case, he will be given two votes and two envelopes. After marking the ballot papers, he is required to put each of the ballot papers separately into the envelopes issued to them as mentioned in section 47(1A)(a)(ii).

We propose to revise the Chinese text of the new section 47(1A)(b) as below-

"第(1)(d)及(f)款中對選票的提述就他而言所具有的效力，猶如該等提述是提述載於一個或多於一個封套內的一張或多於一張選票(視屬何情況而定)。"

Yours sincerely,



(Ivanhoe Chang)

for Secretary for Constitutional and Mainland Affairs

c.c. DoJ (Attn: Mr Gilbert Mo, DLD(BD&A) and Miss Mandy Ng, GC) (Fax: 2869 1302)
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