

立法會
Legislative Council

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Tel : 2869 9205

Date : 4 July 2011

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 6 July 2011

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

I forward for Members' consideration five proposed resolutions which the Secretary for Constitutional and Mainland Affairs will move, at the Council meeting of 6 July 2011, under section 34(2) of the Interpretation and General Clauses Ordinance relating to the following five Amendment Regulations (**Appendices I to V**):

- (a) Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2011, published in the Gazette as Legal Notice No. 73 of 2011;
- (b) Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2011, published in the Gazette as Legal Notice No. 74 of 2011;
- (c) Electoral Affairs Commission (Electoral Procedure) (Election Committee) (Amendment) Regulation 2011, published in the Gazette as Legal Notice No. 75 of 2011;
- (d) Electoral Procedure (Chief Executive Election) (Amendment) Regulation 2011, published in the Gazette as Legal Notice No. 76 of 2011; and

- (e) Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) (Amendment) Regulation 2011, published in the Gazette as Legal Notice No. 78 of 2011

The President has directed that they be printed in the terms in which they were handed in on the Agenda of the Council.

2. The speech in both Chinese and English (**Appendix VI**) which the Secretary will deliver is also attached.

3. As directed by the President, there will be a **joint debate** on the five proposed resolutions but they will be **put to vote separately**.



(Mrs Justina LAM)
for Clerk to the Legislative Council

Encl.

Interpretation and General Clauses Ordinance

Resolution

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

Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2011

Resolved that the Electoral Affairs Commission (Electoral Procedure)
(Legislative Council) (Amendment) Regulation 2011, published in the
Gazette as Legal Notice No. 73 of 2011 and laid on the table of the
Legislative Council on 18 May 2011, be amended as set out in the
Schedule.

Schedule

Amendments to Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2011

1. **Section 5 amended (Section 102 amended (Election advertisements))**
 - (1) **Section 5(1), Chinese text, new section 102(4A)(a)—**
Repeal
“以其他方式使用”
Substitute
“作其他用途”.
 - (2) **Section 5(2), Chinese text, new section 102(5A)—**
Repeal
“以其他方式使用”
Substitute
“作其他用途”.
 - (3) **Section 5(3)—**
Repeal new section 102(6)
Substitute
“(6) A candidate must furnish to the Returning Officer—
 - (a) in the case of an election advertisement that is to be displayed, distributed or otherwise used by electronic means—
 - (i) in the manner and format specified by the Commission, an electronic copy of the advertisement—

- (A) before so displaying, distributing or using it; or
- (B) if compliance with sub-subparagraph (A) is not practicable, within the time specified by the Commission; or
- (ii) 2 hard copies of the advertisement—
 - (A) before so displaying, distributing or using it; or
 - (B) if compliance with sub-subparagraph (A) is not practicable, within the time specified by the Commission;
- (b) in the case of any other election advertisement, subject to subsection (7), 2 copies of the advertisement before displaying, distributing or otherwise using it.”.

2. **Section 30 amended (Section 35 amended (Chief Electoral Officer to supply candidates with copy of final register))**

Section 30(2), Chinese text, after “在“—

Add

“某”.

3. **Section 42 amended (Schedule 3 amended (Forms of ballot papers for a general election/by-election))**

Section 42, English text—

Repeal subsection (1)

Substitute

“(1) Schedule 3, Form 1, note @—

Repeal

“‘a’ and up to ‘h’”

Substitute

“‘a’ and up to ‘i’”.”.

Interpretation and General Clauses Ordinance

Resolution

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

Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2011

Resolved that the Electoral Affairs Commission (Electoral Procedure)
(District Councils) (Amendment) Regulation 2011, published in the Gazette
as Legal Notice No. 74 of 2011 and laid on the table of the Legislative
Council on 18 May 2011, be amended as set out in the Schedule.

Schedule

Amendments to Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2011

1. **Section 22 amended (Section 103 amended (Election advertisements))**
 - (1) Section 22(1), Chinese text, new section 103(4A)(a)—
Repeal
“以其他方式使用”
Substitute
“作其他用途”.
 - (2) Section 22(2), Chinese text, new section 103(5A)—
Repeal
“以其他方式使用”
Substitute
“作其他用途”.
 - (3) Section 22(3)—
Repeal new section 103(6)
Substitute
“(6) A candidate must furnish to the Returning Officer—
 - (a) in the case of an election advertisement that is to be displayed, distributed or otherwise used by electronic means—
 - (i) in the manner and format specified by the Commission, an electronic copy of the advertisement—

- (A) before so displaying, distributing or using it; or
- (B) if compliance with sub-subparagraph (A) is not practicable, within the time specified by the Commission; or
- (ii) 2 hard copies of the advertisement—
 - (A) before so displaying, distributing or using it; or
 - (B) if compliance with sub-subparagraph (A) is not practicable, within the time specified by the Commission;
- (b) in the case of any other election advertisement, subject to subsection (7), 2 copies of the advertisement before displaying, distributing or otherwise using it.”.

Interpretation and General Clauses Ordinance

Resolution

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

Electoral Affairs Commission (Electoral Procedure) (Election Committee) (Amendment) Regulation 2011

Resolved that the Electoral Affairs Commission (Electoral Procedure) (Election Committee) (Amendment) Regulation 2011, published in the Gazette as Legal Notice No. 75 of 2011 and laid on the table of the Legislative Council on 18 May 2011, be amended as set out in the Schedule.

Schedule

Amendments to Electoral Affairs Commission (Electoral Procedure) (Election Committee) (Amendment) Regulation 2011

1. **Section 23 amended (Section 100 amended (Election advertisement))**
 - (1) Section 23(1), Chinese text, new section 100(4A)(a)—
Repeal
“以其他方式使用”
Substitute
“作其他用途”.
 - (2) Section 23(2), Chinese text, new section 100(5A)—
Repeal
“以其他方式使用”
Substitute
“作其他用途”.
 - (3) Section 23(3)—
Repeal new section 100(6)
Substitute
“(6) A candidate must furnish to the Returning Officer—
 - (a) in the case of an election advertisement that is to be displayed, distributed or otherwise used by electronic means—
 - (i) in the manner and format specified by the Commission, an electronic copy of the advertisement—

- (A) before so displaying, distributing or using it; or
- (B) if compliance with sub-subparagraph (A) is not practicable, within the time specified by the Commission; or
- (ii) 2 hard copies of the advertisement—
 - (A) before so displaying, distributing or using it; or
 - (B) if compliance with sub-subparagraph (A) is not practicable, within the time specified by the Commission;
- (b) in the case of any other election advertisement, subject to subsection (7), 2 copies of the advertisement before displaying, distributing or otherwise using it.”.

Interpretation and General Clauses Ordinance

Resolution

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

Electoral Procedure (Chief Executive Election) (Amendment) Regulation 2011

Resolved that the Electoral Procedure (Chief Executive Election)
(Amendment) Regulation 2011, published in the Gazette as Legal Notice
No. 76 of 2011 and laid on the table of the Legislative Council on 18 May
2011, be amended as set out in the Schedule.

Schedule

Amendments to Electoral Procedure (Chief Executive Election) (Amendment) Regulation 2011

1. **Section 2 amended (Electoral Procedure (Chief Executive Election) Regulation amended)**
Section 2—
Repeal
“18”
Substitute
“19”.
2. **Section 18 amended (Section 81 amended (Election advertisement))**
 - (1) Section 18(4), Chinese text, new section 81(1A)(a)—
Repeal
“以其他方式使用”
Substitute
“作其他用途”.
 - (2) Section 18(4), Chinese text, new section 81(1C)—
Repeal
“以其他方式使用”
Substitute
“作其他用途”.
 - (3) Section 18(4)—
Repeal new section 81(1D)
Substitute

- “(1D) A candidate must furnish to the Returning Officer—
- (a) in the case of an election advertisement that is to be displayed, distributed or otherwise used by electronic means—
 - (i) in the manner and format specified by the Commission, an electronic copy of the advertisement—
 - (A) before so displaying, distributing or using it; or
 - (B) if compliance with sub-subparagraph (A) is not practicable, within the time specified by the Commission; or
 - (ii) 2 hard copies of the advertisement—
 - (A) before so displaying, distributing or using it; or
 - (B) if compliance with sub-subparagraph (A) is not practicable, within the time specified by the Commission;
 - (b) in the case of any other election advertisement, subject to subsection (1E), 2 copies of the advertisement before displaying, distributing or otherwise using it.”.

3. Section 19 added

After section 18—

Add

“19. Section 82 amended (Offence)

Section 82(2), after “81(1)”—

Add

“, (1B), (1D), (1E), (1F), (1G) or (1H)”.”.

Interpretation and General Clauses Ordinance

Resolution

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

Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) (Amendment) Regulation 2011

Resolved that the Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) (Amendment) Regulation 2011, published in the Gazette as Legal Notice No. 78 of 2011 and laid on the table of the Legislative Council on 18 May 2011, be amended as set out in the Schedule.

Schedule

Amendments to Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) (Amendment) Regulation 2011

1. **Section 1 substituted**
Section 1—
Repeal the section
Substitute
“1. **Commencement**
(1) This Regulation (except section 3) comes into operation on 8 July 2011.
(2) Section 3 comes into operation on 1 June 2012.”.
2. **Section 2 amended (Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) Regulation amended)**
Section 2—
Repeal
“section 3”
Substitute
“sections 2A, 3 and 4”.
3. **Section 2A added**
After section 2—
Add

“2A. Section 2 amended (Interpretation)

Section 2(1)—

Repeal the definition of *relevant cut-off date***Substitute****“*relevant cut-off date* (有關截止日期)—**

- (a) in relation to any annual registration cycle within which an ordinary election is to be held, means 15 June in that annual registration cycle; or
- (b) in relation to any other annual registration cycle, means 15 April in that annual registration cycle;”.

4. Section 4 added

After section 3—

Add**“4. Section 36 amended (Transitional provision)**

Section 36—

Repeal subsections (1) and (2)**Substitute**

- “(1) If an application is made under section 8(1), 9(1), 24(1) or 25(1) at any time during the period between 16 April 2011 and 15 July 2011, the relevant cut-off date of the annual registration cycle ending on 31 December 2011 is, despite the definition of *relevant cut-off date* in section 2(1), 15 July 2011.
- (2) If an objection is made under section 22(1) at any time during the period between 16 April 2011 and 15 July 2011, the relevant cut-off date of the annual registration cycle ending on 31 December 2011 is,

despite the definition of *relevant cut-off date* in section 2(1), 15 July 2011.”.

Legislative Council Meeting on 6 July 2011
Administration's Motion to amend Subsidiary Legislation
Speech by the Secretary for Constitutional and Mainland Affairs

President :

I move that five Amendment Regulations be amended as set out on the agenda. These Amendment Regulations are the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2011, Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2011, Electoral Affairs Commission (Electoral Procedure) (Election Committee) (Amendment) Regulation 2011, Electoral Procedure (Chief Executive Election) (Amendment) Regulation 2011 and Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) (Amendment) Regulation 2011.

2. To prepare for the District Council (DC) Election, the Election Committee Subsector (ECSS) Elections, the Chief Executive (CE) Election and the Legislative Council (LegCo) Election to be held between November this year and September next year, the Electoral Affairs Commission (EAC) tabled at LegCo nine Amendment Regulations concerning electoral arrangements on 18 May 2011. These Amendment Regulations are related to technical amendments. Apart from consequential amendments to be made according to the amended provisions in the CE Election Ordinance and the LegCo Ordinance, these Amendment Regulations seek to align and improve some electoral procedures, and to refine the voting arrangements for imprisoned persons.

3. The LegCo subsequently set up a Subcommittee to scrutinize the nine Amendment Regulations. After four meetings, the Subcommittee has completed the scrutiny work. I hereby wish to express my gratitude to Hon IP Kwok-him, Chairman of the Subcommittee, and other members for their effort in completing the exercise.

4. During the scrutiny of the Amendment Regulations, some members suggested extending, for DC election years, the annual cut-off date for registering particulars relating to candidates on ballot papers, similar to the practice of voter registration. Having considered this suggestion carefully, we propose to amend the annual cut-off date for

filing applications for registering the particulars relating to candidates on ballot papers to 15 June for the DC election years. By the time the Amendment Regulations come into effect on 8 July 2011, it will have passed the amended annual cut-off date for the 2011 registration cycle. Therefore, we propose to provide a transitional arrangement for 2011, so that EAC will process those applications received on or before 15 July 2011 within the current registration cycle. For this, we need to amend the Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) (Amendment) Regulation 2011.

5. Another more important amendment is about the means of submission of copies of electronic election advertisements. At present, candidates must submit to the Returning Officer (RO) copies of all election advertisements. To facilitate candidates to conduct electioneering activities, EAC has proposed that for electronic election advertisements, candidates are allowed to make the submission to the RO electronically. Some members considered that candidates should be provided with the flexibility to submit copies of electronic election advertisements either by electronic means or in hardcopies as the situation requires. We need to amend the provisions in four Amendment Regulations, so as to apply this amended arrangement to the LegCo, DC, CE and ECSS elections.

6. Other amendments are technical in nature, with a view to improving the clarity of the provisions. The detailed amendments are set out on the agenda.

7. The Subcommittee supports the amendments I move. I hereby wish to thank Hon IP Kwok-him, Chairman of the Subcommittee, and other members for the invaluable views expressed during the process of scrutiny of the Amendment Regulations. Thank you, President.