

L.N. 74 of 2011

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

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

(Made by the Electoral Affairs Commission under section 7 of the  
Electoral Affairs Commission Ordinance (Cap. 541))

### **1. Commencement**

This Regulation comes into operation on 8 July 2011.

### **2. Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation amended**

The Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap. 541 sub. leg. F) is amended as set out in sections 3 to 24.

### **3. Section 2 amended (Interpretation)**

Section 2(1), definition of *verification of the ballot paper account*—

#### **Repeal**

“75A(c)”

#### **Substitute**

“75A(d)”.

### **4. Section 24 amended (Returning Officer to notify and declare if a validly nominated candidate is proved to have died)**

Section 24(8)—

#### **Repeal**

everything after “prominent”

#### **Substitute**

“place—

- (a) outside each polling station (other than a dedicated polling station) used for polling for the constituency concerned; and
- (b) inside each dedicated polling station used for polling for the constituency concerned.”.

**5. Section 25 amended (Returning Officer to vary decision if a validly nominated candidate is proved to be disqualified)**

Section 25(8)—

**Repeal**

everything after “prominent”

**Substitute**

“place—

- (a) outside each polling station (other than a dedicated polling station) used for polling for the constituency concerned; and
- (b) inside each dedicated polling station used for polling for the constituency concerned.”.

**6. Section 28 amended (A candidate may authorize persons to incur election expenses on the candidate’s behalf)**

(1) After section 28(12)—

**Add**

“(12A) Service of the notice of revocation may be effected by delivery by hand, by post or by facsimile transmission.”.

(2) Section 28(13)—

**Repeal**

“the relevant Officer receives the notice of revocation”

**Substitute**

“the notice of revocation has been served on the relevant Officer”.

**7. Section 33 amended (Chief Electoral Officer to assign polling stations for constituencies and to allocate polling stations to electors)**

Section 33—

**Repeal subsections (5) and (6)**

**Substitute**

- “(5) To enable the Chief Electoral Officer to perform his or her functions under this section in relation to electors, the Commissioner of Correctional Services must, upon a request by the Chief Electoral Officer, provide the following information concerning every person who is serving a sentence of imprisonment or detained by the Correctional Services Department on remand—
- (a) the name of the person;
  - (b) the number of the person’s identity document;
  - (c) the prisoner registration number allocated by the Commissioner of Correctional Services to the person for identification purposes;
  - (d) the name and address of the premises in which the person is detained.
- (6) To enable the Chief Electoral Officer to perform his or her functions under this section in relation to electors, the head of any law enforcement agency must, upon a request by the Chief Electoral Officer, provide the following information concerning every person who is detained by the law enforcement agency under any lawful authority—

- (a) the name of the person;
- (b) the number of the person's identity document;
- (c) the name and address of the premises in which the person is detained.”.

**8. Section 37 heading amended**

Section 37, English text, heading—

**Repeal**

**“Presiding Officers”**

**Substitute**

**“Presiding Officer”.**

**9. Section 41 amended (Chief Electoral Officer to supply list of polling officers to assist Presiding Officer)**

Section 41(3)—

**Repeal**

everything after “prominent”

**Substitute**

“place—

- (a) (if the polling station for which the Officer is appointed is not a dedicated polling station) outside the polling station; or
- (b) (if the polling station for which the Officer is appointed is a dedicated polling station) inside the polling station.”.

**10. Section 43 amended (Returning Officer to determine no canvassing zones and no staying zones)**

(1) Section 43(13)(b), before “use”—

**Add**

“subject to subsection (13A),”.

- (2) Section 43(13)(c), Chinese text—

**Repeal**

“而以”

**Substitute**

“以致”.

- (3) After section 43(13)—

**Add**

“(13A) An officer of the Correctional Services Department may, on polling day, use a sound amplifying system or device for the performance of his or her duties in the no canvassing zone of a dedicated polling station situated in a prison.”.

**11. Section 44 amended (Presiding Officer to keep order in no canvassing zone and no staying zone)**

- (1) Section 44(1)(b), before “use”—

**Add**

“subject to subsection (1C),”.

- (2) Section 44(1)(c), Chinese text—

**Repeal**

“而以”

**Substitute**

“以致”.

- (3) After section 44(1B)—

**Add**



“(1C) An officer of the Correctional Services Department may, on polling day, use a sound amplifying system or device for the performance of his or her duties in the no canvassing zone of a dedicated polling station situated in a prison.”.

**12. Section 45 amended (Candidates may appoint polling agents)**

(1) Section 45(11)—

**Repeal**

everything after “Returning Officer.”.

(2) After section 45(11)—

**Add**

“(11A) If the notice of revocation is given on the polling day—

- (a) (if the polling station for which the polling agent is appointed is not a dedicated polling station situated in a prison) it must be given to the Presiding Officer of the polling station; or
- (b) (if the polling station for which the polling agent is appointed is a dedicated polling station situated in a prison) it must be given to the Returning Officer.”.

**13. Section 48 amended (What constitutes an offence at a polling station)**

Section 48(1)—

**Repeal**

“, Deputy Presiding Officer, Assistant Presiding Officer”.

**14. Section 55 amended (A candidate or election agent or polling agent may challenge a person who has applied for a ballot paper or who has voted)**

(1) Section 55(3), after “arrested” (wherever appearing)—

**Add**

“or removed”.

(2) Section 55(3)—

**Repeal**

“or the arrest”

**Substitute**

“, arrest or removal”.

**15. Section 64 amended (Presiding Officer to prepare a ballot paper account for each packet of sealed ballot papers)**

(1) Section 64(1), after “Presiding Officer”—

**Add**

“(other than the Presiding Officer of a dedicated polling station)”.

(2) After section 64(2)—

**Add**

“(3) The Presiding Officer of a dedicated polling station must—

- (a) (if one or more ballot papers have been issued by the Presiding Officer on the polling day) prepare a statement which complies with subsection (4) for each District in respect of which ballot papers have been issued; or

- (b) (if no ballot paper has been issued by the Presiding Officer on the polling day) prepare a statement in the specified form confirming that no ballot paper has been issued by the Presiding Officer on the polling day.
- (4) The statement prepared under subsection (3)(a) must be in the specified form and show the number of ballot papers for the District supplied to the Presiding Officer under section 40(2) and account for those ballot papers under the following heads—
  - (a) the number of ballot papers estimated by the Presiding Officer to be in the ballot box or boxes;
  - (b) the number of un-issued ballot papers;
  - (c) the number of unused ballot papers;
  - (d) the number of spoilt ballot papers.”.

**16. Section 69 amended (What constitutes an offence at a counting station)**

- (1) Section 69(1), after “who”—

**Add**

“, during the relevant period,”.

- (2) After section 69(1)—

**Add**

- “(1A) In subsection (1)—

*relevant period* (有關期間), in relation to a counting zone, means the period commencing at the time, determined under section 65, at which the counting of the votes is to begin at the zone and ending upon the completion of the counting and re-count, if any, at the zone.”.

**17. Section 75 amended (Presiding Officer to verify ballot paper account)**

(1) Section 75(1)—

**Repeal**

“, a dedicated polling station”.

(2) Section 75(1A)(b)—

**Repeal**

“(f)”

**Substitute**

“(e)”.

**18. Section 75A amended (Arrangements for sorting in ballot paper sorting stations)**

Section 75A—

**Repeal paragraphs (a), (b), (c), (d), (e), (f), (g), (h) and (i)**

**Substitute**

- “(a) sort the envelopes in each ballot box under the Officer’s charge according to each constituency;
- (b) count and record the number of envelopes for each constituency;
- (c) verify the ballot paper account by comparing it with the number of envelopes recorded under paragraph (b);
- (d) prepare a statement in writing as to the result of the verification;
- (e) prepare a statement in writing as to the number of envelopes recorded under paragraph (b);
- (f) make into separate bundles the sorted envelopes together with the relevant statement prepared under paragraph (e);

- (g) place each bundle in a separate receptacle and seal it in the presence of those present at the counting zone;
- (h) arrange the receptacles to be delivered to the Presiding Officers of the respective main counting stations of the relevant constituencies; and
- (i) send to the Chief Electoral Officer the ballot paper accounts, verification of the ballot paper accounts and the sealed packets made up under section 63A.”.

**19. Section 89 amended (Presiding Officer may perform functions through polling officers)**

Section 89(2), after “a poll”—

**Add**

“or a count”.

**20. Section 95 amended (Procedure after election proceedings are terminated)**

Section 95(2)—

**Repeal**

everything after “the close of”

**Substitute**

“the poll for the constituency, a declaration under subsection (1) is made by the Returning Officer in respect of the election, the Officer must direct that the poll for the constituency be abandoned.”.

**21. Section 99A added**

Before section 100—

**Add**

**“99A. Election return to be lodged in specified form**

The election return required to be lodged under section 37 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) in respect of an ordinary election or a by-election must be in the specified form (if any).”.

**22. Section 103 amended (Election advertisements)**

(1) After section 103(4)—

**Add**

“(4A) Despite section 3 of the Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B), if—

(a) an election advertisement is to be displayed, distributed or otherwise used by electronic means;  
or

(b) a digital image of an election advertisement is furnished to the Returning Officer in accordance with subsection (7)(b),

the declaration in respect of the advertisement may be submitted to the Returning Officer by electronic means in the manner and format specified by the Commission.”.

(2) After section 103(5)—

**Add**

“(5A) If it is not practicable for a candidate to comply with subsection (5) in relation to an election advertisement to be displayed, distributed or otherwise used by electronic means, the declaration in respect of the advertisement may be submitted in accordance with subsection (4A) within the time specified by the Commission.”.

(3) Section 103—

**Repeal subsections (6) and (7)**

**Substitute**

- “(6) A candidate must furnish to the Returning Officer—
- (a) in the manner and format specified by the Commission, an electronic copy of an election advertisement that is to be displayed, distributed or otherwise used by electronic means—
    - (i) before so displaying, distributing or using it; or
    - (ii) if compliance with subparagraph (i) is not practicable, within the time specified by the Commission; or
  - (b) subject to subsection (7), 2 copies of any other election advertisement before displaying, distributing or otherwise using it.
- (7) If it is not practicable to make a copy of an election advertisement, the candidate must furnish to the Returning Officer—
- (a) 2 colour photographs in postcard size of the advertisement; or
  - (b) in the manner and format specified by the Commission, an image of the advertisement that is kept on a computer system or on an electronic medium.”.

(4) Section 103—

**Repeal subsections (9) and (9A)**

**Substitute**

- “(9) Before displaying an election advertisement in the form of a bill or poster within the meaning of section 104E of the Public Health and Municipal Services Ordinance (Cap. 132), the candidate must deposit with

the Returning Officer a copy of the permission or other authorization obtained for the purposes of section 104A(1) of that Ordinance.

(9A) Before displaying, distributing or otherwise using an election advertisement which is of a kind referred to in subsection (1) or (2) of section 27 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), the candidate must deposit with the Returning Officer a copy of the consent in writing referred to in that subsection.”.

(5) Section 103(10), after “authorization” (wherever appearing)—

**Add**

“, consent”.

**23. Schedule 1, section 3 amended (Adjournment of poll at a particular polling station)**

(1) Schedule 1, section 3, heading—

**Repeal**

everything after “poll”

**Substitute**

“or count at a particular station”.

(2) Schedule 1, after section 3(1)—

**Add**

“(1A) If, at any time during counting at an ordinary election or by-election, it appears to the Presiding Officer that the count at the counting station is likely to be obstructed, disrupted, undermined or seriously affected by an occurrence specified in subsection (2), the Presiding Officer may adjourn the count at the counting station by making a declaration under section 4.”.



(3) Schedule 1, section 3(2)—

**Repeal**

“subsection (1)”

**Substitute**

“subsections (1) and (1A)”.

**24. Schedule 3 substituted**

Schedule 3—

**Repeal the Schedule**

**Substitute**

**“Schedule 3**

[s. 82]

**Form for the Notice of Election Result under  
Section 46 of the District Councils Ordinance  
(Cap. 547)**

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

B2901

Section 24

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《選舉管理委員會(選舉程序)(區議會)規例》  
ELECTORAL AFFAIRS COMMISSION  
(ELECTORAL PROCEDURE)  
(DISTRICT COUNCILS) REGULATION

選舉結果公告  
NOTICE OF RESULT OF ELECTION

區議會 \*一般選舉 / 補選  
\*(區議會名稱)  
\*(選區名稱)

DISTRICT COUNCILS \*ORDINARY ELECTION/BY-ELECTION  
\*(Name of District Council)  
\*(Name of Constituency)

1. 於 \*(日期) 舉行的上述選舉的結果公布如下 –  
The following is a statement of the result of the above election held on \*(date) –

<i>候選人編號</i> <i>Candidate Number</i>	<i>候選人姓名</i> <i>Name of Candidate</i>	<i>候選人所得票數</i> <i>Number of Votes Given to the Candidate</i>

2. 現公布：以下候選人 \*依據以抽籤方式決定的選舉結果，在上述選區當選 –  
It is notified that the following candidate is declared to be elected for the above-mentioned constituency \*pursuant to a result determined by drawing lots –

\*(當選的候選人姓名)  
\*(Name of Candidate Elected)

日期： .....

Date: .....

上述選區的選舉主任  
Returning Officer

for the above-mentioned constituency

\* Only the appropriate information will be printed.”.

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

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Made this 9th day of May 2011.

The Hon. Mr. Justice  
Barnabas Wah FUNG  
Chairman,  
Electoral Affairs Commission

Lawrence LOK Ying-kam  
Member,  
Electoral Affairs Commission

Andrew CHAN Chi-fai  
Member,  
Electoral Affairs Commission

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### Explanatory Note

This Regulation amends the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap. 541 sub. leg. F) (*principal Regulation*). The main purposes of the amendments are to align the provisions for the District Council election, if appropriate, with those for other elections and to improve certain arrangements; to refine the voting arrangements for electors in custody; and to provide for several technical and textual amendments.

2. Section 1 provides for commencement.
3. Section 3 introduces a consequential amendment to the definition of *verification of the ballot paper* in section 2(1) of the principal Regulation.
4. Sections 4 and 5 respectively amend sections 24(8) and 25(8) of the principal Regulation to empower the Returning Officer to display certain notices inside a dedicated polling station.
5. Section 6 amends section 28 of the principal Regulation to provide for the mode of service of the notice of revocation of authorization of an election expense agent.
6. Section 7 amends section 33 of the principal Regulation to require the Commissioner of Correctional Services to, on request by the Chief Electoral Officer, provide the prisoner registration number of a person detained by the Correctional Services Department.
7. Section 8 introduces a textual amendment to the English text of the heading of section 37 of the principal Regulation.

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

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Explanatory Note

Paragraph 8

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8. Section 9 amends section 41(3) of the principal Regulation to empower the Presiding Officer to display the list of polling officers inside a dedicated polling station.
9. Sections 10 and 11 respectively amend sections 43 and 44 of the principal Regulation to enable an officer of the Correctional Services Department to, on the polling day, use a sound amplifying system in the no canvassing zone of a dedicated polling station situated in a prison. Sections 10 and 11 also introduce certain textual amendments to the Chinese text of sections 43 and 44 of the principal Regulation.
10. Section 12 amends section 45 of the principal Regulation to provide that a notice of revocation of appointment of a polling agent, if given on the polling day, must be given to the Returning Officer if the relevant polling station is a dedicated polling station situated in a prison.
11. Section 13 introduces a textual amendment to section 48(1) of the principal Regulation.
12. Section 55(2A) of the principal Regulation provides that in a dedicated polling station, an elector who is suspected to have engaged in corrupt conduct of impersonation is to be removed by an officer of the Correctional Services Department or any other law enforcement agency who is to report the case to the police. Section 14 introduces a consequential amendment to section 55(3) of the principal Regulation.
13. Section 15 amends section 64 of the principal Regulation to provide for the preparation of a ballot paper account by the Presiding Officer of a dedicated polling station.
14. Section 16 amends section 69 of the principal Regulation to align the provision for the District Council election with similar provisions for the Legislative Council election and Election Committee subsector election.

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

B2909

Explanatory Note

Paragraph 15

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15. Section 17(1) amends section 75(1) of the principal Regulation to exclude the reference to a dedicated polling station. Section 17(2) introduces a consequential amendment to section 75(1A)(b) of the principal Regulation.
16. Section 18 amends section 75A of the principal Regulation to refine the arrangements for sorting ballot papers in ballot paper sorting stations.
17. Section 19 amends section 89 of the principal Regulation to empower a Presiding Officer to adjourn a count under Schedule 1 to the principal Regulation.
18. Section 20 amends section 95(2) of the principal Regulation to align the provision for the District Council election with a similar provision for the Legislative Council election.
19. Section 21 adds a new section 99A to the principal Regulation to clarify that the election return required under section 37 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) must be in the specified form (if any).
20. Section 22 amends section 103 of the principal Regulation to allow a candidate to submit the relevant declaration by electronic means if the election advertisement is to be displayed, distributed or otherwise used by electronic means, and to provide for the submission of an electronic copy of the election advertisement displayed, distributed or otherwise used by electronic means. Section 22 also clarifies that section 103(9) of the principal Regulation applies only to an election advertisement in the form of a bill or poster within the meaning of section 104E of the Public Health and Municipal Services Ordinance (Cap. 132). Section 22 further amends section 103(9A) of the principal Regulation to clarify that the provision applies only to an election advertisement which is of a kind referred to in section 27(1) or (2) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).

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

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Explanatory Note

Paragraph 21

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21. Section 23 amends section 3 of Schedule 1 to the principal Regulation to empower the Presiding Officer to adjourn a count.
22. Section 24 amends Schedule 3 to the principal Regulation by replacing the prescribed form of notice of election result with a new one.