

L.N. 75 of 2011

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

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

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

1. Commencement

- (1) This Regulation (except section 3) comes into operation on 8 July 2011.
- (2) Section 3 comes into operation on 25 September 2011.

2. Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation amended

The Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541 sub. leg. I) is amended as set out in sections 3 to 24.

3. Section 13 amended (Returning Officer to decide whether candidates are validly nominated)

- (1) Section 13(2)—

Repeal

“section 8 and sections 17, 18 and 18A of the Schedule to the Chief Executive Election Ordinance (Cap. 569)”

Substitute

“sections 17, 18, 18A, 18B and 18C of the Schedule to the Chief Executive Election Ordinance (Cap. 569) and section 8”.

- (2) Section 13(3)—

Repeal

“and 18A”

Substitute

“, 18A, 18B and 18C”.

4. Section 20 amended (Returning Officer to notify or declare if validly nominated candidate has died)

(1) Section 20, heading—

Repeal

“or”

Substitute

“and”.

(2) Section 20(2)(b)—

Repeal

everything after “prominent”

Substitute

“place—

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

5. Section 21 amended (Returning Officer to notify or declare if validly nominated candidate is disqualified)

(1) Section 21, heading—

Repeal

“or”

Substitute

“and”.

(2) Section 21(2)(b)—

Repeal

everything after “prominent”

Substitute

“place—

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

6. Section 25 amended (Authorization of election expense agent to incur election expenses at or in connection with subsector election)

(1) Section 25(6)—

Repeal

everything after “copy of the authorization”

Substitute

“may be effected by delivery by hand, by post or by facsimile transmission.”.

(2) Section 25(8)—

Repeal

everything after “revoked,”

Substitute

“a written notice of the revocation must be served as soon as possible—

- (a) on the Returning Officer; or
- (b) if the Returning Officer has not been appointed, on the Chief Electoral Officer.”.

(3) After section 25(9)—

Add

“(9A) Service of the notice of revocation may be effected by delivery by hand, by post or by facsimile transmission.”.

(4) Section 25(10)—

Repeal

“the relevant Officer receives the notice of revocation”

Substitute

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

7. Section 30 amended (Chief Electoral Officer may arrange for voting for subsectors to take place at polling station and to allocate polling stations to voters and authorized representatives)

Section 30—

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 34 heading amended

Section 34, English text, heading—

Repeal

“Presiding Officers”

Substitute

“Presiding Officer”.

9. Section 38 amended (Chief Electoral Officer to supply list of polling officers to assist Presiding Officer)

Section 38(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 40 amended (Returning Officer to determine no canvassing zones and no staying zones)

(1) Section 40—

Repeal subsection (8A).

(2) After section 40(9)—

Add

“(9A) A Returning Officer may perform any act which the Officer is required or authorized to perform under subsections (7), (8) and (9) through a Presiding Officer.”.

(3) Section 40(14)(b), before “use”—

Add

“subject to subsection (14A),”.

(4) After section 40(14)—

Add

“(14A) 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 41 amended (Presiding Officer to keep order in no canvassing zone and no staying zone)

(1) Section 41(1)(b), before “use”—

Add

“subject to subsection (1A),”.

- (2) After section 41(1)—

Add

“(1A) 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 42 amended (Candidates may appoint polling agents)

- (1) Section 42(11)—

Repeal

everything after “Chief Electoral Officer.”.

- (2) After section 42(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 Chief Electoral Officer.”.

13. Section 44 amended (Who may enter or be present at polling station)

Section 44(4)(i), Chinese text—

Repeal

“當值”

Substitute

“執勤”.

14. Section 45 amended (What constitutes offence at polling station)

Section 45(6)(h), (i), (j) and (k), Chinese text—

Repeal

“當值”

Substitute

“執勤”.

15. Section 52 amended (Candidate or election agent may challenge person who has applied for ballot paper or who has voted)

(1) Section 52, heading, after “election agent”—

Add

“or polling agent”.

(2) Section 52(3), after “arrested”(wherever appearing)—

Add

“or removed”.

(3) Section 52(3)—

Repeal

“or the arrest”

Substitute

“, arrest or removal”.

16. Section 54 amended (Procedure for voting)

Section 54(3)—

Repeal

everything after “anything”

Substitute

“into the ballot box other than a marked ballot paper or an envelope referred to in subsection (1B).”.

17. Section 56 amended (How ballot papers are to be marked)

Section 56(1), Chinese text—

Repeal

everything after “代表，”

Substitute

“須藉以下方式填劃選票：在該選票上，將其選取的候選人的姓名旁邊的橢圓形圈內的範圍用筆填滿。”.

18. Section 66 amended (Who may be present at counting of votes)

(1) Section 66(1)(f), Chinese text—

Repeal

“當值”

Substitute

“執勤”.

(2) Section 66(1)(g), Chinese text—

Repeal

“當值”

Substitute

“執勤”.

(3) Section 66(5)—

Repeal

“document”

Substitute

“card”.

19. Section 77 amended (Ballot papers the votes recorded on which are not to be counted)

(1) Section 77, heading—

Repeal

“Ballot papers the votes recorded on which are not to be counted”

Substitute

“Votes recorded on invalid ballot papers not to be counted”.

(2) Section 77(1)—

Repeal

“Upon counting of”

Substitute

“When counting”.

(3) Section 77(1)(c)—

Repeal

“thereon”

Substitute

“on the front of it”.

20. Section 81 amended (Form in which Returning Officer is to publish result of subsector election)

(1) After section 81(1)—

Add

“(1A) The notice to be published under sections 2A(9)(a) and 35(1) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) for a subsector election is to be in Form 4 in Schedule 2.”.

(2) Section 81(2)—

Repeal

“subsection (1) must be published in the Gazette, within 7 days after the date”

Substitute

“subsections (1) and (1A) must be published in the Gazette within 7 days after the date on which”.

21. Section 92 amended (Electoral officers, candidates and agents to make declaration of secrecy)

Section 92(5), Chinese text—

Repeal

“當值”

Substitute

“執勤”.

22. Section 96A added

After section 96—

Add

“96A. 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).”.

23. Section 100 amended (Election advertisements)

(1) After section 100(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 100(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 100—

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 100—

Repeal subsection (9)

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.”.

24. Schedule 2 amended (Form of ballot paper and form of notice of result of subsector election under section 35 of Schedule to Chief Executive Election Ordinance (Cap. 569))

(1) Schedule 2, heading—

Repeal

“SCHEDULE 2

[ss. 49 & 81]

FORM OF BALLOT PAPER AND FORM OF NOTICE OF
RESULT OF SUBSECTOR ELECTION UNDER
SECTION 35 OF SCHEDULE TO CHIEF EXECUTIVE
ELECTION ORDINANCE (CAP. 569)”

Substitute

“Schedule 2

[ss. 49 & 81]

**Form of Ballot Paper and Form of Notice of
Result of Subsector Election”.**

(2) Schedule 2, after Form 3—

Add

“Form 4

**Notice of Result of Subsector Election (For Persons to whom
Section 2A(8) of the Schedule to the Chief Executive
Election Ordinance (Cap. 569) Applies)**

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

B2949

Section 24

L.N. 75 of 2011

《選舉管理委員會(選舉程序)(選舉委員會)規例》
ELECTORAL AFFAIRS COMMISSION
(ELECTORAL PROCEDURE) (ELECTION COMMITTEE) REGULATION

界別分組選舉結果公告(就《行政長官選舉條例》(第 569 章)的附表
第 2A(8) 條適用的人士)

**NOTICE OF RESULT OF SUBSECTOR ELECTION (FOR PERSONS TO
WHOM SECTION 2A(8) OF THE SCHEDULE TO THE CHIEF
EXECUTIVE ELECTION ORDINANCE (CAP. 569) APPLIES)**

選舉委員會界別分組一般選舉
*(界別分組名稱)

ELECTION COMMITTEE SUBSECTOR ORDINARY ELECTION
*(Name of subsector)

根據《行政長官選舉條例》(第 569 章)的附表第 2A 條，現公布：以下候選人 *依
據以抽籤方式決定的選舉結果，於*(年 月 日)舉行的上述界別分組選舉中
當作為妥為選出的委員—

It is notified that in accordance with section 2A of the Schedule to the Chief
Executive Election Ordinance (Cap. 569), the following candidate(s) *is/are deemed
to be duly elected as member(s) for the above-mentioned subsector election held on
*(date) *pursuant to a result determined by drawing lots –

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

日期： _____

Date: _____

上述 *界別分組的選舉主任
Returning Officer
for the above-mentioned *subsector

* Only the appropriate information will be printed.”.

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

B2951

L.N. 75 of 2011

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

Explanatory Note

This Regulation amends the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541 sub. leg. I) (*principal Regulation*). The main purposes of the amendments are to align the provisions for the Election Committee subsector election, if appropriate, with those for other elections and to improve certain arrangements; to refine the voting arrangements for electors in custody; to introduce amendments consequential upon amendments made under the Chief Executive Election (Amendment) Ordinance 2011 (1 of 2011); and to provide for several technical and textual amendments.

2. Section 1 provides for commencement.
3. Sections 18B and 18C of the Schedule to the Chief Executive Election Ordinance (Cap. 569) (*Ordinance*) provide for nomination for the District Councils subsectors elections. Section 3 adds the references to sections 18B and 18C of the Schedule to the Ordinance to section 13 of the principal Regulation.
4. Sections 4 and 5 respectively amend sections 20 and 21 of the principal Regulation to empower the Returning Officer to display certain notices inside a dedicated polling station.
5. Section 6 amends section 25 of the principal Regulation to provide for the mode of service of the copy of the authorization and the notice of revocation of authorization of an election expense agent.

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

B2955

Explanatory Note

Paragraph 6

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6. Section 7 amends section 30 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 34 of the principal Regulation.
8. Section 9 amends section 38(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 40 and 41 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. Section 10 also introduces certain technical amendments to section 40 of the principal Regulation.
10. Section 12 amends section 42 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 Chief Electoral Officer if the relevant polling station is a dedicated polling station situated in a prison.
11. Sections 13 and 14 substitute “執勤” for “當值” in the Chinese text of sections 44(4)(i) and 45(6)(h), (i), (j) and (k) of the principal Regulation to align the terminologies used in the Chinese text of legislation for various elections.

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

B2957

Explanatory Note

Paragraph 12

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12. Section 52(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 15 introduces a consequential amendment to section 52(3) of the principal Regulation.
13. Section 16 amends section 54(3) of the principal Regulation to align the provision for the Election Committee subsector election with a similar provision for the District Council election.
14. Section 17 introduces certain textual amendments to the Chinese text of section 56(1) of the principal Regulation.
15. Section 18 substitutes “執勤” for “當值” in the Chinese text of section 66(1)(f) and (g) of the principal Regulation and substitutes “identity card” for “identity document” to align the terminologies used in the legislation for various elections.
16. Section 19 introduces certain textual amendments to section 77 of the principal Regulation.
17. Section 20 adds a new subsection (1A) to section 81 of the principal Regulation to provide that the notice to be published under sections 2A(9)(a) and 35(1) of the Schedule to the Ordinance is to be in Form 4 in Schedule 2 to the principal Regulation.
18. Section 21 substitutes “執勤” for “當值” in the Chinese text of section 92(5) of the principal Regulation to align the terminologies used in the Chinese text of the legislation for various elections.

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

B2959

Explanatory Note

Paragraph 19

L.N. 75 of 2011

19. Section 22 adds a new section 96A 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 23 amends section 100 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 23 further clarifies that the requirement of depositing the relevant permission or authorization applies only in respect of 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 provision further clarifies that the requirement of depositing the relevant consent applies only in respect of 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).
21. Section 24 amends Schedule 2 to the principal Regulation by prescribing the form of notice of result of subsector election (for persons to whom section 2A(8) of the Schedule to the Ordinance applies).