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

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## **Electoral Procedure (Chief Executive Election) (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 sections 3, 4, 5, 13, 14 and 15) comes into operation on 8 July 2011.
- (2) Sections 3, 4, 5, 13, 14 and 15 come into operation on 1 February 2012.

### **2. Electoral Procedure (Chief Executive Election) Regulation amended**

The Electoral Procedure (Chief Executive Election) Regulation (Cap. 541 sub. leg. J) is amended as set out in sections 3 to 18.

### **3. Section 8 amended (Nomination forms to be available for inspection)**

Section 8(1)—

**Repeal**

“or (1)”

**Substitute**

“, (1AB)(e), (1) or (3)(e)”.

### **4. Section 11 amended (Notice of termination of election proceedings)**

Section 11(1)—

**Repeal**

“or (1)”

**Substitute**

“, (1) or (3)(e)”.

**5. Section 17 amended (Appointment of polling hours)**

Section 17(3)(a), after “returned”—

**Add**

“or until the election proceedings are terminated under section 22(3)(e) of the Election Ordinance”.

**6. Section 18A amended (Allocation of polling stations to electors in custody)**

Section 18A—

**Repeal subsections (3) and (4)**

**Substitute**

“(3) 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.

- (4) 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.”.

**7. Section 20 amended (Appointment of Presiding Officers and polling officers)**

- (1) Section 20, English text, heading—

**Repeal**

“**Presiding Officers**”

**Substitute**

“**Presiding Officer**”.

- (2) Section 20(3)—

**Repeal**

everything after “prominent”

**Substitute**

“place—

- (a) (if the polling station is not a dedicated polling station) immediately outside the polling station;  
or
- (b) (if the polling station is a dedicated polling station) inside the polling station.”.

**8. Section 24 amended (Order in no canvassing zone and no staying zone)**

(1) Section 24(2)(b), before “use”—

**Add**

“subject to subsection (3A),”.

(2) After section 24(3)—

**Add**

“(3A) 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.”.

**9. Section 25 amended (Polling agents)**

(1) Section 25(6), after “a polling station”—

**Add**

“(other than a dedicated polling station situated in a prison)”.

(2) After section 25(6)—

**Add**

“(6A) The appointment of a polling agent for a dedicated polling station situated in a prison may be revoked by giving a notice of revocation to the Chief Electoral Officer.”.

**10. Section 26 amended (Admission to polling station)**

(1) Section 26(1)—

**Repeal**

“subsection (1A)”

**Substitute**

“subsections (1A) and (1B)”.

- (2) After section 26(1B)(a)—

**Add**

“(aa) a candidate may be present in the polling station subject to the availability of any seat in the area designated for accommodating the candidate;”.

- (3) Section 26(2)(a), Chinese text, before “投票站”—

**Add**

“主”.

**11. Section 33 amended (Challenging a person who has applied for a ballot paper or who has voted)**

- (1) Section 33(4), after “arrested” (wherever appearing)—

**Add**

“or removed”.

- (2) Section 33(4)—

**Repeal**

“or arrest”

**Substitute**

“, arrest or removal”.

**12. Section 47 amended (Order in the counting station)**

- (1) Section 47(2)—

**Repeal**

“No person shall”

**Substitute**

“A person must not during the relevant period”.

(2) After section 47(2)—

**Add**

“(2A) In subsection (2)—

*relevant period* (有關期間), in relation to a counting zone, means the period commencing at the time, determined under section 43, 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.”.

**13. Section 54 amended (Notice of further round of voting)**

(1) Section 54—

**Renumber subsection (1) as subsection (1A).**

(2) Before section 54(1A)—

**Add**

“(1) This section applies to an election in which—

(a) there are 3 or more candidates; and

(b) after the completion of the counting of the votes cast—

(i) no candidate obtains more than 600 votes; and

(ii) 2 or more candidates remain after the elimination of all other candidates under section 27(3)(c) or (4)(c) of the Election Ordinance.”.

(3) Section 54(1A)—

**Repeal**

“If, after the completion of the counting of the votes cast in a contested election, no candidate obtains more than half of the total number of valid votes cast, the Returning Officer shall”



**Substitute**

“If subsection (1) applies, the Returning Officer must”.

(4) Section 54(2)—

**Repeal**

“(1) shall”

**Substitute**

“(1A) must”.

**14. Section 56 amended (Ballot papers to be sealed)**

Section 56(1), after “section 22(1AB)(e)” —

**Add**

“or (3)(e)”.

**15. Section 60 amended (Procedure after termination of election proceedings)**

(1) Section 60(1)—

**Repeal**

“or (1)”

**Substitute**

“, (1) or (3)(e)”.

(2) Section 60(2A), after “section 22(1AB)(e)” —

**Add**

“or (3)(e)”.

**16. Section 72 amended (Manner of giving notice)**

Section 72(1)(i), after “25(6)” —

**Add**

“or (6A)”.

**17. Section 72A added**

After section 72—

**Add**

**“72A. 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 election must be in the specified form (if any).”.

**18. Section 81 amended (Election advertisement)**

(1) Section 81(1)(a), after the semicolon—

**Add**

“and”.

(2) Section 81(1)(b)—

**Repeal the semicolon**

**Substitute a full stop.**

(3) Section 81(1)—

**Repeal paragraphs (c) and (d).**

(4) After section 81(1)—

**Add**

“(1A) Despite sections 2 and 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 (1E)(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.

(1B) A declaration required under subsection (1)(b) must be submitted to the Returning Officer before the candidate displays, distributes or otherwise uses an election advertisement.

(1C) If it is not practicable for a candidate to comply with subsection (1B) 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 (1A) within the time specified by the Commission.

(1D) 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 (1E), 2 copies of any other election advertisement before displaying, distributing or otherwise using it.

- (1E) 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.
- (1F) If an election advertisement is recorded on a videotape or an audio tape or disc, the candidate must, for the purposes of subsection (1D), furnish to the Returning Officer 2 copies of the tape or disc.
- (1G) 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.
- (1H) 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.”.

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 Procedure (Chief Executive Election) Regulation (Cap. 541 sub. leg. J) (*principal Regulation*). The main purposes of the amendments are to align the provisions for the Chief Executive 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. Section 22(1AB)(e) and (3)(e) of the Chief Executive Election Ordinance (Cap. 569) (*Ordinance*) provides for the termination of election proceedings. Section 3 adds the references to section 22(1AB)(e) and (3)(e) of the Ordinance to section 8(1) of the principal Regulation.
4. Section 22(3)(e) of the Ordinance provides for the termination of election proceedings. Section 4 adds the reference to section 22(3)(e) of the Ordinance to section 11(1) of the principal Regulation.
5. Section 5 amends section 17(3)(a) of the principal Regulation to provide that the fourth or any subsequent round of voting must be conducted day after day until a candidate is returned or until the election proceedings are terminated under section 22(3)(e) of the Ordinance.
6. Section 6 amends section 18A 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 7(1) introduces a textual amendment to the English text of the heading of section 20 of the principal Regulation. Section 7(2) amends section 20(3) of the principal Regulation to empower the Presiding Officer to display the list of polling officers inside a dedicated polling station.
8. Section 8 amends section 24 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.
9. Section 9 amends section 25 of the principal Regulation to provide that the appointment of a polling agent for a dedicated polling station situated in a prison may be revoked by giving a notice of revocation to the Chief Electoral Officer.
10. Section 10 introduces certain technical and textual amendments to section 26 of the principal Regulation.
11. Section 33(3A) 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 11 introduces a consequential amendment to section 33(4) of the principal Regulation.
12. Section 12 amends section 47 of the principal Regulation to align the provision for the Chief Executive election with a similar provision for the Legislative Council election.
13. Section 27 of the Ordinance provides that further round of voting is to apply to a contested election with 3 or more candidates when none of them obtains more than 600 votes. If there are only 2 candidates in the election, a single round of voting is to be conducted. Section 13 amends section 54 of the principal Regulation to reflect the new arrangement.

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14. Section 22(3)(e) of the Ordinance provides for the termination of election proceedings. Sections 14 and 15 add the reference to section 22(3)(e) of the Ordinance to sections 56 and 60 of the principal Regulation.
15. Section 16 introduces a technical amendment to section 72(1)(i) of the principal Regulation.
16. Section 17 adds a new section 72A 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).
17. Section 18(4) amends section 81 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 18(4) further amends section 81 of the principal Regulation to align the provisions with those for other elections.