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Electoral Procedure (Village Representative Election) (Amendment) Regulation 2011

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Electoral Procedure (Village Representative Election) (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 Procedure (Village Representative Election) Regulation amended

The Electoral Procedure (Village Representative Election) Regulation (Cap. 541 sub. leg. L) is amended as set out in sections 3 to 13.

3. Section 2 amended (Interpretation)

Section 2(1), definition of *verification statement*—

Repeal

“60A(c)”

Substitute

“60A(d)”.

4. Section 17 amended (Returning Officer to notify and declare if a validly nominated candidate is known before date of election to have died)

Section 17(2)(b)—

Repeal

everything after “prominent”

Substitute

“place—

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

5. Section 18 amended (Returning Officer to notify and declare if a validly nominated candidate is known before date of election to be disqualified)

Section 18(2)(b)—

Repeal

everything after “prominent”

Substitute

“place—

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

6. Section 20 amended (Returning Officer to declare termination of election proceedings and procedure after termination)

After section 20(2)—

Add

“(2A) If a notice is displayed under subsection (1), the Commissioner of Correctional Services or the head of a law enforcement agency must, as soon as practicable, inform all electors in custody detained by him or her who have not yet voted in the poll of the declaration.”.

7. Section 28A amended (Allocation of polling stations to electors in custody)

Section 28A—

Repeal subsections (2) and (3)

Substitute

- “(2) To enable the Director of Home Affairs to perform his or her functions under this section in relation to electors, the Commissioner of Correctional Services must, upon a request by the Director of Home Affairs, 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;
 - (e) the date of birth of the person.
- (3) To enable the Director of Home Affairs 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 Director of Home Affairs, 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;
- (d) the date of birth of the person.”.

8. Section 31 amended (Appointment of Presiding Officer and polling officers)

Section 31(5)—

Repeal

everything after “for the polling”

Substitute

“station in—

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

9. Section 35 amended (Order at no canvassing zone and no staying zone)

(1) Section 35(2)(b), before “use”—

Add

“subject to subsection (2A),”.

(2) After section 35(2)—

Add

“(2A) 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.”.

10. Section 37 amended (Admission to polling station)

(1) Section 37(1)(j)—

Repeal

“(6A),”.

(2) Section 37(1)(k)—

Repeal

“(6A),”.

(3) Section 37—

Repeal subsection (6A).

11. Section 44 amended (Challenging a person who has applied for a ballot paper or who has voted)

(1) Section 44(4), after “arrested” (wherever appearing)—

Add

“or removed”.

(2) Section 44(4)—

Repeal

“or arrest”

Substitute

“, arrest or removal”.

12. Section 54 amended (Ballot paper account)

(1) Section 54(1), after “Presiding Officer”—

Add

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

(2) After section 54(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 Village 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 Village supplied to the Presiding Officer under section 33(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.”.

13. Section 60A amended (Arrangements for sorting in ballot paper sorting stations)

Section 60A—

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

Substitute

- “(a) sort the envelopes in each ballot box according to each Village;

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- (b) count and record the number of envelopes for each Village;
- (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 for each Village 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 Returning Officers of the respective counting stations of the relevant Villages; and
- (i) send to the Director of Home Affairs the ballot paper accounts, verification of the ballot paper accounts and the sealed packets made up under section 53.”.

Made this 9th day of May 2011.

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

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B3011

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Lawrence LOK Ying-kam
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Electoral Affairs Commission

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Member,
Electoral Affairs Commission

Explanatory Note

This Regulation amends the Electoral Procedure (Village Representative Election) Regulation (Cap. 541 sub. leg. L) (*principal Regulation*). The main purpose of the amendments is to refine the voting arrangements for electors in custody.

2. Section 1 provides for commencement.
3. Section 3 introduces a consequential amendment to the definition of *verification statement* in section 2(1) of the principal Regulation.
4. Sections 4 and 5 respectively amend sections 17(2)(b) and 18(2)(b) of the principal Regulation to empower the Returning Officer to display certain notices inside a dedicated polling station.
5. Section 6 amends section 20 of the principal Regulation to align the provision for the Village Representative election with a similar provision for the District Council election.
6. Section 7 amends section 28A(2) and (3) of the principal Regulation to require the Commissioner of Correctional Services to, on request by the Director of Home Affairs, provide the prisoner registration number of a person detained by the Correctional Services Department.
7. Section 8 amends section 31(5) of the principal Regulation to empower the Presiding Officer to display the list of polling officers inside a dedicated polling station.
8. Section 9 amends section 35 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.

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Explanatory Note

Paragraph 9

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9. Section 10 introduces a technical amendment to section 37 of the principal Regulation.
10. Section 44(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 44(4) of the principal Regulation.
11. Section 12 amends section 54 of the principal Regulation to provide for the preparation of a ballot paper account by the Presiding Officer of a dedicated polling station.
12. Section 13 amends section 60A of the principal Regulation to refine the arrangements for sorting ballot papers in ballot paper sorting stations.