

**Bills Committee on
Electoral Legislation (Miscellaneous Amendments) Bill 2012**

**Follow up on the issues raised at the meetings held on
19 and 29 March 2012**

To address the questions raised by Members at the meetings held on 19 and 29 March 2012, this paper provides supplementary information concerning the display of election advertisement (“EA”) in private premises/shops, court relief on the permission and consent of support in relation to EAs, the uploading of EA particulars/submissions, the setting up of candidates’ platforms, and the sorting and counting of ballot papers in respect of the 2012 Legislative Council (“LegCo”) election.

Display of EA in private premises/shops

2. Display of bills and posters is regulated by the Public Health and Municipal Services Ordinance (“PHMSO”), which stipulates that no bill or poster can be displayed or affixed in public or private places except with written permission. In this regard, the display and exhibition of EAs by any candidate should comply with the requirement to have written permission. The existing provisions under the electoral law serve only to reflect such requirement by requiring a candidate to provide the Returning Officer with a copy of any such written permission obtained for the display or exhibition of an EA. Having regard to Members’ concern on whether the existing procedural requirement for seeking written permission can be simplified, the Registration and Electoral Office (“REO”) has forwarded Members’ suggestion to the Food and Environmental Hygiene Department for consideration.

Court Relief on permission and consent of support

3. If a candidate fails to seek permission from the concerned owners or occupiers of the private premises or shops before they display or affix EAs in their places, he will commit an offence under the PHMSO. As mentioned in paragraph 2 above, the existing provisions of electoral law only require the candidates to provide a copy of the permission with the Returning Officer. Under the proposed arrangements on the regulation of EAs, apart from providing a copy of the permission with the Returning Officer, a candidate can post the permission onto the central platform to be maintained by the REO or his own election platform for

public inspection. If a candidate fails to meet such requirements, he will commit an offence under the relevant Electoral Affairs Commission regulations (“EAC regulations”).

4. To prevent false claims of support in EAs, section 27 of the Elections (Corrupt and Illegal Conduct) Ordinance (“ECICO”) makes it an offence if a candidate uses the name, logo or pictorial representation of a person or organization in his EAs as an indication of support from such person or organization, unless the candidate has obtained the prior written consent from such person or organization. Similar to the arrangements mentioned in paragraphs 2 and 3 above, the existing provisions of the relevant EAC regulations only require the candidates to provide a copy of the written consent with the Returning Officer. To provide for more flexibility, the proposed arrangements allow a candidate to post the consent onto the central platform or his own election platform for public inspection. If a candidate fails to comply with the requirements of posting the consent onto the platforms or providing a copy with the Returning Officer, the candidate will commit an offence under the relevant EAC regulations.

5. Under the existing ordinances, there is no arrangement for a candidate to apply for relief from the Court if he fails to comply with the requirements of obtaining the permission under the PHMSO or the consent under the ECICO. Moreover, under the existing arrangement, there are no provisions in the EAC regulations for a candidate to apply for Court relief if he fails to provide a copy of the permission or consent (if applicable) with the Returning Officer. As such, we propose to follow the existing arrangement under which a person is not entitled to apply for Court relief in relation to the permission and consent mentioned above.

Uploading of EA and setting up of candidates’ platform

6. REO will set up a service hotline to provide technical support and advice to candidates starting from 1 June 2012 to facilitate them to upload EA particulars/submissions to the central platform. As regards the candidates’ platform, the requirements to be laid down by the REO will only spell out the basic content format for displaying the required EA particulars and the sole purpose is to facilitate public inspection. Candidates will enjoy a large degree of freedom and creativity to develop and design their platforms. We plan to launch a trial run of the new system in May 2012 and will invite LegCo Members to participate and provide feedbacks. Details of the trial will be provided to Members in due course.

Sorting and counting arrangement of ballot papers of 2012 LegCo election

7. Under section 75(4A) of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D), the Presiding Officer of a main counting station for a LegCo election must mix the ballot paper of the polling station designated as the main counting station together with the ballot papers that have been delivered to the main counting station from small polling stations, ballot paper sorting stations or dedicated polling stations before counting the votes at the main counting station. A similar provision is stipulated in section 76 of the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap. 541F) for District Council (“DC”) election. This may lead to delay in the commencement of the counting process due to the time spent in waiting for the arrival of the ballot papers from the small polling stations, ballot paper sorting stations or dedicated polling stations. In response to Members’ request to speed up the sorting and counting process while ensuring the secrecy of votes, we have proposed to amend the relevant sections of the above regulations by means of Committee Stage Amendments (“CSAs”) to the effect that the ballot papers in at least one of the ballot boxes of the main counting station must be mixed with the ballot papers from the small polling station or the ballot paper sorting station or the dedicated polling station. As a result, the counting of votes on the ballot papers in the remaining ballot boxes of the main counting station could commence before the arrival of the ballots papers from a small polling station, ballot paper sorting station or dedicated polling station. However, if there is only one ballot box containing ballot papers in the main counting station, the mixing will continue to be done before the counting of votes.

8. According to existing legislation, the in-situ counting of Geographical Constituency (“GC”) ballot papers at individual polling stations will commence without first ascertaining or verifying the number of misplaced GC ballot papers uncovered from the ballot boxes of Functional Constituencies (“FC”) including the DC (second) FC at the central counting station. In this regard, the Presiding Officer can proceed with the counting of GC ballot papers even if the number of GC ballot papers cast in the GC ballot boxes does not tally with the number of ballot papers issued for that GC. If there are any misplaced GC ballot papers found in the FC ballot boxes, they will be delivered to the Returning Officer of the respective GC at the central counting station and the count of these misplaced GC ballot papers will be conducted at the central counting station under the supervision of the Returning Officer.

9. In view of the large number of ballot papers involved in the 2012 LegCo election, the Administration will continue to explore measures to simplify and streamline the sorting and counting process, so that the results of the election can be announced as early as possible.

**Constitutional and Mainland Affairs Bureau
Registration and Electoral Office
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