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DISTRICT COUNCILS BILL

COMMITTEE STAGE

Amendments to be moved by the Secretary for Constitutional Affairs

Clause

Amendment Proposed

- 2 In the definition of “prescribed public officer” by adding -
- “(ea) the Privacy Commissioner for Personal Data and any person employed or engaged by the Commissioner under the Personal Data (Privacy) Ordinance (Cap. 486); or
 - (eb) the Chairperson of the Equal Opportunities Commission and any person employed or whose service is engaged by the Commission under the Sex Discrimination Ordinance (Cap. 480); or”.
- 32(1) (a) In paragraph (b) by deleting “37” and substituting “38A(1)”.
- (b) In paragraph (c) -
- (i) by deleting “無法進行” and substituting “[未能完成] ” :

(ii) by deleting the full stop and substituting“; and”.

(c) By adding -

“(d) on the making of a declaration under section 38A(3) that an election for a constituency has failed because of the death or disqualification of the successful candidate at the election.”.

New

By adding -

“34A. Who are validly nominated candidates

(1) The Returning Officer must, as soon as practicable after receiving a nomination form that complies with regulations in force under the Electoral Affairs Commission Ordinance (Cap. 541), decide in accordance with those regulations whether or not a person is validly nominated as a candidate.

(2) If, after the Returning Officer has made a decision under subsection (1) that a candidate is validly nominated for election for a constituency but before the date specified for holding the election, it comes to the knowledge of the Returning Officer that the candidate has died, that Officer must, in accordance with regulations in force under the Electoral Affairs

Commission Ordinance (Cap. 541) -

(a) publicly declare that the candidate has died; and

(b) further declare which candidate is or candidates are validly nominated for election for that constituency.

(3) Subsection (2) does not apply if the Returning Officer has publicly declared under section 38(1) that the candidate was duly elected as an elected member.

(4) If, after the Returning Officer has made a decision under subsection (1) that a candidate is validly nominated for election for a constituency but before the date specified for holding the election, it comes to the knowledge of the Returning Officer that the candidate is disqualified from being nominated as a candidate, the Returning Officer must, in accordance with regulations in force under the Electoral Affairs Commission Ordinance (Cap. 541), vary the decision to the effect that the candidate is not validly nominated and, if the Returning Officer so varies the decision, that Officer must, in accordance with those regulations -

(a) publicly declare that the decision has been varied; and

(b) further declare which candidate is or candidates are validly nominated for election for that constituency.

(5) Despite subsection (4), the Returning Officer may not vary a decision on the validity of nomination of a candidate if that Officer has, under section 38(1), publicly declared that candidate to be duly elected as an elected member.”.

37 By deleting the clause.

38(2) By deleting “無法進行” and substituting “〔未能完成〕”.

New By adding -

“38A. When election proceedings are terminated or when an election fails

(1) If, on the day specified for the holding of an election but before the close of polling for the election, it comes to the knowledge of the Returning Officer that a validly nominated candidate for election for a constituency has died or is disqualified from being elected, that Officer must, in accordance with regulations in force under the Electoral Affairs Commission Ordinance (Cap. 541), publicly declare that the proceedings for the election for the constituency

are terminated.

(2) If, after the close of polling for an election but before declaring the result of the election, it comes to the knowledge of the Returning Officer that a candidate for election for a constituency has died or is disqualified from being elected, the proceedings for the election for the constituency are not to be terminated at that stage and, where the counting of votes in respect of the election has not commenced or is being conducted, the counting of votes is to commence or to continue, as the case may be, as if the death or disqualification had not occurred.

(3) If, after the counting of votes is finished, the candidate referred to in subsection (2) is found to be successful at the election, the Returning Officer must, in accordance with regulations in force under the Electoral Affairs Commission Ordinance (Cap. 541), publicly declare the election to have failed.”.

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By adding -

“(5) Despite subsection (4), if, before declaring the result of an election for a constituency, it comes to the knowledge of the Returning Officer that the candidate who was

successful at the election has died or is disqualified from being elected, that Officer -

(a) must not declare that candidate as elected; and

(b) must publicly declare, under

section 38A(3), that the election has failed.”.

65(2) By deleting “member” and substituting “person”.

68 In the heading by adding “**of a District Council**” after “**Quorum**”.

70 (a) In the heading by adding “**or a committee**” after “**Council**”.

(b) By adding -

“(2A) The validity of proceedings of a committee are not affected by a defect in the appointment of or eligibility of a person to be a member of the committee.”.

77 In the heading by deleting “**members**” and substituting “**persons**”.

83(1) By deleting “in relation to the performance of its functions” and substituting “, in the performance of

its functions, in relation to matters which appear to the Chief Executive to affect the public interest”.

Schedule 6 By adding under the heading “**Electoral Affairs Commission Ordinance**”. -

“17A. Long title amended

In the long title to the Electoral Affairs Commission Ordinance (Cap. 541) is amended by adding “and District Council constituencies” after “constituencies”.

Schedule 6, By deleting “of the Electoral Affairs Commission Ordinance section 18 (129 of 1997)”.

Schedule 6 By adding -

“19A. Functions of Commission

Section 4(a) is amended by adding “or District Council constituencies, as the case may be,” after “constituencies”.

Schedule 6, (a) By adding - section 24

“(aa) in subsection (2)(a) by adding “or District Council constituency, as the case may be” after “constituency”;

(b) by deleting paragraph (b) and substituting -

“(b) by repealing subsection (3)(b) and substituting -

“(b) in respect of -

- (i) the first ordinary election to be held under the District Councils Ordinance (of 1998), not later than 31 May 1999; and
- (ii) subsequent ordinary elections, at intervals of not more than 36 months from the preceding ordinary election.”;”.

Schedule 6, By adding -
section 26

“(ee) in subsection (6)(b) by repealing “or the geographical constituency” and substituting “, the geographical constituency or the District Council constituency”;”.