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**Paper for the House Committee meeting  
on 31 March 2000**

**Fifth and final report of the Subcommittee on  
subsidiary legislation relating to 2000 Legislative Council election**

**Purpose**

This paper reports on the deliberations of the Subcommittee on the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2000 (the Amendment Regulation).

**Background**

2. Having regard to the enactment of the LegCo (Amendment) Ordinance 1999 and the Elections (Corrupt and Illegal Conduct) Ordinance as well as the Electoral Affairs Commission (EAC)'s recommendations on measures for improvement of electoral arrangements in light of the experience from the 1998 LegCo election and 1999 District Councils election, amendments to the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation are necessary.

**The Amendment Regulation**

3. The Amendment Regulation was tabled in the Council on 29 March 2000. The deadline for amendments to be made to the Regulation is 12 April 2000 or 3 May 2000 if extended by a resolution. The Amendment Regulation will come into operation on 5 May 2000.

**Deliberations of the Subcommittee**

4. Under the chairmanship of Hon Ronald ARCULLI, the Subcommittee has held two meetings with the Administration to discuss the Amendment Regulation. The main deliberations of the Subcommittee are summarized below.

### Termination of election proceedings

5. In the past, if a validly nominated candidate for a constituency or the Election Committee (EC) election was dead or became disqualified after the close of nomination, the relevant election proceedings had to be terminated. The Returning Officer had no statutory power to overturn his earlier decision of validating the candidate's nomination. In order to minimize the risk of disruption to the electoral process, the LegCo (Amendment) Ordinance 1999 enacted in 1999 empowers the Returning Officer to revise the list of validly nominated candidates of Geographical Constituency (GC) or EC and allow the relevant election proceedings to continue.

6. Members note that new sections 22A-C and 97A are added to the Regulation and existing section 97 of the Regulation are amended to provide for the procedures in case of death or disqualification of a validly nominated candidate that comes to the knowledge of the Returning Officer before the date of election, on the date of election but before the close of polling, and after the close of polling but before the declaration of election results.

### Marking of ballot papers (sections 37, 55 -58 of the Regulation)

7. Members note that the following arrangements in respect of marking of ballot papers for the 2000 LegCo election -

- (a) GC and ordinary Functional Constituency (FC) ballot papers - an elector must mark the ballot paper with the chop with a tick "✓". The chop is to be affixed to give a single "✓" in the circle opposite the list of candidates/candidate of the elector's choice;
- (b) Special FC ballot papers (i.e. the Heung Yee Kuk, Agriculture and Fisheries, Insurance and Transport FCs) - an elector must mark the ballot paper to indicate a first preference vote by entering the "1" (Arabic numeral) against the name of a candidate on the ballot paper and mark, in the same manner, the other preferences in the descending order beginning with "2"; and
- (c) EC ballot papers - an elector must mark the ballot paper by shading the space provided for that purpose on the ballot paper against the name of each candidate.

8. As marking of the ballot paper not using the chop provided will not be accepted in GC and ordinary FC elections, some members have expressed concern about the rigidity of the proposal and whether it would increase the number of questionable ballot papers. According to the Administration, given that the chop with a tick was well received in the 1999 District Councils election, the EAC has decided that it should continue to be used in GC and ordinary FC elections. The Administration has

also advised that the number of questionable ballot papers ruled by Returning Officers as void for uncertainty in the 1999 District Councils election is reduced by about 50%, as compared to the 1994 District Board elections. These questionable ballot papers were marked with a tick by applying the chop, but without a clear indication of the choice of candidates.

9. The new section 37(6) requires the Chief Electoral Officer (CEO) to provide, among others, the necessary number of chops at such polling station to enable electors to mark their ballot papers. In response to members' question as to whether the drafting of the section is so tight that no election will be held in the event that the chops cannot be provided, e.g. they have been stolen, the Administration has advised that the purpose of the section is to ensure that the CEO will take appropriate precautionary measures to have safe custody of the chops before the day of election. In further response to members' enquiry on measures to prevent any person from taking the chop away from the polling station, the Administration has explained that each elector is provided with a cardboard to which the chop with a tick is attached. After voting, the elector is required to return the same to the polling staff before leaving the polling station. This arrangement was adopted in the 1999 District Councils election.

#### Admission to polling station

10. Under new section 44(13), a Presiding Officer may permit a child accompanying an elector to enter a polling station, if he considers that the child should not be left unattended and will not disturb or cause inconvenience to other person in the polling station.

11. Some members consider that the Presiding Officer should be given discretion to decide whether to permit a child to enter a polling station. It might not be necessary for the Regulation to specify the two pre-conditions. The Administration has explained that the first pre-condition was adopted for the 1998 LegCo election, whereas the second pre-condition is proposed in the light of the experience of the 1999 District Councils election.

#### Offences at a polling station

12. Some members have expressed concern that the use of a mobile telephone or paging machine inside a polling station on polling day will constitute an offence under section 45(1).

13. The Administration has explained that in practice, a person found to be engaged in such conduct will be advised by the Presiding Officer not to do so. The person only commits an offence if he acts contrary to the direction of the Presiding Officer.

### Polling stations

14. Members note that two kinds of polling stations will be set up -
- (a) for each of the 5 GCs, a number of polling stations situated within the GC will be designated. The polling stations designated for the GCs will also be used for polling for the 24 ordinary FCs; and
  - (b) for the four Special FCs and the EC, four polling stations on Hong Kong Island, in Kowloon and the New Territories will be designated. Special FC and EC electors will have to cast all the votes which they are entitled to at any one of such polling stations, including their GC and FC votes.

### Counting arrangements

15. Following the public consultation conducted by the EAC on the ways to conduct the count for the 2000 LegCo elections, the EAC has decided to set up -
- (a) one counting station at each of the 5 GCs to count GC ballot papers; and
  - (b) one central counting station to count all FCs and EC ballot papers.

To give effect to the new arrangements, sections 70, 72, 74-74B of the Regulation will be amended.

16. Noting that the last election result (in respect of a GC) of the 1998 LegCo election was announced at 5 pm on the day following the election day, members have expressed concern about the long period of time taken to complete the count in the election. The Administration has advised that the fact that all ballot boxes from about 500 polling stations were required to be delivered to the central counting station at about the same time in the 1998 LegCo election had created a bottleneck. It is expected that the situation would be improved in the coming LegCo election with the adoption of the new counting arrangements under which ballot boxes will be delivered to each of the six counting stations. It is also noted that the time spent on determination of the validity of questionable ballot papers was quite long in the 1998 LegCo election. With the use of the chop with a tick, the number of questionable ballot papers is expected to be reduced. Coupled with other appropriate measures to streamline the counting processes, the Administration is of the view that the count could be completed faster than in the 1998 LegCo election.

17. Members reiterate the need for the election results to be announced to the public as soon as possible. With the adoption of the new counting arrangements and in the light of the experience of the 1998 LegCo election, members have requested the Administration to provide a target time for declaration of the election results of the

2000 LegCo election. Some members consider that it is a reasonable expectation that all the results should be announced by 6 am on the day following the election day i.e. when the community wakes up.

18. The Administration has explained that without past experience on the new counting arrangements to be introduced, it is difficult to predict the time taken for completing the count. It is therefore not in a position to advise the likely timing for declaration of the election results. Members have suggested that the matter could be followed up by the Panel on Constitutional Affairs.

### **Recommendation**

19. The Subcommittee recommends that the Amendment Regulation be supported.

### **Advice sought**

20. Members are invited to note the recommendation of the Subcommittee.

Council Business Division 2  
Legislative Council Secretariat  
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