

立法會
Legislative Council

LC Paper No. CB(2)839/99-00

Ref : CB2/SS/3/99

Paper for the House Committee meeting on 14 January 2000

**Second report of the Subcommittee on subsidiary legislation
relating to 2000 Legislative Council election**

Purpose

This paper reports on -

- (a) the deliberations of the Subcommittee on the Electoral Affairs Commission (Registration) (Electors for Functional Constituencies) (Voters for Subsectors) (Members of Election Committee) (Legislative Council) (Amendment) Regulation 1999; and
- (b) the present position in respect of the Electoral Affairs Commission (Printing of Name of Organization and Emblem on Ballot Paper) (Legislative Council) Regulation.

The Subcommittee

2. Under the chairmanship of Hon Ronald ARCELLI, the Subcommittee is tasked to study all subsidiary legislation relating to the 2000 Legislative Council (LegCo) election. In order to give the Subcommittee adequate time to consider the two items of subsidiary legislation gazetted on 10 December 1999 and tabled in LegCo on 15 December 1999, the scrutiny period has been extended to 19 January 2000.

Electoral Affairs Commission (Registration) (Electors for Functional Constituencies) (Voters for Subsectors) (Members of Election Committee) (Legislative Council) (Amendment) Regulation 1999

3. The Subcommittee has noted that the Amendment Regulation provides for -

- (a) the compilation of the provisional register (PR) and final register (FR) of voters for the Election Committee (EC) subsector elections to be held in 2000, and the Electoral Registration Officer's (ERO) power to make corrections of particulars in the subsector PR and the publication of a subsector omissions list;

- (b) revised dates for the publication of the PR and FR of electors for functional constituencies (FC), and the PR and FR of voters for EC subsectors;
- (c) procedures for registration in the EC PR;
- (d) revised format of the registers of FCs and EC subsectors to show only the name and principal residential address of an elector or voter, as the case may be;
- (e) removal of the requirements that an application made to the ERO for registration in a PR and a notice given to that officer of an appointment of authorized representative (AR) has to be posted or delivered to him so that such an application or notice may be sent through facsimile transmission;
- (f) enabling a corporate elector or voter to appoint a substitute for its AR that has been rejected by the ERO, even though the statutory deadline for appointing AR has passed; and
- (g) making certain offences under the principal regulation also prescribed offences under the District Councils Ordinance (Cap. 547) for the purposes of disqualifying a person from holding office as an elected, appointed or ex-officio member.

4. The Subcommittee has met with and has sought clarifications from representatives of the Registration and Electoral Office and the Administration (the Administration's team) on some provisions of the Amendment Regulation. The major deliberations are summarized in the following paragraphs.

Publication of electoral registers

5. Some members have suggested that the electoral registers should be made available for public inspection on the Internet. The Administration's team does not consider it appropriate to pursue the idea for the sake of protecting the privacy of electors' personal data. In response to the request of the Subcommittee for information on the publication of electoral registers on the Internet in overseas countries, the Administration's team has advised that neither Australia, Canada, Japan, England nor Singapore arranges for the electoral registers to be published on the Internet.

Definitions of "listed subsector" and "optional subsector"

6. Members have sought clarification on why the Hotel subsector is proposed to be repealed from the two definitions under section 11 of the principal regulation. It is noted that in the context of the Amendment Regulation, a "listed subsector" is also an "optional subsector".

7. In its explanations, the Administration's team has referred members to section 8 of Schedule 2 to the LegCo Ordinance. In principle, an elector for an FC may be registered only as a voter for the corresponding subsector of that FC (whether or not the person is eligible to be registered as a voter for any other subsector), except that, if the elector is also eligible to be registered as a voter for the Chinese People's Political Consultative Conference subsector, Hong Kong Chinese Enterprises Association subsector, Chinese Medicine subsector and Employers' Federation of Hong Kong subsector, the elector may have an option to be registered as a voter in the corresponding subsector or in that other subsector. In relation to the Tourism FC, its corresponding subsectors are either the Tourism subsector or the Hotel subsector. A person who is registered as an elector for the Tourism FC may be registered only as a voter for the Tourism subsector or the Hotel subsector, as statutorily required. In line with the requirements in section 8, voters for the Hotel subsector should not have been given the option to choose an alternate subsector. The proposed amendment seeks to rectify the situation. The Administration's team has assured members that the proposed amendment will not change the composition of the First Sector of the EC which includes Hotel subsector.

Registration of FC electors as voters for corresponding subsectors

8. In response to members' question on the need for sending notifications for the purpose of registering FC electors as voters for corresponding subsectors under section 15, the Administration's team has explained that the subsector PR to be compiled in the year 2000 is to be compiled on the basis of the subsector FR published in 1998. A number of electors are registered in an FC for the first time in the 1999 FC FR but are not registered in any subsector because no subsector register was compiled for 1999. To comply with the requirement stipulated in the LegCo Ordinance that a person who is registered in an FC with a corresponding subsector must be registered in the corresponding subsector, the ERO will send notifications to these FC electors for registering them in subsectors. Under section 19(5), an application received by the ERO for registration as a voter for a subsector after 16 January 1998 but not later than 16 March 2000 would be treated as an application received on or before 16 March 2000, i.e. the deadline for voter registration for the 2000 LegCo election.

Appointment of substitute Authorized Representative (AR)

9. Members note that under section 20 of the principal regulation, a corporate elector or voter must make a claim in order to appoint a substitute if the original AR proposed to be appointed is found to be ineligible by the ERO after the registration deadline. Proposed section 20(7) of the Amendment Regulation allows the appointment of a substitute AR without resorting to the appeal procedure. Under the proposed arrangement, a corporate elector or voter may appoint a substitute for its AR that has been found ineligible by the ERO after the registration deadline, if an application for appointment of an AR has been made to the ERO on or before the registration deadline. The corporate elector or voter is required to lodge a claim under existing section 31(2) only if he is not satisfied with the ERO's determination on the eligibility of the AR originally proposed.

Recommendation

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

Electoral Affairs Commission (Printing of Name of Organization and Emblem on Ballot Paper) (Legislative Council) Regulation

11. The Regulation sets out the procedure to be followed for having the name, an abbreviation of the name or an emblem of an organization or an emblem of a natural person printed on a ballot paper for use in an election (excluding an Election Committee subsector election) to elect a LegCo Member.

12. The Subcommittee is still scrutinizing the Regulation. Further meetings will be held on 13, 14 and 15 January 2000. The Subcommittee has requested the Administration's team to consider repealing the Regulation with a view to having it gazetted it again with or without amendments, after deliberation by the Subcommittee. The Administration's team has declined to do so.

13. The Subcommittee decided at its meeting on 11 January 2000 that the Chairman should give notice of a motion to repeal the Regulation at the Council meeting on 19 January 2000. Depending on the outcome of the discussions at the coming meetings, the notice of the motion might be withdrawn and the President's permission to waive the notice requirement for moving amendments to the Regulation might also be required. A further report of the Subcommittee will be issued to the House Committee by circulation.

Advice sought

14. Members are requested to note this report.

Legislative Council Secretariat

13 January 2000