

立法會
Legislative Council

LC Paper No. CB(2)859/99-00

Ref : CB2/SS/3/99

Paper for the House Committee meeting on 14 January 2000

**Third 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 (Printing of Name of Organization and Emblem on Ballot Paper) (Legislative Council) Regulation.

The Regulation

2. Having completed its review on the 1998 Legislative Council (LegCo) election in August 1998, the Electoral Affairs Commission (EAC) proposed to allow a candidate, starting from the 2000 LegCo election, to have the following registered particulars -

- (a) the Chinese name (or the abbreviation of the Chinese name, but not both), the English name (or the abbreviation of the English name, but not both) and emblem, of an organization, or
- (b) the candidate's own emblem

printed on a ballot paper of a LegCo general election (excluding an Election Committee subsector election).

3. The Regulation sets out the procedure for the registration of such a name, abbreviation of name, or emblem (the particulars).

Deliberations of the Subcommittee

4. The Subcommittee has met with representatives of the Administration and the Registration and Electoral Office (REO) (the Administration's team) to discuss the Regulation. The discussions of the Subcommittee are summarized in the following paragraphs.

Views of the Subcommittee

5. Under the proposed procedure, applications for registration will only be invited in the year in which a LegCo election is to be held. If the EAC is of the opinion that it may refuse an application, the applicant will be given 14 days to lodge with the EAC a statement of reasons why EAC should not refuse to grant the application or to make a request to vary the application. The EAC will compile a Provisional Register for all the applications that it intends to grant for publication in the newspapers and for public inspection. Upon receipt of an objection, the EAC will hold a hearing. The EAC's decision is final and not subject to any appeal. An applicant has to apply to the EAC for renewing the registered particulars if the applicant would like to retain the registered particulars in the next Register, otherwise, the particulars will cease to be registered.

6. A few members consider that the proposed registration procedure, which is very cumbersome, should be replaced with a notification procedure. They are of the view that an organization or a candidate who intends to have the particulars printed on a ballot paper should only be required to notify the EAC. The EAC's role should be to ascertain whether an organization or candidate is authorized to use the particulars. Although the EAC's approval per se is not required, it may refuse to accede to the request on specified grounds which could be similar to those set out in section 7 of the Regulation now proposed for the EAC to refuse an application. These members have also pointed out that at present, candidates are at liberty to use any names and emblems in publicity materials in relation to an election (including election materials sent to electors through the two rounds of free postage provided by the Government), without subject to any registration procedure. They have also expressed concern that the proposed registration procedure has imposed too many restrictions and would compromise political freedom and thinking. The EAC, being an independent statutory body, should not assume the role of a "registrar" as in considering an application for registration, it may involve itself in sensitive and political issues.

7. Several members have proposed that applications for registration should not be restricted to a specified period which falls within the nine months immediately preceding the date for a general election. In addition, the requirement for applicants to apply for renewal of the registered particulars before the next LegCo general election should be removed. Applicants should be allowed to retain the registered particulars until such time when the EAC decides that the particulars should cease to be registered such as when an organization has ceased operation.

8. A member does not support the Regulation. He questions whether the Government has any obligation to provide further assistance to promote candidates at elections, other than the existing subsidies in kind provided to candidates in their campaigning activities. He is also concerned about the situation where the registered name, abbreviation or emblem printed on a ballot paper is identical or similar to a registered trade mark or an emblem of a commercial organization. In the circumstances, the Regulation might not achieve its desired effect and would even cause confusion to electors.

9. In view of members' substantive views on the Regulation and in order to allow more time for scrutiny, the Subcommittee has requested the Administration's team to consider repealing the Regulation at the Council meeting on 19 January 2000, with a view to having it gazetted again with or without amendments, after conclusion of deliberation by the Subcommittee.

Views of the Administration's team

10. The Administration's team has advised that the Regulation is made in response to views expressed by various parties including LegCo Members. A consultation document outlining the details of the proposal was issued by the EAC on 15 June 1999 to solicit public views for a period of one month. The representations received supported the proposal in principle. It is expected that applications for registration will be invited in February 2000, in order that the Register containing the registered particulars will be compiled in good time before the commencement of the nomination period for the 2000 LegCo election. If the proposal is to be implemented in time for the 2000 LegCo election, the timetable could not be postponed.

Conclusion

11. At its meeting on 13 January 2000, the Subcommittee discussed the way forward. While the Subcommittee supports the idea of allowing an organization or a candidate to have the name and emblem printed on a ballot paper, it has reservations about the detailed implementation and technical aspects of the Regulation. Members are concerned whether the Subcommittee could complete scrutiny and also propose amendments to the Regulation before the expiry of the scrutiny period on 19 January 2000, not to mention the time other Members need for consideration of the proposed amendments. They agree that it is impracticable to do so in view of the time constraint. In addition, it is undesirable for LegCo to come up with a revised proposal without consultation with the EAC. After deliberation, it is the consensus of the members present at the meeting that the Regulation should be repealed. The Chairman will proceed with the motion to repeal the Regulation for which he has already given notice to the Council.

12. The Administration's team is of the view that the proposal put forward by the EAC is workable. However, given members' views on the proposal, both the EAC and the Administration consider that it is better for LegCo to repeal the Regulation than to put forward a revised proposal which might have problems in implementation. The EAC would reconsider the proposal having regard to the views expressed by the Subcommittee. However, the proposal will not be implemented for the 2000 LegCo election.

Advice sought

13. Members are invited to note this report.

Legislative Council Secretariat

14 January 2000