

立法會
Legislative Council

LC Paper No. LS112/02-03

**Paper for the House Committee Meeting
on 23 May 2003**

**Legal Service Division Report on
Subsidiary Legislation Gazetted on 16 May 2003**

Date of tabling in LegCo : 21 May 2003

Amendment to be made by : 18 June 2003 (or 9 July 2003 if extended by resolution)

PART I ELECTORAL PROVISIONS

Legislative Council Ordinance (Cap. 542)

**Legislative Council (Subscribers and Election Deposit for Nomination)
(Amendment) Regulation 2003 (L.N. 119)**

The Regulation provides that -

- (a) election deposits shall be returned in respect of candidates who have received 3% (5% at present) or more of the total number of valid votes cast;
- (b) a nomination paper in respect of a geographical constituency shall be subscribed by 100 persons (at present, at least 100), but in any event not more than 200 persons may subscribe (no upper limit at present). For functional constituency, the minimum required number is maintained at 10 persons but an upper limit of 20 will be added;
- (c) A subscriber whose signature is surplus to the required minimum number may validly subscribe another nomination paper.

2. The Regulation shall come into operation on 1 June 2004. Members may wish to refer to the related item below for more information.

District Councils Ordinance (Cap. 547)

**District Councils (Subscribers and Election Deposit for Nomination)
(Amendment) Regulation 2003 (L.N. 120)**

3. The Regulation similarly provides that -

- (a) a nomination paper shall be subscribed by 10 persons (at present, at least 10 persons), but in any event not more than 20 persons may subscribe (no upper limit at present);
 - (b) A subscriber whose signature is surplus to the required minimum number may validly subscribe another nomination paper.
4. The Regulation shall come into operation on 1 September 2003.
5. The Administration briefed the Panel on Constitutional Affairs on 10 December 2002 on the proposal to reduce the existing threshold for the return of election deposits in LegCo elections from 5% of the valid votes to 3%. Members raised no objection to the proposal.
6. The same Panel was briefed on 24 April 2003 on the proposed measures to tackle the problem of candidates submitting very large number of subscribers in their nomination papers for LegCo and District Council elections. Members raised no objection to the proposal to prescribe a ceiling on the number of subscribers at double the minimum number as a 100% buffer.
7. LegCo Brief CAB C1/30/11 & C2/10 issued by the Constitutional Affairs Bureau on 15 May 2003 on these 2 related items are relevant.
8. Some drafting points relating to both items have been raised with the Administration. A further report will be made if necessary.

District Councils Ordinance (Cap. 547)

Declaration of Constituencies (District Councils) Order 2003

(L.N. 121)

9. This Order declares the boundaries and names of the constituencies within each District Council district to enable arrangements to be made for the coming District Council ordinary election in 2003 and for the purpose of the new term of the District Councils as from 1 January 2004.
10. On 6 January 2003, the Electoral Affairs Commission published its preliminary delineation proposals for the election for a one-month public consultation. The Panel on Constitutional Affairs has not been separately consulted on the proposals.
11. LegCo Brief CAB C2/11 issued by the Constitutional Affairs Bureau in May 2003 is relevant.
12. A letter dated 20 May 2003 and addressed to the Chairman of the House Committee has been received from the Chairman of the Pik Shui Sun Tsuen Mutual Aid Committee and the Village Representatives of Tai Po Tsai Village, objecting to the re-delineation of Hang Hau East and Hang Hau West constituencies in Sai Kung

District so that Pik Shui Sun Tsuen, Tai Po Tsai Village and the Hong Kong University of Science and Technology, which are hitherto located in Hang Hau East constituency, will be separated, the 2 villages being re-located to Hang Hau West constituency and the University remaining in Hang Hau East constituency (please see Chinese letter attached).

Electoral Affairs Commission Ordinance (Cap. 541)
Electoral Affairs Commission (Electoral Procedure) (District Councils)
(Amendment) Regulation 2003 (L.N. 125)

13. The Regulation introduces, with effect from 11 July 2003, changes to electoral arrangements for the District Councils, an ordinary election of which will be held later this year.

14. The more important changes are -

- (a) counting of votes will be held at each individual polling station after the close of poll and the Returning Officer will be notified of the result by the station's Presiding Officer. Where there are more than one polling station in a constituency, the station serving the largest number of electors will be designated the dominant counting station. The counting results of the other stations will be relayed to the Presiding Officer of the dominant station. He will be responsible for informing the Returning Officer the overall final counting results for the whole constituency;
- (b) some categories of questionable ballot papers which are clearly invalid will not be counted. At present, they are subject to the objection of candidates or their agents and the decision of the Returning Officer. The categories of questionable ballot papers that will remain will still be subject to challenge but in future the Presiding Officer instead will decide on their status.

15. Other revisions will be made to streamline current electoral arrangements (listed in paragraph 19 of the LegCo Brief.).

16. The Administration briefed the Panel on Constitutional Affairs on the electoral arrangements for the 2003 District Council ordinary election, including the new vote counting arrangements and the re-categorisation of certain questionable ballot papers, at its meetings on 20 January and 24 April 2003. There was support for the new vote counting arrangements but some views and concerns were also voiced -

- (a) it would not be possible for the candidates and their agents to be present at all the polling stations in the constituency to observe the count; and
- (b) ballot papers from different polling stations should be mixed before counting, to safeguard the confidentiality of voters, especially those in small polling areas and thereby minimise the risk of intimidation or other illegal conduct.

17. A LegCo Brief has been issued by the Registration and Electoral Office in May 2003.

18. The usual scrutiny of the detailed provisions is still in progress. A further report will be made should any problems be detected.

PART II OTHER SUBSIDIARY LEGISLATION

Aerial Ropeways (Safety) Ordinance (Cap. 211)

Aerial Ropeways (Operation and Maintenance) (Amendment) Regulation 2003 (L.N. 122)

19. This Amendment Regulation is made by the Secretary for Housing, Planning and Lands under section 28 of the Aerial Ropeways (Safety) Ordinance (Cap. 112) (the Ordinance).

20. The main purpose of the Regulation is to amend the Aerial Ropeways (Operation and Maintenance) Regulations (Cap. 211 sub. leg. A) ("the Regulations") so that the Regulations apply to mono-cable ropeways as well as ropeways of other designs, including aerial ropeways with hauling ropes or track ropes. The operation and safety standards of the proposed Tung Chung Cable Car system are to be governed by the Regulations.

21. Apart from adding the definitions of "carrying-hauling rope", "hauling rope" and "track rope" to the Regulation, some other amendments are also made, including-

- (a) empowering the Director of the Electrical and Mechanical Services to specify different wind speed limits for different aerial ropeways;
- (b) specifying examination requirements for various kinds of ropes for the safe operation of an aerial ropeway;
- (c) making some technical amendments such as repealing the Third Schedule to the Regulations and replacing it with a new Schedule so that the penalties for new offences and all fines (other than daily fines) previously expressed in money terms are expressed in terms of levels in accordance with Schedule 8 to the Criminal Procedure Ordinance (Cap. 221).

22. Members may refer to the LegCo Brief (File Ref.: HPLB(B) 30/30/32(02) Pt. 8) issued by the Housing, Planning and Lands Bureau in May 2003 for details. According to the Brief, the Ocean Park Corporation and the successful proponent of Tung Chung Cable Car System, MTR Corp. Ltd., had been consulted on the proposed amendments to the legislation.

23. On 1 March 2002, at the Panel on Planning, Lands and Works, members were briefed on the proposed amendments vide Paper CB(1)1134/01-02(04). Members in general supported the proposed amendments.

24. The Regulation is to commence on a day to be appointed by the Secretary for Housing, Planning and Lands. According to the LegCo Brief, the Secretary intends to appoint a date around the end of July 2003.

25. No difficulties relating to the legal and drafting aspects of the Amendment Regulation have been identified.

Air Pollution Control Ordinance (Cap. 311)

Air Pollution Control (Emission Reduction Devices for Vehicles) Regulation (L.N. 123)

26. This is a new Regulation made by the Secretary for the Environment, Transport and Works under section 43 of the Air Pollution Control Ordinance (Cap. 311) after consultation with the Advisory Council on the Environment. It is to come into operation on 1 December 2003.

27. The purpose of this Regulation is to require the registered owners of certain classes of diesel light vehicles to install and keep in good working condition approved emission reduction devices on their vehicles to reduce their emission of air pollutants. The classes of vehicles are private cars, goods vehicles, or light buses with permitted gross vehicle weight of not more than 4 tonnes first registered on or before 31 March 1995 and taxis first registered on or before 31 December 1995.

28. If the Director of Environmental Protection suspects that a motor vehicle has not been installed with an approved emission reduction device in good working condition, he may by written notice require the registered owner of the motor vehicle to produce the motor vehicle for examination at a date, time and place specified in the notice. The vehicle may be detained for a period not exceeding 8 hours. Failure to comply with the written notice is an offence punishable by a fine at level 2 (\$5,000).

29. The Commissioner for Transport may refuse to license a motor vehicle or may cancel the licence of a motor vehicle if the owner of the motor vehicle fails to comply with the installation requirements.

30. The Administration consulted the joint Panels on Environmental Affairs and Transport on 15 January 2002. One of the members urged the Administration to introduce the legislation as soon as practicable.

31. According to the LegCo Brief (File Ref.: ETWB(E)55/01/151) issued by the Environment, Transport and Works Bureau in May 2003, relevant sectors of the transport trade have been consulted. Nearly 80% of the vehicles affected have already installed the device whereas 20% have not participated in the installation

programme despite repeated written reminders sent to them by the Environment Protection Department.

Air Pollution Control Ordinance (Cap. 311)

Air Pollution Control (Vehicle Design Standards) (Emission) (Amendment) Regulation 2003 (L.N. 124)

32. This Regulation is also made by the Secretary for the Environment, Transport and Works and is to come into operation on 1 August 2003.

33. It amends the Air Pollution Control (Vehicle Design Standards) (Emission) Regulation (Cap. 311 sub. leg. J) by -

- (a) allowing light buses equipped with a positive-ignition engine to run on liquefied petroleum gas (LPG), introducing Euro III or equivalent emission standards for newly registered LPG light buses, and exempting LPG light buses from the on-board diagnostic system requirement;
- (b) tightening the emission standards for newly registered light buses equipped with a compression-ignition engine and having a design weight of more than 3.5 tonnes to the Euro III or equivalent standards; and
- (c) tightening the emission standards for newly registered taxis and fuelled by LPG and vehicles equipped with a positive-ignition engine fuelled by unleaded petrol and having a design weight of more than 3.5 tonnes to the latest standards adopted in Japan.

34. According to the LegCo Brief (File Ref.: ETWB(E)55/01/156) issued by the Environment, Transport and Works Bureau in May 2003, the vehicles concerned have already met the new emission standards. The legislative amendments only formalize the existing position and will not cause disruption to the transport trade.

35. The Motor Traders Association and relevant sectors of the transport trade were consulted. They raised no objection to the proposal.

36. Members of the Panels on Environmental Affairs and Transport had already been informed in July 2002 vide Paper Nos. CB(1)2194/01-02 and CB(1)1582/02-03. No request for discussion has been received from members.

37. No difficulties relating to the legal and drafting aspects of the Regulations have been identified.

Registration of Persons Ordinance (Cap. 177)

Registration of Persons (Application for New Identity Cards) Order (L.N. 126)

Registration of Persons (Application for New Identity Cards) (Repeal) Order 2003 (L.N. 127)

38. By L.N. 126 of 2003, the Secretary for Security has made an Order -
- (a) directing that applications for new identity cards be made by certain categories of persons within a specified period at the smart identity card centres; and
 - (b) specifying the names and locations of the smart identity card centres.
39. The Chief Executive, members of the Executive Council, members of the Legislative Council and Principal Officials, may apply for a new identity card from 18 August 2003 to 15 November 2003 or within a period specified for his/her age group.
40. Members of the Immigration Service, police officers and labour inspectors are to apply for identity cards from 18 August 2003 to 15 November 2003. Persons born between 1964 and 1969 are to apply for new identity cards within the period as specified under Schedule 2 to the Regulation.
41. By another Order (L.N. 127 of 2003), the Secretary for Security has repealed the Registration of Persons (Application for New Identity Cards) (Consolidation) Order (Cap. 177 sub. leg. D) and certain Orders made under section 7B(1) of the Registration of Persons Ordinance (Cap. 177). Those Orders were issued for the last territory-wide replacement exercise held from July 1987 to October 1991.
42. Both Orders are to come into operation on 10 July 2003. Members may refer to the LegCo Brief issued by the Security Bureau dated 16 May 2003 for details.
43. The Administration has provided the Panel on Security with a progress report on the HKSAR Identity Card Project (LC Paper No. CB(2)1992/02-03(01)) issued on 6 May 2003. The Bills Committee on Registration of Persons (Amendment) Bill 2001 was informed that the Administration planned to launch the identity card replacement exercise in July this year.
44. No difficulties relating to the legal and drafting aspects of the Orders have been identified.

Import and Export Ordinance (Cap. 60)
Import and Export (General) Regulations (Amendment of Seventh Schedule)
(No. 5) Notice 2003 (L.N. 128)

45. This Notice amends the Seventh Schedule to the Import and Export (General) Regulations (Cap. 60 sub. leg. A), which provides that Poland, Slovenia and Tunisia are to be added to the specified countries or places within the meaning of Part VI of those Regulations for the purposes of implementing in Hong Kong an international certification scheme for rough diamonds known as the Kimberley Process Certification Scheme. Romania is to be deleted from the Schedule.

46. No difficulties relating to the legal and drafting aspects of the Notice have been identified.

University of Hong Kong Ordinance (Cap. 1053)
Statutes of the University of Hong Kong (Amendment) Statute 2003
(L.N. 129)

47. This Statute is made by the Chancellor of the University of Hong Kong on the recommendation of the Court of the University of Hong Kong. It amends the Statutes of the University of Hong Kong in the Schedule to the University of Hong Kong Ordinance (Cap. 1053) by -

- (a) adding certain degrees and academic distinctions which may be conferred and awarded by the University of Hong Kong; and
- (b) changing the Chinese titles of certain academic distinctions.

Encl.

Prepared by

CHEUNG Ping-kam, Arthur (Legal Notices No. 119 to 121 and 125)

Senior Assistant Legal Adviser

HO Ying-chu, Anita (Legal Notices No. 122 to 124 and 126 to 129)

Assistant Legal Adviser

Legislative Council Secretariat

22 May 2003

立法會內部事務委員會

周梁淑怡主席

敬啓者：

反對將大埔仔及碧水新村劃入坑口西選區

根據二零零三年區議會選舉分界建議報告書第二冊內容，西貢區坑口東(Q04)及坑口西(Q05)的選區劃分已有所變更。本村等堅持反對 貴會將同屬一個選區的大埔仔、香港科技大學及碧水新村，分拆為不同的選區：坑口東及坑口西，同時強烈堅持 貴會保留建議報告書第一冊內原來建議劃分方案。本村等所持的理據如下：

地理因素：根據區議會選舉分界建議報告書第二冊建議，大埔仔及碧水新村將由坑口東改為劃入坑口西，而保留香港科技大學於坑口東。在地理上區分，香港科技大學及大埔仔一向以來同屬於坑口東，與布袋澳、下洋、孟公屋、相思灣、檳榔灣、上洋、大環頭、大坑口等同屬一個選區(貴會在二零零三年區議會選舉分界建議報告書第一冊中，亦將上述地區劃入坑口東)；其次，香港科技大學毗鄰為碧水新村及大埔仔，原則上應歸為同一選舉區劃分(坑口東) 因此，將大埔仔、碧水新村及香港科技大學分拆為兩個選區，實在不合情不合理。 據本村等所得知，本村居民、地區人仕或西貢區居民一向認同第一冊劃分的有關建議項目(即大埔仔及香港科技大學劃入坑口東，並加入碧水新村)，所以未以書面或在市民公開諮詢大會中質疑有關劃分；相反，我們因為非常支持原來建議，故沒有出席諮詢大會；故此，本村等不明白 貴會基於何種因素或理由，將大埔仔及碧水新村劃入坑口西選區，而祇保留香港科技大學在坑口東選區？

歷史因素：香港科技大學、大埔仔、布袋澳、上洋、下洋、孟公屋、相思灣、檳榔灣等一向以來同屬一個選區，選民皆習以為常；現建議將碧水新村及大埔仔劃入坑口西，與馬游塘、茅湖仔、井欄樹、將軍澳村及魷魚灣村合併，不單在地理上完全不配合(與科技大學分拆)，而且轉移碧水新村及大埔仔的投票地點，實際影響居民的投票意欲及投票率。

基於上述種種原因，本村等希望 貴會採納區議會選舉分界建議報告書第一冊內的建議劃分方案，並保留碧水新村及大埔仔劃入坑口東的選區範圍。同時我們強烈反對將大埔仔及碧水新村劃入坑口西選區。嚴重抗議政府這樣不符合公平原則做法。

此致

周梁淑怡主席

碧水新村互助委員會主席



歐作霖

大埔仔村村代表

溫百鳳

溫怡良

謹上

二零零三年五月二十日

副本致：選舉管理委員會胡國興主席