

L.N. 263 of 2003**PARTICULARS RELATING TO CANDIDATES ON BALLOT PAPERS
(LEGISLATIVE COUNCIL) REGULATION****CONTENTS**

| Section | Page |
|---|-------|
| PART 1 | |
| PRELIMINARY | |
| 1. Commencement | B2529 |
| 2. Interpretation | B2529 |
| PART 2 | |
| REQUEST TO PRINT PARTICULARS RELATING TO CANDIDATES ON BALLOT PAPERS | |
| 3. Request by candidate for functional constituency or sole candidate on nomination list | B2535 |
| 4. Request by candidate on nomination list with more than one candidate | B2537 |
| 5. Consent of prescribed body in relation to request | B2541 |
| 6. Commission may refuse to accept request | B2541 |
| 7. Size and position of printing | B2541 |
| PART 3 | |
| APPLICATION FOR REGISTRATION OF NAME AND EMBLEM AS PARTICULARS TO BE INCLUDED AS SUBJECT OF REQUEST MADE UNDER SECTION 3 OR 4 | |
| 8. Prescribed body may apply for registration of its name and emblem | B2543 |
| 9. Prescribed person may apply for registration of his emblem | B2543 |
| 10. Commission may refuse to accept application | B2545 |
| PART 4 | |
| PROCESSING OF APPLICATION | |
| Timing | |
| 11. Timing of processing of application | B2545 |
| Preliminary processing | |
| 12. Commission may refuse to grant application on certain grounds | B2547 |
| 13. Applicant may vary application, etc. | B2549 |

| Section | Page |
|--|-------|
| Further processing | |
| 14. Publication of application made to Commission | B2551 |
| 15. Objection to application | B2551 |
| 16. Commission may refuse to accept objection | B2553 |
| 17. Hearing of objection | B2555 |
| Decision | |
| 18. Commission to decide on application | B2557 |
| 19. Notification and publication of the Commission's decision on application ... | B2559 |
| PART 5 | |
| REGISTRATION AND DE-REGISTRATION OF NAME, EMBLEM, ETC. | |
| Registration | |
| 20. Commission to register name, emblem, etc. | B2559 |
| De-registration | |
| 21. Commission may de-register name and emblem | B2561 |
| 22. Objection to continued registration of abbreviation or emblem | B2563 |
| 23. Processing of objection made under section 22 | B2563 |
| Replacement | |
| 24. Prescribed body may apply for registration of its name and emblem to replace registered name and emblem | B2567 |
| 25. Prescribed person may apply for registration of his emblem to replace registered emblem | B2567 |
| 26. Commission may refuse to accept application made under section 24 or 25 | B2569 |
| 27. Processing of application made under section 24 or 25 | B2569 |
| Withdrawal of registration, etc. | |
| 28. Prescribed body may apply for withdrawal of registration of its name and emblem, etc. | B2569 |
| 29. Prescribed person may apply for withdrawal of registration of his emblem, etc. | B2571 |
| 30. Commission may refuse to accept application made under section 28 or 29 | B2571 |
| 31. Processing of application made under section 28 or 29 | B2571 |

| Section | Page |
|---|-------|
| PART 6 | |
| MISCELLANEOUS | |
| 32. Signature of document | B2573 |
| 33. Commission may specify form | B2573 |
| 34. Decision of Commission final | B2573 |
| 35. Offence of false statement | B2573 |
| Schedule Particulars relating to candidates | B2575 |

**PARTICULARS RELATING TO CANDIDATES ON BALLOT PAPERS
(LEGISLATIVE COUNCIL) REGULATION**

(Made by the Electoral Affairs Commission under
section 7 of the Electoral Affairs
Commission Ordinance (Cap. 541))

PART 1

PRELIMINARY

1. Commencement

(1) This Regulation (other than Part 2) shall come into operation on 6 February 2004.

(2) Part 2 shall come into operation on a day to be appointed by the Electoral Affairs Commission by notice published in the Gazette.

2. Interpretation

(1) In this Regulation, unless the context otherwise requires—
“annual registration cycle” (年度登記周期) means the period that begins on 6 February 2004 and ends on 31 December 2004, and thereafter each successive period of 12 months ending on 31 December;

“applicant” (申請人)—

(a) in relation to an application made under section 8(1), 24(1) or 28(1), means the prescribed body that makes the application; or

(b) in relation to an application made under section 9(1), 25(1) or 29(1), means the prescribed person that makes the application;

“ballot paper” (選票) means a ballot paper used at an election;

“by-election” (補選) has the meaning assigned to it by section 3(1) of the Legislative Council Ordinance (Cap. 542);

“candidate” (候選人) means a candidate nominated for election as a Member;

“election” (選舉) means a general election or a by-election;

“emblem” (標誌) means any sign that is capable of being represented graphically and may, in particular, consist of all or any of the following—

(a) words;

(b) indications;

(c) designs;

(d) letters;

(e) characters;

(f) numerals;

(g) figurative elements;

(h) colours;

- “functional constituency” (功能界別) has the meaning assigned to it by section 3(1) of the Legislative Council Ordinance (Cap. 542);
- “identity document” (身分證明文件) has the meaning assigned to it by section 3(1) of the Legislative Council Ordinance (Cap. 542);
- “Member” (議員) has the meaning assigned to it by section 3(1) of the Legislative Council Ordinance (Cap. 542);
- “nomination list” (提名名單) has the meaning assigned to it by section 3(1) of the Legislative Council Ordinance (Cap. 542);
- “objector” (反對者), in relation to an objection made under section 15(1) or 22(1), means the person that makes the objection;
- “prescribed body” (訂明團體) means a prescribed political body or a prescribed non-political body;
- “prescribed non-political body” (訂明非政治性團體) means a body or organization operating in Hong Kong that is not a prescribed political body;
- “prescribed person” (訂明人士) means a person that is registered in a final register of electors for geographical constituencies as compiled and published in accordance with the Legislative Council Ordinance (Cap. 542) and that is not disqualified from being so registered or from voting at an election;
- “prescribed political body” (訂明政治性團體) means a body or organization operating in Hong Kong—
- (a) that is a political party;
 - (b) that purports to be a political party; or
 - (c) the principal function or main object of which is to promote or prepare a candidate for election as a Member;
- “register” (登記冊) means the register established and maintained by the Commission under section 20;
- “registered” (登記) means entered in the register under section 20;
- “registered trade mark” (註冊商標) means a trade mark registered under the Trade Marks Ordinance (Cap. 559);
- “relevant certificate” (有關證明書), in relation to a prescribed body, means a certificate or document issued to the body by an authority or regulatory organization that regulates the body under the laws of Hong Kong and showing the name of the body;
- “relevant cut-off date” (有關截止日期)—
- (a) in relation to the first annual registration cycle after the commencement of this Regulation, means 1 March 2004; or
 - (b) in relation to any subsequent annual registration cycle, means 15 March in that annual registration cycle;
- “relevant nomination period” (有關提名期)—

- (a) in relation to a candidate for a geographical constituency, means the period specified under section 4(2)(b) of the Electoral Affairs Commission (Electoral Procedure)(Legislative Council) Regulation (Cap. 541 sub. leg. D) for nominations for the constituency; or
- (b) in relation to a candidate for a functional constituency, means the period specified under section 5(2)(b) of that Regulation for nominations for the constituency;

“requestor” (提請人), in relation to a request made under section 3(2) or 4(2), means the candidate that makes the request;

“specified form” (指明表格), in relation to any particular provision of this Regulation, means the form specified under section 33 for the purposes of that provision;

“subject of application” (申請標的)—

- (a) in relation to an application made under section 8(1), means such of the particulars referred to in any of the provisions of section 8(1)(a), (b), (c), (d) and (e) that are sought to be registered;
- (b) in relation to an application made under section 9(1), means the emblem that is sought to be registered;
- (c) in relation to an application made under section 24(1), means such of the particulars referred to in any of the provisions of section 8(1)(a), (b), (c), (d) and (e) that are sought to be registered; or
- (d) in relation to an application made under section 25(1), means the emblem that is sought to be registered;

“subject of registration” (登記標的)—

- (a) in relation to a prescribed body, means such of the particulars referred to in any of the provisions of section 8(1)(a), (b), (c), (d) and (e) that are registered in relation to the body; or
- (b) in relation to a prescribed person, means the emblem that is registered in relation to the person;

“subject of request” (請求標的)—

- (a) in relation to a request made under section 3(2), means such of the particulars referred to in any of the provisions of section 3(2)(a) and (b) that are sought to be printed on a ballot paper; or
- (b) in relation to a request made under section 4(2), means such of the particulars referred to in any of the provisions of section 4(2)(a) and (b) that are sought to be printed on a ballot paper.

(2) For the purposes of section 8(1)(a) and (c), the reference to the Chinese name or the English name of a prescribed body means the Chinese name or the English name, as the case may be, of the body as shown on a relevant certificate of the body.

PART 2

REQUEST TO PRINT PARTICULARS RELATING TO CANDIDATES
ON BALLOT PAPERS**3. Request by candidate for functional constituency
or sole candidate on nomination list**

- (1) This section applies to—
 - (a) a candidate for a functional constituency; or
 - (b) a candidate who is the sole candidate on a nomination list.
- (2) A candidate to whom this section applies may, during the relevant nomination period, request the Commission to print the following particulars on a ballot paper as particulars relating to the candidate—
 - (a) the particulars described in subsection (3);
 - (b) a personal photograph of the candidate.
- (3) The particulars referred to in subsection (2)(a) are the particulars set out in any one of the following paragraphs—
 - (a) the particulars specified in item 1 or item 3 or both of the Schedule and relating to one prescribed body; or
 - (b) either or both of the following—
 - (i) the particulars specified in item 2 of the Schedule;
 - (ii) the particulars specified in item 4 of the Schedule and relating to the candidate.
- (4) A request made under subsection (2)—
 - (a) must be in the specified form and signed by the requestor;
 - (b) must contain the name and address of the requestor;
 - (c) must indicate that the requestor requests that the subject of request be printed on a ballot paper as particulars relating to the requestor;
 - (d) must set out the particulars of the subject of request and, where the subject of request includes a photograph, must be accompanied by the photograph; and
 - (e) where the subject of request relates to a prescribed body, must be accompanied by a consent given, during the relevant nomination period, by the body in relation to the request in accordance with section 5(1).
- (5) A requestor may, during the relevant nomination period, by notice in writing given to the Commission, withdraw a request made under subsection (2).
- (6) If a candidate to whom this section applies has, during the relevant nomination period, made a request under subsection (2) and the request is not withdrawn under subsection (5) or is not deemed to have been withdrawn under section 5(3), the candidate must not, during that nomination period, make a further request under subsection (2).

4. Request by candidate on nomination list with more than one candidate

(1) This section applies to a candidate on a nomination list with more than one candidate.

(2) A candidate to whom this section applies may, during the relevant nomination period, request the Commission to print the following particulars on a ballot paper as particulars relating to the candidate and the other candidate or candidates on the nomination list concerned—

- (a) where there are 2 candidates on the list—
 - (i) the particulars described in subsection (3);
 - (ii) a personal photograph of one or both of the candidates on the list; or
- (b) where there are 3 or more candidates on the list—
 - (i) the particulars described in subsection (4);
 - (ii) a personal photograph of any one or more of the candidates on the list.

(3) The particulars referred to in subsection (2)(a)(i) are the particulars set out in any one of the following paragraphs—

- (a) the particulars specified in item 1 or item 3 or both of the Schedule and relating to not more than 2 prescribed bodies;
- (b) either or both of the following—
 - (i) the particulars specified in item 2 of the Schedule;
 - (ii) the particulars specified in item 4 of the Schedule and relating to one or both of the candidates on the nomination list concerned; or
- (c) the particulars specified in item 1 or item 3 or both of the Schedule and relating to one prescribed body, and either or both of the following—
 - (i) the particulars specified in item 2 of the Schedule;
 - (ii) the particulars specified in item 4 of the Schedule and relating to one of the candidates on the nomination list concerned.

(4) The particulars referred to in subsection (2)(b)(i) are the particulars set out in any one of the following paragraphs—

- (a) the particulars specified in item 1 or item 3 or both of the Schedule and relating to not more than 3 prescribed bodies;
- (b) either or both of the following—
 - (i) the particulars specified in item 2 of the Schedule;
 - (ii) the particulars specified in item 4 of the Schedule and relating to not more than 3 candidates on the nomination list concerned;

- (c) the particulars specified in item 1 or item 3 or both of the Schedule and relating to one prescribed body, and either or both of the following—
 - (i) the particulars specified in item 2 of the Schedule;
 - (ii) the particulars specified in item 4 of the Schedule and relating to not more than 2 candidates on the nomination list concerned; or
 - (d) the particulars specified in item 1 or item 3 or both of the Schedule and relating to 2 prescribed bodies, and either or both of the following—
 - (i) the particulars specified in item 2 of the Schedule;
 - (ii) the particulars specified in item 4 of the Schedule and relating to one of the candidates on the nomination list concerned.
- (5) A request made under subsection (2)—
- (a) must be in the specified form and signed by the requestor and the other candidate or candidates on the nomination list concerned;
 - (b) must contain the name and address of the requestor;
 - (c) must indicate that the requestor requests that the subject of request be printed on a ballot paper as particulars relating to the requestor and the other candidate or candidates on the nomination list concerned;
 - (d) must set out the particulars of the subject of request and, where the subject of request includes one or more photographs, must be accompanied by the photograph or photographs; and
 - (e) where the subject of request relates to one or more prescribed bodies, must be accompanied by a consent given, during the relevant nomination period, by the body or each of the bodies, as the case may be, in relation to the request in accordance with section 5(1).

(6) A requestor may, during the relevant nomination period, by notice in writing given to the Commission, withdraw a request made under subsection (2).

(7) If a candidate to whom this section applies has, during the relevant nomination period, made a request under subsection (2) and the request is not withdrawn under subsection (6) or is not deemed to have been withdrawn under section 5(3)—

- (a) the candidate must not, during that nomination period, make a further request under subsection (2); and
- (b) the other candidate or candidates on the nomination list concerned must not, during that nomination period, make any other request under subsection (2).

5. Consent of prescribed body in relation to request

(1) The consent of a prescribed body referred to in section 3(4)(e) or 4(5)(e)—

- (a) must be in the specified form and signed by the body;
- (b) must contain the name and address of the body;
- (c) must be given to—
 - (i) in the case of a request made under section 3(2), the requestor concerned; or
 - (ii) in the case of a request made under section 4(2), the requestor concerned and the other candidate or candidates on the nomination list concerned; and
- (d) must indicate that the body consents to the subject of request relating to the body being printed on a ballot paper—
 - (i) in the case of a request made under section 3(2), as particulars relating to the requestor concerned; or
 - (ii) in the case of a request made under section 4(2), as particulars relating to the requestor concerned and the other candidate or candidates on the nomination list concerned.

(2) A prescribed body may, during the relevant nomination period, by notice in writing given to the Commission, withdraw a consent given in relation to a request made under section 3(2) or 4(2).

(3) If the consent given by a prescribed body in relation to a request made under section 3(2) or 4(2) is withdrawn by the body, the request is deemed to have been withdrawn by the requestor concerned.

6. Commission may refuse to accept request

(1) The Commission may refuse to accept a request made under section 3(2) or 4(2) if—

- (a) the request does not comply with any of the requirements set out in section 3(4) or 4(5); or
- (b) the requestor concerned fails to comply with any requirements made by the Commission under subsection (2).

(2) The Commission may, by notice in writing given to the requestor concerned, require the requestor to provide, within a reasonable time specified in the notice, such additional information or document as is reasonably necessary to enable the Commission to consider the request concerned.

7. Size and position of printing

Where the Commission accepts a request made under section 3(2) or 4(2), it may, in relation to any of the subject of request, decide in its absolute discretion the size and position of the particulars concerned as printed on a ballot paper.

PART 3

APPLICATION FOR REGISTRATION OF NAME AND EMBLEM
AS PARTICULARS TO BE INCLUDED AS SUBJECT
OF REQUEST MADE UNDER SECTION 3 OR 4**8. Prescribed body may apply for registration
of its name and emblem**

(1) A prescribed body may apply to the Commission for the registration of the following particulars—

- (a) the Chinese name of the body;
- (b) an abbreviation of the Chinese name of the body;
- (c) the English name of the body;
- (d) an abbreviation of the English name of the body;
- (e) an emblem of the body.

(2) An application made under subsection (1)—

- (a) must be in the specified form and signed by the applicant;
- (b) must contain—
 - (i) the name and address of the applicant; and
 - (ii) the subject of application;
- (c) must indicate whether the applicant is a prescribed political body or a prescribed non-political body;
- (d) must indicate that the applicant intends to consent to the subject of application being printed on a ballot paper as particulars relating to one or more persons as candidates; and
- (e) must be accompanied by a copy of the relevant certificate of the applicant.

(3) An applicant may, by notice in writing given to the Commission, withdraw an application made under subsection (1).

(4) A prescribed body must not make an application under subsection (1) for the registration of any particulars referred to in paragraph (a), (b), (c), (d) or (e) of that subsection if—

- (a) an application made by the body under that subsection for the registration of the same kind of particulars remains pending; or
- (b) the same kind of particulars is or is to be registered in relation to the body.

**9. Prescribed person may apply for
registration of his emblem**

(1) A prescribed person may apply to the Commission for the registration of an emblem of the person.

- (2) An application made under subsection (1)—
- (a) must be in the specified form and signed by the applicant;
 - (b) must contain—
 - (i) the name, address and identity document number of the applicant; and
 - (ii) the subject of application; and
 - (c) must indicate that the applicant is a prescribed person.
- (3) An applicant may, by notice in writing given to the Commission, withdraw an application made under subsection (1).
- (4) A prescribed person must not make an application under subsection (1) for the registration of an emblem of the person if—
- (a) an application made by the person under that subsection for the registration of another emblem of the person remains pending; or
 - (b) another emblem is or is to be registered in relation to the person.

10. Commission may refuse to accept application

- (1) The Commission may refuse to accept an application made under section 8(1) or 9(1) if—
- (a) the application does not comply with any of the requirements set out in section 8(2) or 9(2); or
 - (b) the applicant concerned fails to comply with any requirements made by the Commission under subsection (2).
- (2) The Commission may, by notice in writing given to the applicant concerned, require the applicant to provide, within a reasonable time specified in the notice, such additional information or document as is reasonably necessary to enable the Commission to consider the application concerned.

PART 4

PROCESSING OF APPLICATION

Timing

11. Timing of processing of application

- The Commission must process any application made under section 8(1) or 9(1) in any annual registration cycle—
- (a) if the application is made on or before the relevant cut-off date of that annual registration cycle, as soon as practicable after that cut-off date, and in any event within that annual registration cycle; or

- (b) if the application is made after the relevant cut-off date of that annual registration cycle, as soon as practicable after the relevant cut-off date of the next following annual registration cycle, and in any event within the next following annual registration cycle.

Preliminary processing

12. Commission may refuse to grant application on certain grounds

(1) The Commission may refuse to grant an application made by a prescribed body under section 8(1) for the registration of an abbreviation of the Chinese name or the English name of the body (“the relevant abbreviation”) if, in the opinion of the Commission—

- (a) the relevant abbreviation is identical to the name or abbreviation of the name of another prescribed body;
- (b) the relevant abbreviation so closely resembles the name or abbreviation of the name of any other person that the relevant abbreviation is likely to be confused with or mistaken for the name or abbreviation of the name of that other person;
- (c) the relevant abbreviation comprises anything that is likely to be confused with or mistaken for any words or expressions used or to be used by the Commission on a ballot paper as part of the voting instructions;
- (d) the relevant abbreviation comprises anything that is likely to induce an elector voting at an election to believe that the applicant is connected in any way with—
 - (i) the Central People’s Government;
 - (ii) the Government;
 - (iii) any public body;
 - (iv) any country; or
 - (v) any authority or political organization outside Hong Kong;
- (e) the relevant abbreviation is obscene, indecent or offensive; or
- (f) the relevant abbreviation comprises anything the use of which is likely to amount to the commission of an offence.

(2) The Commission may refuse to grant an application made by a prescribed body under section 8(1) or by a prescribed person under section 9(1) for the registration of an emblem of the body or the person (“the relevant emblem”) if, in the opinion of the Commission—

- (a) the relevant emblem is identical to the emblem of another prescribed body or prescribed person;

- (b) the relevant emblem so closely resembles the emblem of any other person that the relevant emblem is likely to be confused with or mistaken for the emblem of that other person;
- (c) the relevant emblem comprises anything that is likely to be confused with or mistaken for any design used or to be used by the Commission on a ballot paper as part of the voting instructions;
- (d) the relevant emblem comprises anything that is likely to induce an elector voting at an election to believe that the applicant is connected in any way with—
 - (i) the Central People's Government;
 - (ii) the Government;
 - (iii) any public body;
 - (iv) any country; or
 - (v) any authority or political organization outside Hong Kong;
- (e) in the case of an application made under section 9(1), the relevant emblem is or contains a photograph of the applicant concerned;
- (f) the relevant emblem is obscene, indecent or offensive; or
- (g) the relevant emblem comprises anything the use of which is likely to amount to the commission of an offence.

(3) Without prejudice to subsections (1) and (2), the Commission may refuse to grant an application made under section 8(1) or 9(1) if the Commission believes that the applicant concerned is, at any time after the application is made, no longer a prescribed body or a prescribed person, as the case may be.

13. Applicant may vary application, etc.

- (1) If the Commission is of the opinion that it may refuse to grant an application made under section 8(1) or 9(1) on any of the grounds set out in section 12, it must give the applicant a notice in writing—
- (a) if the application is made on or before the relevant cut-off date of the first annual registration cycle after the commencement of this Regulation, within 21 days after that cut-off date; or
 - (b) if the application is made on or before the relevant cut-off date of any subsequent annual registration cycle, within 14 days after the relevant cut-off date of that annual registration cycle.
- (2) A notice given under subsection (1) must specify—
- (a) that the Commission is of the opinion that it may refuse to grant the application concerned, and the grounds on which the opinion is formed; and

(b) that the applicant may, within 14 days after the notice is given, vary the application or make representations in writing to the Commission on why it should not refuse to grant the application.

(3) If a notice has been given to the applicant under subsection (1) and the applicant varies the application within the period referred to in subsection (2)(b), the application so varied is, for all purposes, to be regarded as being made under section 8(1) or 9(1) on or before the relevant cut-off date of the annual registration cycle in which the application is made, and the application then has effect subject to the variation.

(4) The Commission may, by notice in writing given to the applicant, refuse to grant the application concerned if a notice has been given to the applicant under subsection (1), and—

- (a) the applicant does not vary the application or make any representations in writing under subsection (2)(b); or
- (b) the Commission, having considered any such varied application or representations, considers that the applicant has not shown good cause why it should not refuse to grant the application.

Further processing

14. Publication of application made to Commission

If the Commission, having considered an application made under section 8(1) or 9(1) (including any representations made for the purposes of the application under section 13), is of the opinion that it may grant the application, it must publish a notice in respect of the application in the Gazette—

- (a) specifying—
 - (i) the name of the applicant; and
 - (ii) the subject of application;
- (b) stating that the Commission may grant the application; and
- (c) where the application or part of the application is in respect of any particulars referred to in section 8(1)(b), (d) or (e) or 9(1), inviting any person who objects to the granting of the application or that part of the application, as the case may be, to make objection to the Commission in accordance with section 15.

15. Objection to application

(1) Subject to subsection (2), any person may, within 21 days after the publication of a notice in the Gazette under section 14, object to the granting of an application for the registration of—

- (a) an abbreviation of the Chinese name or the English name of a prescribed body (“the relevant abbreviation”);
 - (b) an emblem of a prescribed body or a prescribed person (“the relevant emblem”).
- (2) An objection referred to in subsection (1) may be made only on the grounds that—
- (a) the relevant abbreviation—
 - (i) is identical to the name or abbreviation of the name of the objector; or
 - (ii) so closely resembles the name or abbreviation of the name of the objector that the relevant abbreviation is likely to be confused with or mistaken for the name or abbreviation of the name of the objector; or
 - (b) the relevant emblem—
 - (i) is identical to a registered trade mark of which the objector is the owner or a licensee or an emblem in relation to which the objector has an intellectual property right; or
 - (ii) so closely resembles a registered trade mark of which the objector is the owner or a licensee or an emblem in relation to which the objector has an intellectual property right that the relevant emblem is likely to be confused with or mistaken for that trade mark or emblem.
- (3) An objection made under subsection (1)—
- (a) must be in the specified form and signed by the objector; and
 - (b) must contain—
 - (i) the name, address and, where applicable, identity document number of the objector;
 - (ii) a statement of the grounds of the objection; and
 - (iii) a statutory declaration in support of the objection, setting out particulars of evidence in support of the objection and exhibiting such evidence or a copy thereof.
- (4) An objector may, by notice in writing given to the Commission, withdraw an objection made under subsection (1).

16. Commission may refuse to accept objection

- (1) The Commission may refuse to accept an objection made under section 15(1) if—
- (a) the objection does not comply with any of the requirements set out in section 15(3); or
 - (b) the objector concerned fails to comply with any requirements made by the Commission under subsection (2).

(2) The Commission may, by notice in writing given to the objector concerned, require the objector to provide, within a reasonable time specified in the notice, such additional information or document as is reasonably necessary to enable the Commission to consider the objection concerned.

17. Hearing of objection

(1) The Commission must, as soon as practicable after receiving an objection made under section 15(1), send to the applicant concerned a copy of the objection and, where applicable, any additional information or document provided by the objector pursuant to section 16(2).

(2) The Commission must, by notice in writing given to the applicant and the objector, inform them of the date and time at which they will be given an opportunity of being heard.

(3) Unless the applicant and the objector consent to a shorter notice, the date of hearing must be at least 7 days after the date of the notice given under subsection (2).

(4) A hearing under this section must be conducted by the Commission or a member of the Commission.

(5) A hearing under this section must be held in public unless the Commission or the member thereof who conducts the hearing, on its or his own motion or on the application of the applicant or the objector, determines that the hearing or any part of the hearing must not be held in public in which case the hearing or the part thereof, as the case may be, may be held in private.

(6) At a hearing under this section, the applicant and the objector may be heard in person or by any person authorized in writing by the applicant or the objector, as the case may be.

(7) At a hearing under this section, the Commission or the member thereof who conducts the hearing may admit in evidence any document produced by the applicant or the objector.

(8) If the applicant or the objector fails to appear at a hearing, the Commission or the member thereof who conducts the hearing may—

- (a) if satisfied that the failure to appear is due to reasonable cause, adjourn the hearing for such period as it or he thinks fit; or
- (b) hear the representations of any party that appears at the hearing.

(9) If both the applicant and the objector fail to appear at a hearing, the Commission or the member thereof who conducts the hearing may—

- (a) if satisfied that the failure to appear is due to reasonable cause, adjourn the hearing for such period as it or he thinks fit; or
- (b) dismiss the objection.

(10) If a hearing under this section is conducted by a member of the Commission, the member must, as soon as practicable after the hearing, report to the Commission a recommendation as to whether the objection concerned should be allowed or rejected and the reasons for the recommendation.

(11) In subsections (4), (5), (6), (7), (8), (9) and (10), “hearing” (聆訊) includes a hearing adjourned under subsection (8)(a) or (9)(a).

Decision

18. Commission to decide on application

(1) If the Commission publishes a notice in respect of an application in the Gazette under section 14, and—

- (a) no objection to the granting of the application is made under section 15(1); or
- (b) an objection to the granting of the application is made under section 15(1), but—
 - (i) the objection is withdrawn under section 15(4);
 - (ii) the Commission refuses to accept the objection under section 16(1); or
 - (iii) the objection is dismissed under section 17(9)(b),

the Commission must, as soon as practicable after the expiry of the period specified in section 15(1) or the occurrence of the event set out in paragraph (b)(i), (ii) or (iii), as the case may be, grant the application.

(2) If the Commission publishes a notice in respect of an application in the Gazette under section 14, an objection to the granting of the application is made under section 15(1), and none of the events set out in subsection (1)(b)(i), (ii) and (iii) occurs, the Commission must, as soon as practicable after a hearing is held in relation to the objection under section 17, decide whether or not to grant the application.

(3) In making a decision under subsection (2), the Commission must have regard to—

- (a) the objection;
- (b) any additional information or document provided by the objector concerned pursuant to section 16(2);
- (c) any document admitted in evidence under section 17(7); and
- (d) if the hearing is conducted by the Commission, any representations made by the applicant and the objector concerned at the hearing or, if the hearing is conducted by a member of the Commission, the recommendation and reasons for the recommendation as reported under section 17(10).

19. Notification and publication of the Commission's decision on application

(1) The Commission must, as soon as practicable after a decision is made under section 18(1) or (2) on an application made under section 8(1) or 9(1), by notice in writing given to the applicant and, where applicable, the objector concerned, inform the applicant and, where applicable, the objector of the decision.

(2) The Commission must, as soon as practicable after a decision is made under section 18(1) or (2) to grant an application made under section 8(1) or 9(1), register the subject of application in accordance with section 20, and then publish a notice in respect of the application in the Gazette—

(a) specifying—

- (i) the name of the applicant; and
- (ii) the subject of application; and

(b) stating that the Commission has granted the application and registered the subject of application.

PART 5

REGISTRATION AND DE-REGISTRATION OF NAME, EMBLEM, ETC.

Registration

20. Commission to register name, emblem, etc.

(1) The Commission must establish and maintain a register for the purposes of this Regulation in such form as it considers appropriate.

(2) The Commission must enter in the register—

(a) in relation to an application made by a prescribed body under section 8(1) or 24(1) that the Commission has granted—

- (i) the name and address of the body; and
- (ii) the subject of application;

(b) in relation to an application made by a prescribed person under section 9(1) or 25(1) that the Commission has granted—

- (i) the name of the person; and
- (ii) the subject of application; and

(c) such other particulars as the Commission considers appropriate.

(3) The Chief Electoral Officer must make the register available for inspection, free of charge, by members of the public during ordinary business hours at the Registration and Electoral Office.

De-registration

21. Commission may de-register name and emblem

(1) The Commission may de-register a subject of registration that is registered in relation to a prescribed body on the grounds that—

- (a) no request is made under section 3(2) or 4(2) to print the subject of registration on ballot papers in 2 consecutive general elections or in any by-election held between such general elections; or
- (b) the body ceases to exist.

(2) The Commission may de-register a subject of registration that is registered in relation to a prescribed person on the grounds that—

- (a) no request is made under section 3(2) or 4(2) to print the subject of registration on ballot papers in 2 consecutive general elections or in any by-election held between such general elections; or
- (b) the person dies.

(3) Without prejudice to subsections (1) and (2), the Commission may de-register a subject of registration if—

- (a) after considering an objection made under section 22(1) in relation to the subject of registration, the Commission decides to allow the objection under section 23(4); or
- (b) after considering an application made under section 28(1) or 29(1) in relation to the subject of registration, the Commission decides to grant the application under section 31(a).

(4) If the Commission de-registers any subject of registration under subsection (1)(a) or (2)(a), it must, by notice in writing given to the prescribed body or the prescribed person concerned, inform the body or the person of the de-registration.

(5) The Commission must, as soon as practicable after it de-registers any subject of registration under this section, publish a notice in respect of the de-registration in the Gazette—

- (a) specifying—
 - (i) the name of the prescribed body in relation to which or the prescribed person in relation to whom the subject of registration is registered; and
 - (ii) the subject of registration; and
- (b) stating that the Commission has de-registered the subject of registration.

22. Objection to continued registration of abbreviation or emblem

(1) Subject to subsection (2), any person may object to the continued registration of—

- (a) an abbreviation of the Chinese name or the English name of a prescribed body (“the relevant abbreviation”);
- (b) an emblem of a prescribed body or a prescribed person (“the relevant emblem”).

(2) An objection referred to in subsection (1) may be made only on the grounds that—

- (a) the relevant abbreviation—
 - (i) is identical to the name or abbreviation of the name of the objector; or
 - (ii) so closely resembles the name or abbreviation of the name of the objector that the relevant abbreviation is likely to be confused with or mistaken for the name or abbreviation of the name of the objector; or
- (b) the relevant emblem—
 - (i) is identical to a registered trade mark of which the objector is the owner or a licensee or an emblem in relation to which the objector has an intellectual property right; or
 - (ii) so closely resembles a registered trade mark of which the objector is the owner or a licensee or an emblem in relation to which the objector has an intellectual property right that the relevant emblem is likely to be confused with or mistaken for that trade mark or emblem.

(3) An objection made under subsection (1)—

- (a) must be in the specified form and signed by the objector; and
- (b) must contain—
 - (i) the name, address and, where applicable, identity document number of the objector;
 - (ii) a statement of the grounds of the objection; and
 - (iii) a statutory declaration in support of the objection, setting out particulars of evidence in support of the objection and exhibiting such evidence or a copy thereof.

(4) An objector may, by notice in writing given to the Commission, withdraw an objection made under subsection (1).

23. Processing of objection made under section 22

(1) The Commission must process any objection made under section 22(1) in any annual registration cycle—

- (a) if the objection is made on or before the relevant cut-off date of that annual registration cycle, as soon as practicable after that cut-off date, and in any event within that annual registration cycle; or
- (b) if the objection is made after the relevant cut-off date of that annual registration cycle, as soon as practicable after the relevant cut-off date of the next following annual registration cycle, and in any event within the next following annual registration cycle.

(2) The provisions of sections 16 and 17, subject to any necessary modifications, apply in relation to an objection made under section 22(1) as they apply in relation to an objection made under section 15(1).

(3) If—

- (a) an objection made under section 22(1) is withdrawn under section 22(4);
- (b) the Commission refuses to accept the objection under section 16(1) (as applied under subsection (2)); or
- (c) the objection is dismissed under section 17(9)(b) (as applied under subsection (2)),

the abbreviation or the emblem concerned remains registered as if the objection has not been made.

(4) If none of the events set out in subsection (3)(a), (b) and (c) occurs, the Commission must, as soon as practicable after a hearing is held in relation to the objection under section 17 (as applied under subsection (2)), decide whether or not to allow the objection.

(5) In making a decision under subsection (4), the Commission must have regard to—

- (a) the objection;
- (b) any additional information or document provided by the objector concerned pursuant to section 16(2) (as applied under subsection (2));
- (c) any document admitted in evidence under section 17(7) (as applied under subsection (2)); and
- (d) if the hearing is conducted by the Commission, any representations made by the prescribed body or prescribed person and the objector concerned at the hearing or, if the hearing is conducted by a member of the Commission, the recommendation and reasons for the recommendation as reported under section 17(10) (as applied under subsection (2)).

(6) The Commission must, as soon as practicable after the occurrence of the event set out in subsection (3)(a), (b) or (c), by notice in writing given to the prescribed body or prescribed person and, where applicable, the objector concerned, inform the body or person and, where applicable, the objector of the withdrawal, refusal or dismissal, as the case may be.

(7) The Commission must, as soon as practicable after a decision is made under subsection (4), by notice in writing given to the prescribed body or prescribed person and the objector concerned, inform the body or person and the objector of the decision.

Replacement

24. Prescribed body may apply for registration of its name and emblem to replace registered name and emblem

(1) A prescribed body may apply to the Commission for the registration of the particulars referred to in any of the provisions of section 8(1)(a), (b), (c), (d) and (e) to replace the same kind of particulars that is registered in relation to the body.

(2) An application made under subsection (1)—

(a) must be in the specified form and signed by the applicant;

(b) must contain—

(i) the name and address of the applicant; and

(ii) the subject of application;

(c) must indicate that the applicant intends to consent to the subject of application being printed on a ballot paper as particulars relating to one or more persons as candidates; and

(d) where the application is in respect of any particulars referred to in section 8(1)(a) or (c), must be accompanied by a copy of the relevant certificate of the applicant.

(3) An applicant may, by notice in writing given to the Commission, withdraw an application made under subsection (1).

(4) A prescribed body must not make an application under subsection (1) for the registration of any particulars referred to in section 8(1)(a), (b), (c), (d) or (e) if an application made by the body under subsection (1) for the registration of the same kind of particulars remains pending.

25. Prescribed person may apply for registration of his emblem to replace registered emblem

(1) A prescribed person may apply to the Commission for the registration of an emblem of the person to replace an emblem that is registered in relation to the person.

(2) An application made under subsection (1)—

(a) must be in the specified form and signed by the applicant;

(b) must contain—

- (i) the name, address and identity document number of the applicant; and
- (ii) the subject of application; and
- (c) must indicate that the applicant is a prescribed person.

(3) An applicant may, by notice in writing given to the Commission, withdraw an application made under subsection (1).

(4) A prescribed person must not make an application under subsection (1) for the registration of an emblem of the person if an application made by the person under that subsection for the registration of another emblem of the person remains pending.

26. Commission may refuse to accept application made under section 24 or 25

(1) The Commission may refuse to accept an application made under section 24(1) or 25(1) if—

- (a) the application does not comply with any of the requirements set out in section 24(2) or 25(2); or
- (b) the applicant concerned fails to comply with any requirements made by the Commission under subsection (2).

(2) The Commission may, by notice in writing given to the applicant concerned, require the applicant to provide, within a reasonable time specified in the notice, such additional information or document as is reasonably necessary to enable the Commission to consider the application concerned.

27. Processing of application made under section 24 or 25

The provisions of Part 4, subject to any necessary modifications, apply in relation to the processing of an application made under section 24(1) or 25(1) as they apply in relation to the processing of an application made under section 8(1) or 9(1).

Withdrawal of registration, etc.

28. Prescribed body may apply for withdrawal of registration of its name and emblem, etc.

- (1) A prescribed body may at any time apply to the Commission for—
- (a) the withdrawal of the registration of a subject of registration in relation to the body;

(b) the amendment of any particulars in the register other than a subject of registration in relation to the body.

(2) An application made under subsection (1) must be in writing and signed by the applicant.

(3) An applicant may, by notice in writing given to the Commission, withdraw an application made under subsection (1).

29. Prescribed person may apply for withdrawal of registration of his emblem, etc.

(1) A prescribed person may at any time apply to the Commission for—

(a) the withdrawal of the registration of a subject of registration in relation to the person;

(b) the amendment of any particulars in the register other than a subject of registration in relation to the person.

(2) An application made under subsection (1) must be in writing and signed by the applicant.

(3) An applicant may, by notice in writing given to the Commission, withdraw an application made under subsection (1).

30. Commission may refuse to accept application made under section 28 or 29

(1) The Commission may refuse to accept an application made under section 28(1) or 29(1) if—

(a) the application does not comply with any of the requirements set out in section 28(2) or 29(2); or

(b) the applicant concerned fails to comply with any requirements made by the Commission under subsection (2).

(2) The Commission may, by notice in writing given to the applicant concerned, require the applicant to provide, within a reasonable time specified in the notice, such additional information or document as is reasonably necessary to enable the Commission to consider the application concerned.

31. Processing of application made under section 28 or 29

The Commission must, unless satisfied that an application made under section 28(1) or 29(1) should not be granted—

(a) grant the application; and

(b) where the application is made under section 28(1)(b) or 29(1)(b), cause the particulars concerned to be amended.

PART 6

MISCELLANEOUS

32. Signature of document

(1) If a document is required to be signed by a body or organization under this Regulation, it must be signed by a person authorized in that behalf by the body or organization.

(2) If a notice in writing is given to the Commission under this Regulation, it must be signed by the person giving the notice and, for the purposes of section 4(6), must be signed also by the other candidate or candidates on the nomination list concerned.

33. Commission may specify form

(1) The Commission may specify forms for the purposes of any provision of this Regulation.

(2) The Chief Electoral Officer must make the specified forms available, free of charge, during ordinary business hours at the Registration and Electoral Office, or at any other place as he considers appropriate.

34. Decision of Commission final

Subject to section 61 of the Legislative Council Ordinance (Cap. 542), any decision of the Commission made under this Regulation is final.

35. Offence of false statement

(1) A person must not—

- (a) in any document used in connection with any request, application or objection made under this Regulation, or in any evidence given at any hearing under this Regulation, make any statement that the person knows to be false in a material particular;
- (b) in any document or evidence referred to in paragraph (a), recklessly make any statement that is incorrect in a material particular; or
- (c) knowingly omit any material particular from any document or evidence referred to in paragraph (a).

(2) A person who contravenes subsection (1) commits an offence and is liable to a fine at level 2 and to imprisonment for 6 months.

SCHEDULE

[ss. 3 & 4]

PARTICULARS RELATING TO CANDIDATES

| Item | Particulars |
|------|--|
| 1. | Either or both of the following— (a) the registered Chinese name or the registered abbreviation of the Chinese name (but not both) of a prescribed body; (b) the registered English name or the registered abbreviation of the English name (but not both) of a prescribed body. |
| 2. | The words “Independent Candidate 獨立候選人” or the words “Non-affiliated Candidate 無黨派候選人” (but not both). |
| 3. | The registered emblem of a prescribed body. |
| 4. | The registered emblem of a prescribed person. |

Made this 10th day of December 2003.

WOO Kwok-hing, J.A.
Chairman,
Electoral Affairs Commission

Norman LEUNG Nai-pang
Member,
Electoral Affairs Commission

Elizabeth S. C. SHING
Member,
Electoral Affairs Commission

Explanatory Note

This Regulation is made by the Electoral Affairs Commission (“Commission”) under section 7 of the Electoral Affairs Commission Ordinance (Cap. 541). The main purpose of this Regulation is to set out the procedures to be followed for printing specified particulars relating to candidates (which may include registered names of prescribed bodies, words indicating that a candidate is an independent candidate, registered emblems of prescribed bodies or prescribed persons, and photographs of candidates) on ballot papers for use in an election to elect Members of the Legislative Council.

2. Part 1 contains preliminary provisions. In particular—
 - (a) section 1 provides for the commencement of this Regulation; and
 - (b) section 2 defines the terms used in this Regulation.
3. Part 2 provides for the requests made by candidates to have the specified particulars printed on a ballot paper. In particular—
 - (a) section 3 provides for the making of a request by a candidate for a functional constituency or the sole candidate on a nomination list to print specified particulars on a ballot paper;
 - (b) section 4 provides for the making of a request by a candidate on a nomination list with more than one candidate to print specified particulars on a ballot paper;
 - (c) section 5 provides for the giving of consent by a prescribed body in relation to a request;
 - (d) section 6 enables the Commission to refuse to accept a request under certain circumstances; and
 - (e) section 7 provides for the size and position of specified particulars to be printed on a ballot paper.
4. Part 3 (sections 8 to 10) provides for—
 - (a) the application by a prescribed body for the registration of its name and emblem; and
 - (b) the application by a prescribed person for the registration of his emblem.
5. Part 4 (sections 11 to 19) sets out the procedures for the Commission to process an application.
6. Part 5 (sections 20 to 31) provides for—
 - (a) the registration and de-registration of the particulars of a prescribed body and a prescribed person;
 - (b) the application by a prescribed body for the registration of its name and emblem to replace its registered name and emblem, and for the withdrawal of the registration of its name and emblem; and
 - (c) the application by a prescribed person for the registration of his emblem to replace his registered emblem, and for the withdrawal of the registration of his emblem.
7. Part 6 (sections 32 to 35) provides for offences and other miscellaneous matters.