

## **LEGISLATIVE COUNCIL BRIEF**

### **Electoral Affairs Commission Ordinance (Cap. 541)**

#### **Electoral Procedure (Chief Executive Election) (Amendment) Regulation 2006**

### **INTRODUCTION**

On 9 October 2006, the Electoral Affairs Commission (“EAC”) made the Electoral Procedure (Chief Executive Election) (Amendment) Regulation 2006 (“the Amendment Regulation”). This brief informs Members of the main provisions of the above Amendment Regulation.

### **BACKGROUND**

2. The Third Term Chief Executive (“CE”) election will be held in March 2007. To ensure the smooth conduct of the election, the EAC has reviewed the subsidiary legislation under the EAC Ordinance (Cap. 541) and has identified that amendments to the Electoral Procedure (CE Election) Regulation (Cap. 541J), which provides for the detailed arrangements for electoral procedures for the CE election, under the following categories will be required:

- (a) amendments consequential to the Chief Executive Election and Legislative Council Election (Miscellaneous Amendments) Ordinance 2006 (“the Amendment Ordinance”), which came into effect on 13 May 2006; and
- (b) amendments to align the electoral procedures for the CE election, where appropriate, with those for the Legislative Council (“LegCo”) election in 2004 and those for the Election Committee (“EC”) subsector elections in 2006.

## **AMENDMENT REGULATION**

3. The Amendment Regulation is at **Annex A**. The major amendments are highlighted in the following paragraphs.

### **Amendments consequential to the Amendment Ordinance**

4. The Amendment Ordinance has amended the Chief Executive Election Ordinance (“CEEEO”) (Cap. 569) to provide for the conduct of a poll at a CE election in which only one candidate is validly nominated. Consequential amendments to Cap. 541J are required to provide for the detailed arrangements to implement the electoral procedures for such an uncontested election, which will be largely modelled on, where appropriate, those for a contested election. The amendments also cover the arrangements for the termination of an uncontested election in the event that the sole candidate is not returned at the poll (i.e. when the number of “support votes” obtained by the only validly nominated candidate falls short of more than half of the total valid votes cast). The main amendments to Cap. 541J consequential to the Amendment Ordinance are set out at **Annex B** for easy reference.

5. As a result of the amendments introduced by the Amendment Ordinance, there is now an additional ground for election petition, i.e. a sole candidate declared by the Returning Officer (“RO”) as not returned in an election is not returned because material irregularity has occurred in the election. Consequential amendments will be made to the CE Election (Election Petition) Rules (Cap. 569E) by the Chief Justice, which will be the subject of a separate LegCo brief.

### **Amendments to align the electoral procedures for the CE election with those for the LegCo election and the EC subsector elections**

6. The EAC has also reviewed the electoral procedures for the CE election, as set out in Cap. 541J, and identified areas where the electoral arrangements should tally with those for other elections, in particular the LegCo election and the EC subsector elections as set out in, respectively, the EAC (Electoral Procedure) (LegCo) Regulation (Cap. 541D) and the EAC (Electoral Procedure) (EC) Regulation (Cap. 541I). The main amendments to Cap. 541J in this regard are set out at **Annex C** for easy reference.

## **PUBLIC CONSULTATION**

7. On 19 June 2006, we briefed the LegCo Panel on Constitutional Affairs on the tentative scope of amendments, and Members did not raise any objection.

## **IMPLICATIONS OF THE AMENDMENT REGULATION**

8. Sufficient provisions have been included in the Estimates of the Registration and Electoral Office for the preparation and conduct of the 2007 CE election. The Amendment Regulation is in conformity with the Basic Law, including the provisions concerning human rights.

## **LEGISLATIVE TIMETABLE**

9. The Amendment Regulation will be published in the Gazette on 13 October 2006 and tabled in the Council on 18 October 2006.

## **PUBLICITY**

10. A press release will be issued to announce the publication of the Amendment Regulation in the Gazette. A spokesman will be available for answering media enquiries.

Registration and Electoral Office  
October 2006

**ELECTORAL PROCEDURE (CHIEF EXECUTIVE  
ELECTION)(AMENDMENT) REGULATION 2006**

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# **ELECTORAL PROCEDURE (CHIEF EXECUTIVE ELECTION)(AMENDMENT) REGULATION 2006**

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

## **PART 1**

### **COMMENCEMENT**

#### **1. Commencement**

This Regulation shall come into operation on 8 December 2006.

## **PART 2**

### **AMENDMENTS CONCERNING INTERPRETATION**

#### **2. Interpretation**

(1) Section 2(1) of the Electoral Procedure (Chief Executive Election) Regulation (Cap. 541 sub. leg. J) is amended, in the definition of “final register”, by repealing “compiled and published under section 40” and substituting “published under section 40(2), (3), (3A) or (4)”.

(2) Section 2(1) is amended, in the definition of “polling hours”, by adding “, (1A)” after “section 17(1)”.

(3) Section 2(1) is amended by adding –

““contested election” (有競逐選舉) means an election in which  
there are 2 or more candidates;

“head-dress” (頭飾) means anything which is worn on a person’s  
head;

“uncontested election” (無競逐選舉) means an election in which  
at the close of nominations only one candidate is validly  
nominated;”.



## PART 3

### AMENDMENTS CONCERNING NOMINATION

#### **3. Notice relating to submission of nomination forms**

Section 3(d) is amended by repealing everything after “will be” and substituting “conducted on the polling date if any candidate is validly nominated.”.

#### **4. Nomination forms to be available for inspection**

(1) Section 8 is amended by renumbering it as section 8(1).

(2) Section 8(1) is amended by repealing everything after “until” and substituting “the publication of the relevant result or until the termination of the proceedings for the election under section 22(1AA) or (1) of the Election Ordinance.”.

(3) Section 8 is amended by adding –

“(2) In subsection (1), “publication of the relevant result” (刊登有關結果) means –

(a) publication of the result of the poll in the Gazette under section 22 of the Election Ordinance; or

(b) publication of the result of the election in the Gazette under section 28 of the Election Ordinance,

as may be appropriate.”.

#### **5. Notice that the only candidate is returned**

Section 10 is repealed.

**6. Notice of termination of election proceedings**

Section 11(1) is amended by repealing “section 22” and substituting “section 22(1AA), (1AB)(e) or (1)”.

**PART 4****AMENDMENTS CONCERNING ELECTION AGENTS AND  
ELECTION EXPENSE AGENTS****7. Appointment of election agent**

Section 12(1) is amended by repealing “Each candidate” and substituting “A candidate”.

**8. Appointment of election expense agent**

Section 13(1) is amended by repealing “Each candidate” and substituting “A candidate”.

**9. Other candidates to be notified of  
particulars of election agent**

Section 15(2)(a) is amended by repealing “, identity card number”.

**PART 5****AMENDMENTS CONCERNING POLLING ARRANGEMENT****10. Appointment of polling hours**

(1) Section 17(1) is amended by adding “in a contested election” after “polling date”.

(2) Section 17 is amended by adding –

“(1A) The hours during which electors can vote on the polling date in an uncontested election shall be appointed by the Chief Electoral Officer.”.

- (3) Section 17(2) is amended by adding “or (1A)” after “subsection (1)”.
- (4) Section 17(3) is amended by adding “in a contested election” after “If”.

#### **11. Appointment of Presiding Officer and polling officers**

Section 20 is amended by adding –

“(1A) The Chief Electoral Officer may, with reasonable cause, revoke at any time any appointment made under subsection (1).”.

#### **12. Determination of no canvassing zone and no staying zone**

- (1) Section 23(2) is amended by repealing “2 days” and substituting “7 days”.
- (2) Section 23 is amended by adding –
  - “(5A) The Returning Officer may perform any act which he is required or authorized to perform under subsections (3), (4) and (5) through the Presiding Officer.”.

#### **13. Order in no canvassing zone and no staying zone**

- (1) Section 24(2) is amended by adding –
  - “(aa) conduct any activity for canvassing for votes so that the sound of the activity can be heard in the no canvassing zone;”.
- (2) Section 24(3) is repealed and the following substituted –
  - “(3) For the purposes of subsection (2), the following acts shall fall within “canvassing for votes” –
    - (a) in the case of a contested election, suggesting not to vote for any candidate; and

- (b) in the case of an uncontested election, suggesting not to vote in support of the candidate.”.

#### **14. Polling agents**

Section 25(1) is amended by repealing “Each candidate” and substituting “A candidate”.

#### **15. Admission to polling station**

(1) Section 26(1)(l) is amended, in the Chinese text, by repealing “當值” and substituting “執勤”.

(2) Section 26(1) is amended by adding –

“(la) a police officer on duty at the polling station;

(lb) a person authorized in writing by the Returning Officer to act as a liaison officer;”.

#### **16. Order in the polling station**

(1) Section 27(2) is amended by repealing “Presiding Officer” and substituting “Returning Officer, Assistant Returning Officer, Presiding Officer or any polling officer”.

(2) Section 27(3)(h) is amended by repealing “or”.

(3) Section 27(3)(h) is amended, in the Chinese text, by repealing “當值” and substituting “執勤”.

(4) Section 27(3) is amended by adding –

“(ha) a police officer on duty at the polling station;

(hb) a person authorized in writing by the Returning Officer to act as a liaison officer; or”.

(5) Section 27(6) is repealed and the following substituted –

“(6) For the purposes of subsection (5), the following acts shall fall within “canvassing for votes” –

- (a) in the case of a contested election, suggesting not to vote for any candidate; and
- (b) in the case of an uncontested election, suggesting not to vote in support of the candidate.”.

## PART 6

### AMENDMENTS CONCERNING BALLOT PAPERS AND VOTING PROCEDURE

#### **17. Form of ballot papers**

- (1) Section 30(1) is amended by repealing “for an election shall be in the form set out” and substituting “in a contested election shall be in Form 1”.
- (2) Section 30 is amended by adding –
  - “(1A) A ballot paper to be used in an uncontested election shall be in Form 2 in the Schedule.”.

#### **18. Order of names of candidates on ballot papers**

- (1) Section 31 is amended, in the heading, by adding “**in contested election**” after “**candidates**”.
- (2) Section 31 is amended by adding before subsection (1) –
  - “(1A) This section applies to a contested election.”.

#### **19. Question to person applying for a ballot paper**

- (1) Section 32(1) is amended by adding “any paragraph of” after “set out in”.
- (2) Section 32(2)(a) and (b) is repealed and the following substituted –
  - “(a) in relation to any election –

- (i) “你是否已登記在選舉委員會正式委員登記冊上，而有關登記記項一如以下所述 (the Presiding Officer to read the Chinese version of the whole entry as it is recorded in the final register)?”;  
or
- (ii) “Are you the person registered in the Election Committee final register as follows (the Presiding Officer to read the English version of the whole entry as it is recorded in the final register)?”;
- (b) in relation to a contested election –
  - (i) “你是否已在這一輪投票中投了票?”; or
  - (ii) “Have you already cast a vote in this round of voting?”;
- (c) in relation to an uncontested election –
  - (i) “你是否已投了票?”; or
  - (ii) “Have you already cast a vote?”.

**20. Elector who has not cast vote may return to cast vote with permission**

Section 35 is amended by adding –

“(8) For the purposes of this section, the poll in an uncontested election shall be regarded as a round of voting.”.

**21. Voting procedure**

Section 36(1)(b) is amended by repealing everything after “section 34(1)” and substituting –

“to –

- (i) in the case of a contested election, give a single “✓” in the circle opposite the name of the candidate of his choice on the ballot paper;  
or

- (ii) in the case of an uncontested election, give a single “✓” in the circle opposite the word “SUPPORT” or “NOT SUPPORT” on the ballot paper;”.

## PART 7

### AMENDMENTS CONCERNING COUNTING OF VOTES

#### **22. Determination and notice of time of counting of votes**

(1) Section 43(2) is amended by repealing everything after “shall” and substituting –

“be –

- (a) in the case of a contested election, a time after the close of the relevant round of voting; or
- (b) in the case of an uncontested election, a time after the close of voting.”.

(2) Section 43(3) is amended by adding “or the election agent” after “candidate”.

(3) Section 43(4)(c) is amended by repealing “24 hours” and substituting “one clear working day”.

#### **23. Appointment of counting agent**

(1) Section 44(1) is amended by repealing “Each candidate” and substituting “A candidate”.

(2) Section 44(9) is amended by repealing “3 days” and substituting “7 days”.

#### **24. Appointment of counting officers**

Section 45 is amended by adding –

“(1A) The Chief Electoral Officer may, with reasonable cause, revoke at any time any appointment made under subsection (1).”.

## 25. Admission to counting station

- (1) Section 46(1)(k) is amended by repealing “or”.
- (2) Section 46(1)(k) is amended, in the Chinese text, by repealing “當值” and substituting “執勤”.
- (3) Section 46(1) is amended by adding –
  - “(ka) a police officer on duty at the counting station; or”.

## 26. Counting of votes

Section 49(2) is amended by repealing everything after “accordance with” and substituting –

“subsection (1) –

- (a) any ballot paper which –
  - (i) appears to have on it any writing or mark by which the elector can possibly be identified;
  - (ii) appears to be substantially mutilated;
  - (iii) appears to be not marked in accordance with section 36(1)(b); or
  - (iv) appears to be void for uncertainty, shall be separated and forwarded to the Returning Officer; and
- (b) any ballot paper described in section 50(1)(b), (c), (d) or (f) shall be separated.”.

## 27. Ballot papers not to be counted

- (1) Section 50 is amended by repealing the heading and substituting –
 

**“Some ballot papers invalid”.**
- (2) Section 50 is amended by renumbering it as section 50(1).
- (3) Section 50(1) is amended by repealing “When counting the votes, any ballot paper” and substituting “Upon counting of votes, a ballot paper of any



of the following descriptions shall not be valid and the vote recorded on the ballot paper shall not be counted”.

(4) Section 50(1)(a) is amended by adding “possibly” after “can”.

(5) Section 50(1)(h) is amended, in the English text, by repealing the comma and substituting a full stop.

(6) Section 50(1) is amended, in the English text, by repealing “shall not be counted.”.

(7) Section 50 is amended by adding –

“(2) A candidate, an election agent or a counting agent –

(a) may inspect a ballot paper described in subsection (1)(b), (c), (d) or (f); but

(b) is not entitled to make representations to the Returning Officer concerning the ballot paper.”.

## **28. Determination of validity of questionable ballot papers**

(1) Section 51(1) is amended by repealing “49(2), a candidate or his election” and substituting “49(2)(a), a candidate or his election agent or counting”.

(2) Section 51(2)(b) is amended by repealing “counted pursuant to section 50” and substituting “valid under section 50(1)”.

(3) Section 51(3) is amended by repealing “section 50(g)” and substituting “section 50(1)(g)”.

(4) Section 51(3) is amended by repealing “section 50,” and substituting “section 50(1),”.

(5) Section 51(4) is amended by repealing “counted” and substituting “valid”.

(6) Section 51(4)(a) is amended by repealing “不予接納” and substituting “不獲接納”.

(7) Section 51(4)(b) is amended by repealing “a candidate or an election agent” and substituting “any candidate, election agent or counting agent”.

(8) Section 51(4)(b) is amended by repealing “不予接納的決定遭反對” and substituting “反對此選票不獲接納”.

(9) Section 51(5)(b) is amended by repealing “a candidate or an election agent” and substituting “any candidate, election agent or counting agent”.

(10) Section 51(5) is amended by repealing “予以接納的決定遭反對” and substituting “反對此選票獲接納”.

(11) Section 51(6) is amended by repealing “counted” and substituting “valid”.

(12) Section 51(7)(a) is amended by adding “possibly” after “can”.

## **29. Verification of ballot paper account**

(1) Section 52(1)(a) is amended by repealing everything after “number” and substituting –

“of –

- (i) in the case of a contested election, valid votes obtained by each candidate; or
- (ii) in the case of an uncontested election, valid “SUPPORT” and “NOT SUPPORT” votes obtained by the candidate;”.

(2) Section 52(1)(b) is amended by repealing “counted pursuant to section 50” and substituting “valid under section 50(1)”.

## **30. Result of counting and re-count**

Section 53(1)(a)(i) is repealed and the following substituted –

- “(i) (in the case of a contested election) the candidates who are present or (in the case of an uncontested election) the candidate (if present); and”.

**31. Notice of further round of voting**

Section 54(1) is amended by adding “cast in a contested election” after “the votes”.

**32. Notice of election result**

Section 55 is amended by repealing “section 28(a)” and substituting “section 28(1)(a) or (2)(a)”.

## PART 8

### AMENDMENTS CONCERNING DISPOSAL OF DOCUMENTS

**33. Ballot papers to be sealed**

(1) Section 56(1) is amended by adding “terminating the proceedings for the election under section 22(1AB)(e) of the Election Ordinance or” before “declaring”.

(2) Section 56(1) is amended by repealing “section 28(a) of the Election” and substituting “section 28(1)(a) or (2)(a) of that”.

(3) Section 56(1)(d) is amended by repealing “counted pursuant to section 50” and substituting “valid under section 50(1)”.

(4) Section 56(2)(c) is amended by adding “in the case of a contested election,” before “the number”.

**34. Retention of election documents**

Section 59(a) is amended by repealing everything after “6 months” and substituting –

“from –

- (i) the declaration of the termination of the proceedings for the election to which they relate under section 22 of the Election Ordinance; or
- (ii) the declaration of the result of the election to which they relate under section 28(1)(a) or (2)(a) of the Election Ordinance,

as may be applicable; and”.

## PART 9

### MISCELLANEOUS AMENDMENTS

#### **35. Procedure after termination of election proceedings**

(1) Section 60(1) is amended by repealing “section 22(1)” and substituting “section 22(1AA), (1AB)(e) or (1)”.

(2) Section 60(2) is amended by repealing “section 22(1)” and substituting “section 22(1AA) or (1)”.

(3) Section 60(2)(b) is amended by repealing “a round of voting” and substituting “voting or a round of voting (as may be appropriate)”.

(4) Section 60 is amended by adding –

“(2A) If a declaration of termination of the proceedings for the election is made under section 22(1AB)(e) of the Election Ordinance, the Returning Officer shall display a notice of the declaration at a prominent place immediately outside the counting station as soon as practicable.”.

(5) Section 60(3) is amended by adding “or (c)(ii)” before “as if”.

#### **36. Postponement or adjournment of polling or counting of votes**

Section 61(4) is amended by adding “, in the case of a contested election,” after “apply”.

#### **37. Declaration of secrecy**

(1) Section 69(2)(c) is amended, in the Chinese text, by repealing “當值” and substituting “執勤”.

(2) Section 69(2)(d) is amended, in the Chinese text, by repealing “當值” and substituting “執勤”.

### 38. Secrecy

(1) Section 70(1)(b) is amended by repealing everything after “votes as” and substituting –

“to –

- (i) in the case of a contested election, the candidate for whom a vote has been given on any particular ballot paper; or
- (ii) in the case of an uncontested election, the choice as to whether to support the candidate on any particular ballot paper;”.

(2) Section 70(1)(d) is amended by repealing “has not been counted pursuant to section 50” and substituting “is not valid under section 50(1)”.

(3) Section 70(1)(e) is amended by repealing everything after “information as” and substituting –

“to –

- (i) in the case of a contested election, the candidate for whom an elector is about to vote or has voted; or
- (ii) in the case of an uncontested election, the choice as to whether to support the candidate which an elector is about to make or has made;”.

(4) Section 70(1)(f) is amended by repealing everything after “station as” and substituting –

“to –

- (i) in the case of a contested election, the candidate for whom an elector is about to vote or has voted; or
- (ii) in the case of an uncontested election, the choice as to whether to support the candidate which an elector is about to make or has made; or”.

(5) Section 70(1)(g) is amended by repealing everything after “information as” and substituting –

“to –

- (i) in the case of a contested election, the candidate for whom the elector has voted; or
- (ii) in the case of an uncontested election, the choice as to whether to support the candidate which the elector has made.”.

### **39. Elector need not disclose vote**

(1) Section 78(1) is amended by repealing everything after “asked to” and substituting –

“disclose –

- (a) in the case of a contested election, the name of, or any particulars relating to, the candidate for whom the elector has voted; or
- (b) in the case of an uncontested election, whether the elector has cast a “SUPPORT” or “NOT SUPPORT” vote for the candidate,

is not required to answer the question.”.

(2) Section 78(2) is amended by repealing everything after “lawful” and substituting –

“authority –

- (a) an elector in a contested election to disclose the name of, or any particulars relating to, the candidate for whom the elector has voted; or
- (b) an elector in an uncontested election to disclose whether the elector has cast a “SUPPORT” or “NOT SUPPORT” vote for the candidate.”.

**40. Election advertisement**

(1) Section 81(3) is amended by adding “or any person authorized by him” after “Returning Officer”.

(2) Section 81(3)(a) is amended by repealing “or”.

(3) Section 81(3) is amended by adding –

“(aa) destroy or obliterate the advertisement in such manner as he thinks fit; or”.

(4) Section 81(5)(d) is amended by repealing “T-shirt, cap, badge or carrier bag” and substituting “badge, carrier bag, clothing or head-dress”.

**41. Offence**

(1) Section 82(1) is amended by repealing “27(2), (4),” and substituting “27(2),”.

(2) Section 82(1) is amended by repealing “66, 67, 70(1) or 78(2),” and substituting “66 or 67”.

(3) Section 82(2) is amended by adding “27(4), 70(1), 78(2) or” after “section”.

**42. Application of Parts 4 to 9**

Section 85 is amended by repealing “The” and substituting “In relation to the poll in a contested election, the”.

**43. Ballot Paper**

(1) The Schedule is amended, in the English text, in the heading, by repealing “PAPER” and substituting “PAPERS”.

(2) The Schedule is amended by adding immediately after the heading –

“FORM 1

BALLOT PAPER FOR CONTESTED ELECTION”.

(3) The Schedule is amended by adding –

“FORM 2  
BALLOT PAPER FOR UNCONTESTED ELECTION

<p>〈選舉程序 (行政長官選舉) 規例〉  <b>ELECTORAL PROCEDURE          (CHIEF EXECUTIVE ELECTION) REGULATION</b>          行政長官選舉  <b>CHIEF EXECUTIVE ELECTION</b></p>	<p><b>選票          BALLOT          PAPER</b></p>
<p>*(選舉日期)          *(date of election)</p>	
<p>投“支持”票                      CAST EITHER A “SUPPORT” VOTE          或“不支持”票                  OR A “NOT SUPPORT” VOTE</p>	
<p>請用投票站提供的印章，在所選擇的圓圈內蓋上 ✓ 號。          Please use the chop provided at the polling station to stamp a ✓ in the circle          opposite your choice.</p>	
<p>*(候選人提名公告上顯示的候選人姓名)          *(Name of candidate as shown in          Notice of Nominations)</p>	
<div style="border: 1px solid black; padding: 10px; width: fit-content; margin: 0 auto;"> <p style="margin: 0;">支持</p> <p style="margin: 0;"><b>SUPPORT</b></p> </div>	<input type="radio"/>
<div style="border: 1px solid black; padding: 10px; width: fit-content; margin: 0 auto;"> <p style="margin: 0;">不支持</p> <p style="margin: 0;"><b>NOT SUPPORT</b></p> </div>	<input type="radio"/>

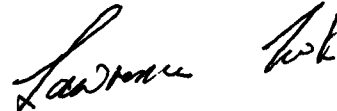
\* Only the appropriate information will be printed.”.



Made this 9th day of October 2006.



The Hon. Mr. Justice PANG Kin-kee  
Chairman,  
Electoral Affairs Commission



Lawrence LOK Ying-kam  
Member,  
Electoral Affairs Commission



Andrew CHAN Chi-fai  
Member,  
Electoral Affairs Commission

#### **Explanatory Note**

The Chief Executive Election and Legislative Council Election (Miscellaneous Amendments) Ordinance 2006 (10 of 2006) introduced a number of amendments to the Chief Executive Election Ordinance (Cap. 569) (“the CEEO”). One of the purposes of the amendments is to provide for the conduct of a poll where there is only one validly nominated candidate in a Chief

Executive election (“uncontested election”). This Regulation amends the Electoral Procedure (Chief Executive Election) Regulation (Cap. 541 sub. leg. J) (“the principal Regulation”) to –

- (a) introduce necessary consequential amendments to the principal Regulation; and
- (b) introduce miscellaneous amendments to the principal Regulation to align the provisions, where appropriate, with those for other elections.

This Regulation is divided into 9 parts.

#### Part 1

2. Section 1 provides for the commencement of this Regulation.

#### Part 2

3. Section 2 –

- (a) amends the existing definition of “final register” in section 2(1) of the principal Regulation to reflect the provision in the CEEO that an interim register of members of the Election Committee is to be published under section 40(1) of the Schedule to the CEEO;
- (b) extends the existing definition of “polling hours” to cover the polling hours appointed for an uncontested election by virtue of the newly added section 17(1A) of the principal Regulation;
- (c) adds the new definitions of “contested election” and “uncontested election” to differentiate, when the terms are used in the principal Regulation, between an election in which there are 2 or more candidates and an election in which at the close of nominations only one candidate is validly nominated; and

- (d) adds the new definition of “head-dress” for it to be exempted, by virtue of the newly amended section 81(5)(d) of the principal Regulation, from the requirement to be marked with a serial number.

### Part 3

4. Sections 3, 4, 5 and 6 amend Part 2 of the principal Regulation to accommodate the new arrangement that a poll will be conducted where only one candidate is validly nominated (“new arrangement”). The particulars of the amendments are set out below.

- (a) Section 3 amends section 3 of the principal Regulation so that the Gazette notice relating to submission of nomination forms and published by the Chief Electoral Officer will state that a poll will be conducted on the polling date if any candidate is validly nominated.
- (b) Section 4 amends section 8 of the principal Regulation to extend the requirement for the nomination forms to be available for inspection until the publication of the relevant election result or poll result to cover an uncontested election.
- (c) Section 5 repeals section 10 of the principal Regulation which is no longer applicable as a poll is also required to be conducted for an uncontested election.
- (d) Section 6 amends section 11 of the principal Regulation to extend the requirement for the Returning Officer to publish a notice of the termination of proceedings to cover the termination of proceedings for an uncontested election.

### Part 4

5. Sections 7 and 8 amend sections 12 and 13 of the principal Regulation respectively so that the text of the provisions on the appointment of election

agent and election expense agent can better cater for the scenario of an uncontested election.

6. Section 9 amends section 15 of the principal Regulation to require that only the name and address (but not the identity card number) of the election agent of a candidate shall be included in the notice provided to other candidates.

#### Part 5

7. Section 10 amends section 17 of the principal Regulation to provide that, similar to a contested election, the polling hours for an uncontested election are appointed by the Chief Electoral Officer, and that provisions regarding an election with possibly more than one round of voting apply to a contested election only.

8. Section 11 amends section 20 of the principal Regulation to provide that the Chief Electoral Officer may, with reasonable cause, revoke at any time the appointment of the Presiding Officer or any polling officer.

9. Section 12 amends section 23 of the principal Regulation to –

- (a) lengthen the notice period concerning determination of no canvassing zone and no staying zone outside the polling station from at least 2 days to at least 7 days before the polling date; and
- (b) provide that the Returning Officer may perform his functions concerning such zones through the Presiding Officer.

10. Section 13 amends section 24 of the principal Regulation to prohibit any person from conducting any activity on the polling date for canvassing for votes so that the sound of the activity can be heard in the no canvassing zone. The amendment also makes it clear that suggesting not to vote in support of the candidate shall fall within “canvassing for votes” for the purposes of an uncontested election.

11. Section 14 amends section 25 of the principal Regulation so that the text of the provisions on the appointment of polling agent can better cater for the scenario of an uncontested election.
12. Section 15 –
  - (a) introduces a minor amendment to the Chinese text of section 26 of the principal Regulation; and
  - (b) amends section 26 of the principal Regulation to include police officers and liaison officers among the categories of persons who may enter or stay in the polling station.
13. Section 16 amends section 27 of the principal Regulation to –
  - (a) provide that, in addition to the Presiding Officer, the Returning Officer, the Assistant Returning Officer and any polling officer may also direct a person not to communicate with any elector or not to use any device for electronic communication in the polling station during the polling hours, and exempt police officers and liaison officers from such prohibition; and
  - (b) make it clear that suggesting not to vote in support of the candidate shall fall within “canvassing for votes” for the purposes of an uncontested election.

#### Part 6

14. Section 17 amends section 30 of the principal Regulation to provide for the prescribed form of ballot papers for use in an uncontested election.
15. Sections 18, 19, 20 and 21 introduce amendments consequential upon the new arrangement concerning voting. The particulars of the amendments are set out below.
  - (a) Section 18 amends section 31 of the principal Regulation to make it clear that the latter section only applies to a contested election.

- (b) Section 19 amends section 32 of the principal Regulation to provide for the questions a Presiding Officer may ask, in case of doubt and at the time a person applies for a ballot paper, in an uncontested election.
- (c) Section 20 amends section 35 of the principal Regulation to extend the latter section to cover an uncontested election.
- (d) Section 21 amends section 36 of the principal Regulation to provide that, in the case of an uncontested election, an elector shall mark the ballot paper by affixing the chop issued by the polling staff to give a single “✓” in the circle opposite the word “SUPPORT” or “NOT SUPPORT” on the ballot paper.

#### Part 7

16. Section 22 amends section 43 of the principal Regulation to –

- (a) provide that the time at which the counting of the votes is to begin shall be, in the case of an uncontested election, a time after the close of voting;
- (b) require that the notice of the counting time and the address of the counting station shall be given to each candidate or the election agent or any counting agent appointed by him; and
- (c) make clear that the above notice shall be given at least one clear working day before the time determined under section 43(1) of the principal Regulation.

17. Section 23 amends section 44 of the principal Regulation so that the text of the provision concerning the appointment of counting agents can better cater for the scenario of an uncontested election. The section as amended also provides that if a notice of appointment of a counting agent is not given before the 7 days

preceding the polling date, it shall be delivered on the polling date to the Returning Officer.

18. Section 24 amends section 45 of the principal Regulation to provide that the Chief Electoral Officer may, with reasonable cause, revoke at any time the appointment of any counting officer.

19. Section 25 –

- (a) introduces a minor amendment to the Chinese text of section 46 of the principal Regulation; and
- (b) amends section 46 of the principal Regulation to include police officers among the categories of persons who may enter or stay in the counting station.

20. Section 26 amends section 49 of the principal Regulation to provide that, in the course of counting, which types of ballot papers shall be forwarded to the Returning Officer to determine whether the votes are to be counted under section 51 of the principal Regulation, and which types of ballot papers shall be separated and the votes shall not be counted under section 50 of the principal Regulation.

21. Section 27 amends section 50 of the principal Regulation to –

- (a) refine the wording of the leading clause to make the whole provision clearer;
- (b) make clear that a ballot paper on which there is any writing or mark by which the elector can possibly be identified shall not be valid and the vote recorded on the ballot paper shall not be counted; and
- (c) provide that a candidate, an election agent or a counting agent may inspect ballot papers separated in the counting of votes but is not entitled to make representations concerning those ballot papers.

22. Section 28 amends section 51 of the principal Regulation to –

- (a) tie in with the amendment to section 50 of the principal Regulation;
- (b) provide that, in addition to a candidate and an election agent, a counting agent may also inspect questionable ballot papers and make representations to the Returning Officer; and
- (c) align the Chinese text of words to be marked by the Returning Officer on questionable ballot papers with the provisions for other elections.

23. Sections 29, 30, 31 and 32 introduce technical amendments and amendments consequential upon the new arrangement. The particulars of the amendments are set out below.

- (a) Section 29 amends section 52 of the principal Regulation to require the Returning Officer to record the number of valid “SUPPORT” and “NOT SUPPORT” votes obtained by the sole candidate in the case of an uncontested election.
- (b) Section 30 amends section 53 of the principal Regulation to extend the arrangement for the Returning Officer to make known the counting result to the candidates or their agents to cover an uncontested election.
- (c) Section 31 amends section 54 of the principal Regulation (which governs the notice of further round of voting) to make it clear that the latter section only applies to a contested election.
- (d) Section 32 amends section 55 of the principal Regulation to provide that the requirement for the Returning Officer to display and send out a notice of the election result also applies to an uncontested election in which the sole candidate is elected.



### Part 8

24. Sections 33 and 34 amend sections 56 and 59 of the principal Regulation respectively to extend the arrangements for the sealing of ballot papers and the retention of election documents to cover an uncontested election. The amendment to section 56 of the principal Regulation also makes it clear that the requirement for the Returning Officer to endorse on each sealed packet the number of the relevant round of voting applies in relation to a contested election.

### Part 9

25. Section 35 amends section 60 of the principal Regulation to –

- (a) extend the procedure for publishing and displaying the declaration of termination of the election proceedings to cover an uncontested election; and
- (b) extend the applicability of sections 58 and 59 of the principal Regulation to cover the ballot papers and other materials delivered to the Returning Officer under section 60(2)(c)(ii) of the principal Regulation.

26. Section 36 amends section 61 of the principal Regulation to make clear that subsection (4) of the latter section applies in relation to a contested election.

27. Section 37 makes two minor amendments to the Chinese text of section 69(2) of the principal Regulation.

28. Sections 38 and 39 amends sections 70 and 78 of the principal Regulation respectively to extend the provisions on the secrecy of votes and the provisions stipulating that an elector needs not disclose the vote he has cast to cover an uncontested election.

29. Section 40 amends section 81 of the principal Regulation to provide that –

- (a) in respect of an election advertisement not complying with the legal requirement, the Returning Officer may, in addition to covering it or seizing and disposing of it, also destroy or obliterate it in such manner as he thinks fit;

- (b) in addition to the Returning Officer, other persons authorized by the Returning Officer may also exercise such statutory powers in respect of an election advertisement not complying with the legal requirement; and
- (c) the requirement for an election advertisement to be marked with a serial number does not apply to an election advertisement in the form of a balloon, badge, carrier bag, clothing or head-dress, to be in line with the provisions for other elections.

30. Section 41 amends section 82 of the principal Regulation to increase the penalty for imprisonment from 3 months to 6 months for –

- (a) unauthorized filming, photographing, audio or video recording on the polling date in a polling station; and
- (b) violation of secrecy of votes.

31. Section 42 amends section 85 of the principal Regulation to make it clear that the latter section (which states that the provisions of Parts 4 to 9 of the principal Regulation apply to and in relation to every round of voting in a poll) applies to a contested election only.

32. Section 43 amends the Schedule to the principal Regulation to add the statutory form of ballot papers for use in an uncontested election.

**Main Amendments to the  
Electoral Procedure (Chief Executive Election) Regulation (Cap. 541J)  
consequent upon the enactment of the  
Chief Executive Election and Legislative Council Election  
(Miscellaneous Amendments) Ordinance 2006<sup>1</sup>**

***Interpretation (s2)***

1. Add the new definitions for “contested election” and “uncontested election” to differentiate, when the terms are used in Cap. 541J, between an election in which there are two or more candidates and an election in which at the close of nominations only one candidate is validly nominated.
2. Amend the definition for the term “final register” to reflect the provision in the Chief Executive Election Ordinance (“CEEO”) that an interim register of members of the Election Committee is to be published under section 40(1) of the Schedule to the CEEO.
3. Extend the definition for “polling hours” to cover the polling hours appointed for an uncontested election.

***Notice relating to submission of nomination forms (s3)***

4. Provide that the Gazette notice relating to submission of nomination forms and published by the Chief Electoral Officer (“CEO”) will state that a poll will be conducted on the polling day if any candidate is validly nominated.

***Nomination forms to be available for inspection (s8)***

5. Extend the requirement for the nomination forms to be available for inspection until the publication of the relevant election result or poll result to cover an uncontested election.

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<sup>1</sup> Relevant section numbers in Cap. 541J are quoted under the respective headings.

***Notice that the only candidate is returned (s10)***

6. Repeal this section which is no longer applicable as a poll is also required to be conducted for an uncontested election.

***Notice of termination of election proceedings (s11)***

7. Extend the requirement for the Returning Officer ("RO") to publish a notice of the termination of proceedings to cover the termination of proceedings for an uncontested election.

***Appointment of polling hours (s17)***

8. Provide that, similar to a contested election, the polling hours for an uncontested election are appointed by the CEO.

***Order in no canvassing zone ("NCZ") and no staying zone ("NSC") (s24)***

***Order in the polling station (s27)***

9. Make clear that, for the purposes of an uncontested election, suggesting not to vote in support of the candidate shall fall within "canvassing for votes".

***Form of ballot papers (s30) and Schedule***

10. Provide for the prescribed form of ballot papers for use in an uncontested election.

***Elector who has not cast vote may return to cast vote with permission (s35)***

11. Extend the arrangement for an elector who has been issued with a ballot paper but has not cast his vote, may, with permission, return to the polling station to cast vote, to cover an uncontested election.

***Voting procedure (s36)***

12. Provide that, in the case of an uncontested election, an elector shall mark the ballot paper by affixing the chop issued by the polling staff to give a single "✓" in the circle opposite the word "SUPPORT" or "NOT SUPPORT" on the ballot paper.

***Determination and notice of time of counting of votes (s43)***

13. Provide that the time at which the counting of votes is to begin shall be, in the case of an uncontested election, a time after the close of voting.

***Verification of ballot paper account (s52)***

***Result of counting and re-count (s53)***

***Notice of election result (s55)***

14. Require the RO to record the number of valid "SUPPORT" and "NOT SUPPORT" votes obtained by the sole candidate in the case of an uncontested election.
15. Extend the arrangement for the RO to make known the counting result to the candidates or their agents to cover an uncontested election.
16. Provide that the requirement for the RO to display and send out a notice of the election result also applies to an uncontested election in which the sole candidate is elected.

***Ballot papers to be sealed (s56)***

***Retention of election documents (s59)***

17. Extend the arrangements for the sealing of ballot papers and the retention of election documents to cover an uncontested election.

***Procedure after termination of election proceedings (s60)***

18. Extend the procedure for publishing and displaying the declaration of termination of election proceedings to cover an uncontested election.

***Secrecy (s70)***

***Elector need not disclose vote (s78)***

19. Extend the provisions on the secrecy of votes and the provisions stipulating that an elector need not disclose the vote he has cast to cover an uncontested election.

***Others***

20. Amend the provisions on the appointment of election agent, election expense agent, polling agent and counting agent so that the text of the provisions can better cater for the scenario of an uncontested election (s12, s13, s25 and s44).

Registration and Electoral Office  
October 2006

**Main Amendments to align the electoral procedures for CE election  
with those for LegCo election and EC subsector elections<sup>1</sup>**

***Notifying other candidates of particulars of election agent (s15)***

1. Require that only the name and address (but not the identity card number) of the election agent of a candidate shall be included in the notice provided to other candidates.

***Revoking appointment of staff assisting in the conduct of election (s20 and s45)***

2. Provide that the Chief Electoral Officer (“CEO”) may, with reasonable cause, revoke at any time the appointments of the Presiding Officer (“PRO”), polling officers (“POs”) and counting officers.

***No canvassing zone (“NCZ”) and no staying zone (“NSZ”) (s23 and s24)***

3. Lengthen the notice period concerning determination of NCZ and NSZ outside the polling station from at least 2 days to at least 7 days before the polling day, and provide that the Returning Officer (“RO”) may perform his functions concerning such zones through the PRO.
4. Prohibit any person from conducting any activity on the polling day for canvassing for votes so that the sound of the activity can be heard in the NCZ.

***Polling stations (s26 and s27)***

5. Include police officers and liaison officers among the categories of persons who may enter or stay in the polling station.
6. Provide that, in addition to the PRO, the RO, the Assistant RO and POs may also direct a person not to communicate with any elector or not to use any device for electronic communication in a polling station during the polling hours, and exempt police officers and liaison officers from such prohibition.

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<sup>1</sup> Relevant section numbers in Cap. 541J are quoted under the respective headings.

***Counting of votes (s43, s46, s49, s50 and s51)***

7. Require that the notice of the counting time and the address of the counting station shall be given to each candidate or the election agent or any counting agent appointed by him, and make clear that the above notice shall be given at least one clear working day before the time determined for the counting of votes.
8. Include police officers among the categories of persons who may enter or stay in the counting station.
9. Provide that, in the course of counting, which types of ballot papers shall be forwarded to the RO to determine whether the votes are to be counted under section 51 of Cap. 541J; and which types of ballot papers, given their clearly invalid nature (i.e. tendered, unused, spoiled or unmarked ballot papers), shall be separated and the votes shall not be counted under section 50 of Cap. 541J.
10. Make clear that a ballot paper on which there is any writing or mark by which the elector can possibly be identified shall not be valid and the vote recorded on the ballot paper shall not be counted.
11. Provide that a candidate, an election agent or a counting agent may inspect ballot papers which are clearly invalid by their nature (see paragraph 9 above) separated in the counting of votes, but is not entitled to make representations concerning such ballot papers.
12. Provide that, in addition to a candidate and an election agent, a counting agent may also inspect questionable ballot papers and make representations to the RO.

***Election Advertisement ("EA") (s81)***

13. Provide that:
  - (a) in respect of an EA not complying with the legal requirements, the RO may, in addition to covering or seizing and disposing of it, also destroy or obliterate it in such manner as he thinks fit; and
  - (b) in addition to the RO, other persons authorized by the RO may also exercise such statutory powers in respect of an EA not complying with the



legal requirement.

***Offence (s82)***

14. Increase the penalty for imprisonment for violation of secrecy of vote and unauthorised filming, photographing or audio/video recording within a polling station from 3 months to 6 months.

Registration and Electoral Office  
October 2006