

立法會
Legislative Council

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LC Paper No. CB(2)757/10-11
(These minutes have been seen
by the Administration)

**Subcommittee on Nine Amendment Regulations made
under the Electoral Affairs Commission Ordinance**

**Minutes of the third meeting
held on Tuesday, 14 June 2011, at 4:30 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Hon IP Kwok-him, GBS, JP (Chairman)
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon WONG Yung-kan, SBS, JP
Hon LAU Kong-wah, JP
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP
Hon WONG Kwok-hing, MH
Hon WONG Ting-kwong, BBS, JP
Hon Cyd HO Sau-lan
Dr Hon Priscilla LEUNG Mei-fun
Hon WONG Kwok-kin, BBS
Hon Paul TSE Wai-chun
Hon Alan LEONG Kah-kit, SC
Hon Tanya CHAN
- Members attending** : Hon Miriam LAU Kin-ye, GBS, JP
- Members absent** : Hon CHEUNG Hok-ming, GBS, JP
Hon WONG Yuk-man
- Public Officers attending** : Constitutional and Mainland Affairs Bureau
Mr Arthur HO
Deputy Secretary for Constitutional and Mainland
Affairs

Mr Freely CHENG Kei
Principal Assistant Secretary for Constitutional and
Mainland Affairs

Mr Thomas WU Kui-wah
Assistant Secretary for Constitutional and Mainland
Affairs

Department of Justice

Miss Emma WONG
Senior Government Counsel

Registration and Electoral Office

Mr LI Pak-hong
Chief Electoral Officer

Mr Anthony CHAN Shiu-lun
Principal Electoral Officer

Clerk in attendance : Miss Flora TAI
Chief Council Secretary (2)3

Staff in attendance : Mr Kelvin LEE
Assistant Legal Adviser 1

Ms Catherina YU
Senior Council Secretary (2)6

Mrs Fanny TSANG
Legislative Assistant (2)3

Action

I. Meeting with the Administration

[REO ES/23/52, LC Paper Nos. LS60/10-11, CB(2)1932/10-11(01),
CB(2)1978/10-11(01) and CB(2)2096/10-11(01)]

The Administration briefed members on the supplementary and technical amendments regarding the Amendment Regulations as detailed in its paper (LC Paper No. CB(2)2096/10-11(01)).

Action

Scrutiny of detailed provisions of the subsidiary legislation

2. The Subcommittee deliberated (index of proceedings attached at **Annex**).
3. The Administration was requested to follow up on the issues raised in respect of the arrangements for the submission of physical-form election advertisements, the provision of the omissions list on websites for public inspection and the annual cut-off date for registering particulars relating to candidates on ballot papers.

Date of next meeting

4. Members noted that the next meeting of the Subcommittee will be held on 17 June 2011 (Friday) at 8:30 am.

II. Any other business

5. There being no other business, the meeting ended at 6:30 pm.

Council Business Division 2
Legislative Council Secretariat
6 January 2012

**Proceedings of the third meeting of the
Subcommittee on Nine Amendment Regulations made
under the Electoral Affairs Commission Ordinance
on Tuesday, 14 June 2011 at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time Marker	Speaker(s)	Subject(s)	Action required
000121 - 000320	Chairman	Opening remarks	
000321 - 000659	Administration	The Administration's briefing on the supplementary and technical amendments regarding the Amendment Regulations under the scrutiny of the Subcommittee which was tabled at the meeting (LC Paper No. CB(2)2096/10-11(01)).	
000700 - 000809	Chairman Ms Emily LAU	<p>Referring to paragraph 3 of LC Paper No. CB(2)2096/10-11(01), Ms Emily LAU sought information on the format of declaration and the manner in which declaration should be submitted to the Returning Officers ("RO") by electronic means.</p> <p>The Administration's response that it was proposed that the declaration should be submitted with electronic election advertisements ("eEAs"). Seven types of popular computer file formats would be allowed for the submission of eEAs. The purpose of specifying formats for eEAs was to ensure that they could be opened in computers.</p>	
000810 - 000959	Chairman Administration Ms Emily LAU	<p>Ms Emily LAU's enquiry on –</p> <p>(a) when declaration and the declared eEAs should be submitted; and</p> <p>(b) the mechanism to acknowledge receipt of declarations and eEAs by the Registration and Electoral Office ("REO").</p> <p>The Administration's explanation that –</p> <p>(a) it was proposed that candidates should deposit with RO a declaration and the declared eEAs by the end of the first working day following the day on which the advertisements were sent or displayed; and</p>	

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		(b) an acknowledgement of eEAs would be sent to candidates upon receipt of the declaration automatically through the computer system.	
001000 - 001211	Chairman Ms Emily LAU Administration	Ms Emily LAU's views that the relevant election guidelines to be issued by Electoral Affairs Committee must be updated to incorporate the proposed changes relating to the nine Amendment Regulations.	
001212 - 001349	Chairman Administration Ms Emily LAU	<p>The Chairman and Ms Emily LAU's enquiry and the Administration's explanation on electronic authentication and digital certification for declarations sent by candidates via email. The Administration advised that the declarations must be sent from candidates' authenticated email accounts. Candidates could register two to three authenticated email accounts for the purpose.</p> <p>Ms Emily LAU's views that the requirements for submitting declaration and election advertisements ("EAs") by email should be explained in detail in the relevant election guidelines.</p>	
001350 - 001758	Chairman Ms Cyd HO Administration	<p>Ms Cyd HO's concern about the impact on election expenses in case the computer system had double counted the same eEA and her enquiry about the steps the Administration would take for verification in this regard.</p> <p>The Administration's explanation that RO would check all EAs upon receipt and contact the relevant candidates when in doubt.</p>	
001759 - 002649	Chairman Ms Emily LAU Administration	<p>The Chairman and Ms Emily LAU's remarks that to their understanding, all types of EAs could be submitted by electronic means under the proposed improved arrangements and sought clarification in this regard.</p> <p>The Administration's explanation that it was proposed that EAs disseminated electronically could be submitted to RO by electronic means. Physical-form EAs such as flyers must be deposited with RO in hard copy form.</p> <p>Ms Emily LAU's views that the Administration should accept all types of EAs including printed matters such as flyers submitted by electronic</p>	

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		<p>means as long as candidates could provide the soft copies of these EAs.</p> <p>The Administration's explanation that –</p> <p>(a) the purpose of the proposed legislative amendments relating to the submission of EA disseminated through the Internet was to provide candidates with a more convenient way to submit such EAs; and</p> <p>(b) the Administration would make reference to the experience gained from the new arrangements for submitting eEAs and consider extending the improved arrangements to physical-form EAs. It was the Administration's ultimate goal to accept all types of EAs electronically.</p>	
002650 - 002923	Chairman Administration Ms Emily LAU	<p>The Administration's further explanation that the proposed improved arrangements had been discussed by the Panel on Constitutional Affairs ("CA Panel"). There were worries that accepting all EAs in one go by electronic means might overload the existing computer system of REO and that REO might not be able to cope with operationally in case of a large volume of eEAs being submitted. It might also have impact on the inspection of EAs by the public. It was therefore proposed that as the first step candidates would be allowed to submit eEAs and the required declaration to RO electronically.</p> <p>Ms Emily LAU expressed her great disappointment that the submission of EAs by electronic means was only confined to eEAs.</p> <p>The Chairman's request for the Administration to explain the types of EAs which could be submitted electronically.</p> <p>The Administration's explanation that –</p> <p>(a) under the proposed legislative amendments, EAs disseminated electronically could be submitted by electronic means;</p> <p>(b) the existing legislation had provided that candidates could deposit the photos of EAs of large size, such as banners or posters, to REO.</p>	

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		<p>These photos could also be sent to REO by email under the proposed improved arrangements;</p> <p>(c) for printed EAs such as flyers, candidates must continue to submit the hard copies of physical-form EAs to REO which were not covered under the proposed improved arrangements; and</p> <p>(d) the Administration would review the arrangements after the upcoming elections with a view to accepting more types of EAs by electronic means.</p>	
002924 - 003159	Chairman Mr Paul TSE	<p>Mr Paul TSE shared the same understanding as the Chairman and Ms Emily LAU about the submission of eEAs and expressed his disappointment that physical-form EAs could not be submitted by electronic means.</p> <p>Mr TSE's views that –</p> <p>(a) the Administration was over-cautious in excluding physical-form EAs from the scope of the proposed arrangements;</p> <p>(b) the arrangements should be reviewed to allow the submission of physical-form EAs electronically; and</p> <p>(c) the Administration should explore the feasibility of facilitating inspection of EAs by the public on websites.</p>	<p>Admin</p> <p>Admin</p>
003200 - 003452	Chairman Administration	<p>The Administration's response that –</p> <p>(a) the arrangement to enable electronic inspection of eEAs by the public was under consideration; and</p> <p>(b) the Administration aimed to accept all types of EAs by electronic means gradually.</p>	
003453 - 003918	Ms Cyd HO Chairman Administration	<p>While agreeing that submission of hard copies of EAs in printed form were necessary for REO to monitor election expenses, Ms Cyd HO suggested that –</p> <p>(a) hard copies of the EAs should be deposited with RO after the election; and</p>	

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		<p>(b) REO could print EAs submitted by electronic means for complaints/enquiries handling if necessary to facilitate candidates and environmental protection.</p> <p>The Administration's response that the format and the manner in which e-version of physical-form EAs should be submitted required careful consideration.</p>	
003919 - 004336	Chairman Mrs Sophie LEUNG Administration	<p>Mrs Sophie LEUNG's expression of support to Ms Cyd HO's suggestion on the submission of hard copies of EAs after the election. However, she considered that the Administration should be allowed some time to conduct a comprehensive study on the improved arrangements for physical-form EAs, taking into consideration the information required for handling complaints and enquiries.</p> <p>The Administration undertook to review the arrangements in the light of the experience obtained in the upcoming elections.</p>	
004337 - 004537	Chairman Ms Emily LAU Administration	<p>Ms Emily LAU's suggestion that the Administration should include a provision stipulating that REO could request candidates to deposit hard copies of declaration and declared eEAs in case of failure of the REO's computer system.</p> <p>In response to the Chairman and Ms Emily LAU's question, the Administration explained that candidates must deposit EAs distributed in hard copy form with RO under the law despite the same EAs were also disseminated electronically.</p>	
004538 - 004925	Chairman Mr Paul TSE Administration	<p>Mr Paul TSE's view that the Administration should consider requesting for hard copies of EAs only on a need basis for complaint handling rather than mandating the submission of hard copy of all physical-form EAs.</p> <p>The Administration's explanation on the need for allowing public inspection of physical-form EAs and its undertaking to look into the need for physical-form EAs as far as complaint handling was concerned.</p>	

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004926 - 005313	Chairman Ms Cyd HO Administration	The Administration's response to Ms Cyd HO's enquiry that the number of complaints about physical-form EAs was relatively small in relation to the overall number of EAs used by candidates in past elections.	
005314 - 005341	Chairman Mr Paul TSE	Mr Paul TSE's views that "以其他方式" in paragraph 3 of LC Paper No. CB(2)2096/10-11(01) was misleading and his request for the Administration to make the necessary amendment to the Chinese text.	Admin
005342 - 005723	Chairman Administration	The Administration's summary of the way forward to address members' concern.	
005724 - 005912	Chairman Ms Emily LAU Administration	Ms Emily LAU's suggestion that the Administration should conduct trial runs of REO's computer system to ensure the smooth submission of eEAs.	
005913 - 005944	Chairman	<p>Scrutiny of detailed provisions of the subsidiary legislation (LC Paper No. CB(2)1978/10-11(01)).</p> <p><u>Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541 sub. leg. B)</u></p> <p><u>Section 19 – How to apply for registration in functional constituencies provisional register and subsector provisional register</u></p> <p>Briefing by the Administration on the proposed amendments.</p>	
005945 - 010206	Administration Chairman Ms Cyd HO	The Administration's response to Ms Cyd HO's enquiry that the form referred to in section 19 could only be used by natural persons as only natural persons could register as an elector for District Council (second) functional constituency.	
010207 - 010829	Chairman Administration	<p><u>Section 20 - A corporate elector or corporate voter to appoint an authorized representative</u></p> <p><u>Section 22 – Electoral Registration Officer may make inquiries regarding persons registered in the existing functional constituencies or subsector final register</u></p>	

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		Briefing by the Administration on the proposed amendments.	
010253 - 011410	Chairman Ms Cyd HO Ms Emily LAU The Administration	<p><u>Section 24 – Electoral Registration Officer to prepare an omissions list</u></p> <p>Ms Cyd HO and Ms Emily LAU's enquiry and the Administration's explanation on the inquiry procedures relating to the compilation of an omissions list and the functional constituencies ("FCs") provisional register.</p>	
011411 - 011824	Chairman Administration Ms Emily LAU	<p>The Chairman's enquiry about –</p> <p>(a) the mechanisms in place for checking of the omissions list; and</p> <p>(b) whether on-line checking of the omissions list was available.</p> <p>The Administration's explanation on the procedures for checking the omissions list and that on-line checking was not yet available at this stage.</p> <p>The Chairman and Ms Emily LAU's views on the need to make the omissions list available on websites to facilitate public inspection.</p> <p>The Administration's explanation that as the omissions list contained personal data, placing such data on websites might breach the relevant provisions in the Personal Data (Privacy) Ordinance.</p> <p>At the request of Ms Emily LAU, the Administration undertook to provide written information on the number of electors contained in the omissions list and the number of complaints received at polling stations concerning the removal of the electors from the registers by mistake in the past few elections.</p>	Admin
011825 - 012011	Chairman Ms Miriam LAU Ms Emily LAU	Ms Miriam LAU's suggestion for the Administration to refer to cases involving omission of electors by mistake in the past.	

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012012 - 012225	Chairman Ms Cyd HO The Administration	Ms Cyd HO's views that the Administration should develop an authentication system to verify the identities of electors before they could access the omissions list on-line so as to protect the personal data contained therein. The Administration would consider the feasibility of making the omissions list available for on-line inspection.	Admin
012226 - 012422	Chairman Administration Ms Emily LAU	In response to Ms Emily LAU's enquiry, the Administration elaborated on the arrangements for the inspection of the omissions list. Ms Emily LAU called on the Administration to explore more options to facilitate the inspection of the omissions list.	Admin
012423 - 012630	Chairman	<u>Section 27 - What is to be contained in a functional constituencies provisional register</u> Briefing by the Administration on the proposed amendments.	
012631 - 012726	Chairman Ms Emily LAU Administration	<u>Section 31 – Who may lodge a notice of claim</u> At the request of Ms Emily LAU, the Administration undertook to provide the number of persons who had lodged a notice of claim.	Admin
012727 - 013201	Chairman Administration	<u>Section 34 – Electoral Registration Officer to correct entries in provisional register with approval of Revising Officer</u> <u>Section 35 – What is to be contained in a functional constituencies final register</u> Briefing by the Administration on the proposed amendments.	
013202 - 013957	Chairman Ms Cyd HO Administration Ms Emily LAU	<u>Section 35A – First register of electors for District Council (second) functional constituency</u> Briefing by the Administration on the proposed amendments. Ms Cyd HO's enquiry on the rationale behind adopting the opt-out approach for the registration of an elector's personal particulars under the District Council ("DC") (second) FC in the first register of electors for the DC (second) FC.	

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		<p>The Chairman's comments that it was a policy issue which was thoroughly considered during the previous exercise of amending the Legislative Council Ordinance (Cap. 542) and was beyond the scope of the current exercise.</p> <p>The Administration's response that –</p> <ul style="list-style-type: none"> (a) an opt-in approach would create a large number of correspondence exchanges and paper work; (b) an opt-out approach could avoid electors not being registered simply because they had forgotten to send a reply to REO; and (c) the choice of the electors would always be respected. <p>Ms Cyd HO's request for the Administration to consider adopting the same arrangements in the registration for geographical constituencies.</p> <p>Ms Emily LAU's suggestion for the Administration to enhance the publicity regarding the arrangements to reinstate the electors' status whose names had been mistakenly removed from the registers.</p>	
013751 - 014033	Chairman Administration	<p><u>Section 36 – What is to be contained in a subsector final register</u></p> <p>Briefing by the Administration on the proposed amendments.</p>	
014034 - 014434	Chairman Administration Ms Cyd HO	<p><u>Section 37 – What is to be contained in an Election Committee interim register and an Election Committee final register</u></p> <p>In response to Ms Cyd HO's enquiry, the Administration advised that it was stipulated in the Chief Executive Election Ordinance (Cap. 569) that Legislative Council ("LegCo") Members were ex-officio members of Election Committee.</p>	
014435 - 014558	Chairman Administration	<p><u>Section 38 – Electoral Registration Officer to publish notice of and make available for public inspection functional constituencies final register and subsector final register</u></p>	

Time Marker	Speaker(s)	Subject(s)	Action required
		Briefing by the Administration on the proposed amendments.	
014559 - 015507	Chairman Ms Miriam LAU Administration Ms Cyd HO	<p>Ms Miriam LAU referred to the annual cut-off date (i.e 15 April) for filing applications for registering the particulars relating to candidates on ballot papers under the Particulars Relating to Candidates on Ballot Papers (LegCo and DC) Regulation (Cap. 541M) which applied to both LegCo election and DC election and commented that as the LegCo election and DC election would usually be held in September and November respectively, the Administration should consider changing the cut-off date for the DC election year to a later date to facilitate candidates to prepare for DC election.</p> <p>Ms Miriam LAU declared that the Liberal Party had recently changed its emblem.</p> <p>The Administration undertook to consider Ms Miriam LAU's request and revert to the Subcommittee.</p> <p>Ms Cyd HO's concurrence with Ms Miriam LAU's suggestion.</p>	Admin
015508 - 015724	Chairman ALAI Ms Emily LAU	Discussion on the timetable for the scrutiny of the remaining provisions.	
015725 - 015821	Chairman	Date of next meeting	