

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

Follow-up on the Meeting on 8 June 2011

Supplementary and Technical Amendments

INTRODUCTION

This paper provides information on supplementary and technical amendments regarding the Amendment Regulations under the scrutiny of the Subcommittee.

BACKGROUND

2. As we indicated at the last Subcommittee meeting on 8 June, we would like to propose supplementary and technical amendments to the following two Amendment Regulations:

- (a) the Electoral Procedure (Chief Executive Election) (Amendment) Regulation 2011; and
- (b) the Electoral Affairs Commission (Electoral Procedure)(LegCo)(Amendment) Regulation 2011.

DETAILED AMENDMENTS

Supplementary Amendments to Electoral Procedure (Chief Executive Election) (Amendment) Regulation 2011

3. The Amendment Regulation includes adding new provisions (i.e. (1A) to (1H)) to section 81 of the existing Regulation (i.e. Cap 541J), in order to allow a candidate to submit the relevant declaration and copy of an election advertisement (“EA”) by electronic means if the EA is to be displayed,

distributed or otherwise used by electronic means. We propose to amend section 82 of Cap 541J (the offence provision) so that it will also cover the newly added 81(1B), (1D), (1E), (1F), (1G) and (1H). There is no need to add section 81(1A) and (1C) to section 82. Section 81(1A) provides an alternative way of submission of declaration to the Returning Officer by electronic means in the manner and format specified by the Electoral Affairs Commission (“EAC”). Section 81(1B) is a requirement that a candidate must comply with unless the declaration is to be submitted by electronic means and in such case, section 81(1C) has to be observed. If a candidate fails to observe (1A) (i.e. submission of the declaration in the manner and format specified by the EAC) or (1C) (i.e. subsequent submission within the timeframe permitted by the EAC), the candidate will be regarded as if no declaration had been submitted, thus he/she will have committed an offence under section 81(1) or (1B).

4. The amendment to section 82 of Cap 541J is shown (underline) below:

(2) *Any person who contravenes section 27(4), 70(1), 78(2), or 81(1), (1B), (1D), (1E), (1F), (1G) or (1H) commits an offence and shall be liable on conviction to a fine at level 2 and to imprisonment for 6 months.*

Supplementary Amendments to the Electoral Affairs Commission (Electoral Procedure) (LegCo) (Amendment) Regulation 2011

5. Two technical amendments have to be made to the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2011 in order to improve clarity. The proposed amendments are shown (amendments underlined) below:

(a) the Chinese version of section 30(2) of the Amendment Regulation be amended as follows:

第 35(2)條，在 “某功能界別” 之後—...

Since “功能界別” is mentioned twice in section 35(2) of the existing Regulation (i.e. Cap 541D), the proposed amendment is necessary to specify which “功能界別” the amendment should refer to.

(b) the English version of section 42(1) of the Amendment Regulation be amended as follows:

(1) Schedule 3, Form 1, note @ —

Repeal

“‘a’ and up to ‘h’” instead of “‘h’”

Substitute

“‘a’ and up to ‘i’” instead of “‘i’”

(The proposed amendment will improve the clarity without causing any change to the substance.)

WAY FORWARD

6. Members are invited to comment on the proposed amendments set out above. The Administration will move the necessary motion at the Council meeting to effect such amendments before the expiry of the vetting period on 6 July 2011.

Constitutional and Mainland Affairs Bureau
Registration and Electoral Office
June 2011