

LEGISLATIVE COUNCIL BRIEF

Electoral Affairs Commission Ordinance (Cap. 541)

**ELECTORAL AFFAIRS COMMISSION (REGISTRATION)
(ELECTORS FOR LEGISLATIVE COUNCIL FUNCTIONAL
CONSTITUENCIES)(VOTERS FOR ELECTION
COMMITTEE SUBSECTORS)(MEMBERS OF ELECTION
COMMITTEE) (AMENDMENT) REGULATION 2011**

**ELECTORAL AFFAIRS COMMISSION (NOMINATIONS ADVISORY
COMMITTEES (LEGISLATIVE COUNCIL)) (AMENDMENT)
REGULATION 2011**

**ELECTORAL AFFAIRS COMMISSION (ELECTORAL
PROCEDURE)(LEGISLATIVE COUNCIL) (AMENDMENT)
REGULATION 2011**

**ELECTORAL AFFAIRS COMMISSION (ELECTORAL
PROCEDURE)(DISTRICT COUNCILS) (AMENDMENT)
REGULATION 2011**

**ELECTORAL AFFAIRS COMMISSION (ELECTORAL
PROCEDURE)(ELECTION COMMITTEE) (AMENDMENT)
REGULATION 2011**

**ELECTORAL PROCEDURE (CHIEF EXECUTIVE ELECTION)
(AMENDMENT) REGULATION 2011**

**ELECTORAL PROCEDURE (VILLAGE REPRESENTATIVE
ELECTION) (AMENDMENT) REGULATION 2011**

**PARTICULARS RELATING TO CANDIDATES ON BALLOT PAPERS
(LEGISLATIVE COUNCIL AND DISTRICT COUNCILS)
(AMENDMENT) REGULATION 2011**

**ELECTORAL AFFAIRS COMMISSION (FINANCIAL ASSISTANCE
FOR LEGISLATIVE COUNCIL ELECTIONS AND DISTRICT
COUNCIL ELECTIONS) (APPLICATION AND PAYMENT
PROCEDURE) (AMENDMENT) REGULATION 2011**

INTRODUCTION

On 9 May 2011, the Electoral Affairs Commission (“EAC”) made nine Amendment Regulations at **Annexes A to I** to amend nine regulations under the Electoral Affairs Commission (“EAC”) Ordinance (Cap. 541). The amendments aim to refine electoral procedures, voter registration and other practical arrangements to prepare for the coming District Council (“DC”), Election Committee subsector (“ECSS”), Chief Executive (“CE”) and Legislative Council (“LegCo”) elections to be held in 2011 and 2012. This brief informs Members of the main provisions of the Amendment Regulations.

BACKGROUND

2. To prepare for the 2011 DC Election, 2011 ECSS Elections, 2012 CE Election and 2012 LegCo Election to be held during the period from November 2011 to September 2012, the Registration and Electoral Office (“REO”) has reviewed the relevant subsidiary legislation under Cap. 541 which set out the regulations to provide for the detailed electoral arrangements. The review has identified areas where amendments to these regulations would be required to align the electoral procedures of these elections and to fine-tune certain procedures in the light of the experience in previous elections.

3. In June 2009, five pieces of subsidiary legislation under Cap. 541 were amended to introduce electoral procedures to facilitate electors in custody to vote in the DC, ECSS, CE, LegCo and village representative (“VR”) elections. With the experience gained in the 2010 LegCo By-election, further amendments are made to refine the relevant electoral procedures.

4. The CE Election (Amendment) Ordinance 2011 and the LegCo (Amendment) Ordinance 2011 were enacted by the LegCo in March 2011.

Consequential amendments have to be made to the relevant subsidiary legislation under Cap. 541 relating to the ECSS, CE and LegCo elections.

AMENDMENT REGULATIONS

5. Legislative amendments are made to the following EAC Regulations:

Voter Registration

- (a) the EAC (Registration) (Electors for Legislative Council Functional Constituencies)(Voters for Election Committee Subsectors)(Members of Election Committee) Regulation (Cap. 541B);

Electoral Procedure

- (b) the EAC (Electoral Procedure)(Legislative Council) Regulation (Cap. 541D);
- (c) the EAC (Electoral Procedure)(District Councils) Regulation (Cap. 541F);
- (d) the EAC (Electoral Procedure)(Election Committee) Regulation (Cap. 541I);
- (e) the Electoral Procedure (Chief Executive Election) Regulation (Cap. 541J);
- (f) the Electoral Procedure (Village Representative Election) Regulation (Cap. 541L);

Electoral Arrangements

- (g) the EAC (Nominations Advisory Committees (Legislative Council)) Regulation (Cap. 541C);
- (h) the Particulars Relating to Candidates on Ballot Papers

(Legislative Council and District Councils) Regulation (Cap. 541M); and

- (i) the EAC (Financial Assistance for Legislative Council Elections and District Council Elections)(Application and Payment Procedure) Regulation (Cap. 541N).

Amendments to align or improve electoral procedures

6. Amendments to Cap. 541D, Cap. 541F, Cap. 541I and Cap. 541J are made with a view to fine-tuning or making the electoral procedures among elections consistent with each other. The main amendments are set out below:

- (a) achieving consistency and removing possible ambiguity in the wording of relevant provisions on the means of serving a copy of authorization of an election expense agent and the notice of revocation of such authorization, i.e. by delivery by hand, by post or by facsimile transmission;
- (b) allowing the Returning Officer (“RO”) in the ECSS elections to display, through the Presiding Officer (“PRO”), a revised notice of the no canvassing zone and/or no staying zone at or near the polling station if the zones have been varied after the display of the notice of the zones on the polling day. This is to align with the existing provisions for the DC, CE and LegCo elections;
- (c) clarifying that in a DC election where the RO has terminated an election proceeding under section 40(1) of the District Councils Ordinance (Cap. 547) upon proof of the death or the disqualification of a candidate given to him on the date of the election and before the close of polling, in directing that the poll be abandoned, such proof would not need to be given to the RO again (the same amendment has been introduced for the LegCo elections);

- (d) empowering the EAC to specify the form for candidates in the DC, ECSS and CE elections to lodge election expense return under section 37 of the Election (Corrupt and Illegal Conduct) Ordinance (Cap. 554), so that there will be a clear legal basis for the Chief Electoral Officer (“CEO”) to collect the personal particulars of the donors of election donations and to make available such personal particulars for public inspection (such authority has been given to the EAC in respect of the LegCo elections);
- (e) clarifying that before displaying an election advertisement (“EA”) for the DC, ECSS and CE elections in the form of a bill or poster within the meaning of section 104E of the Public Health and Municipal Services Ordinance (Cap. 132), the candidate must deposit with the RO a copy of the permission or other authorization obtained for the purposes of section 104A(1) of that Ordinance, but such requirement would not apply to the distribution or otherwise use of an EA (the same amendment has been introduced for the LegCo elections);
- (f) allowing the candidates of the DC, ECSS, CE and LegCo elections to submit, in the manner and format specified by the EAC, a declaration and a copy of electronic EA to the RO electronically; and
- (g) empowering the PROs in the DC and LegCo elections to adjourn the count of votes at their respective counting stations if the count is likely to be obstructed, disrupted, undermined or seriously affected by a specified occurrence¹ (the PROs already have the authority to adjourn the poll at their respective polling stations).

¹ According to relevant provisions in Cap. 541D and Cap. 541F, the occurrences refer to a typhoon or other climatic condition of a serious nature; riot, open violence or other occurrence of public danger; or an occurrence which appears to the PRO to be a material irregularity relating to the election, the poll or count.

Amendments to refine the voting arrangements for electors in custody

7. Amendments to Cap. 541D, Cap. 541F, Cap. 541I, Cap. 541J and Cap. 541L are made to refine the voting arrangements for electors in custody. The main amendments are set out below:

- (a) empowering the CEO to obtain the prisoner registration number of the electors in the custody of the Correctional Services Department (“CSD”) to facilitate both the CEO and CSD to make voting arrangements for those electors;
- (b) allowing the CSD to use sound amplifying system or device in the no canvassing zone of a dedicated polling station (“DPS”) in a prison, which usually covers the whole prison, so that CSD’s daily operation will not be unduly disrupted;
- (c) requiring the PRO of a DPS to display inside, rather than outside, the DPS the notice of death or disqualification of a validly nominated candidate before the date of election and a list of the names of the polling officers, so that the information can be read by the electors in custody;
- (d) allowing the notice of revoking the appointment of a polling agent of a DPS in a prison to reach the CEO (for the CE, ECSS and LegCo elections) or the RO (for the DC elections), rather than the PRO, in order to minimize the inconvenience caused to the candidates since DPSs in prisons are normally located in remote areas;
- (e) allowing the PROs of DPSs in the DC and VR elections to prepare ballot paper account only for constituencies / villages in respect of which ballot papers have been issued, in order to streamline the work procedures at the close of poll; and
- (f) speeding up the sorting process in the ballot paper sorting stations for the LegCo, DC and VR elections, so that the first step is to sort the ballot papers or envelopes containing the ballot papers

according to each constituency / village (rather than to count and record the number of ballot papers or envelopes containing ballot papers in each ballot box).

Amendments consequential to the CE Election (Amendment) Ordinance 2011

8. Consequential amendments to Cap. 541B, Cap. 541I and Cap. 541J are made in order to tie in with the CE Election (Amendment) Ordinance 2011. The main amendments are set out in the following paragraphs.

Registration arrangements for special members

9. The CE Election (Amendment) Ordinance 2011 has added a new section 2A to the Schedule to the CE Election Ordinance (Cap. 569) to create 10 special member seats temporarily from February 2012 when the new term of the Election Committee (“EC”) commences until the number of LegCo seats increases from 60 to 70 upon commencement of the fifth term of the LegCo. Consequential amendments to Cap. 541B are required to provide for recording the particulars of the special members in the registers of the EC and removing such particulars when their term of office expires. Cap. 541I should also be amended to add a new notice of result of the ECSS election form to cater for the election of these special members.

Compilation of ECSS Final Registers

10. The amended section 14 of the Schedule to Cap. 569 empowers the Electoral Registration Officer (“ERO”) to amend the final registers of ECSS voters and to arrange for automatic registration of the newly elected DC members after the DC election in November 2011. Consequential amendments to Cap. 541B are required to provide for the compilation and publication of the amended ECSS final registers accordingly.

Validity of a nomination in respect of newly-elected DC members

11. The new section 18B of the Schedule to Cap. 569 provides that if a person is newly elected as a DC member (and subsequently registered in the

relevant DC subsector), it would not affect the nomination that person made earlier in a non-DC subsector. The new section 18C of the Schedule to Cap. 569 provides that a newly elected DC member may only be nominated in one subsector for election. Consequential amendments to section 13 of Cap. 541I on the determination of the validity of a nomination are required to include the references to the newly added sections.

Voting arrangement for the CE Election

12. The CE Election (Amendment) Ordinance 2011 has also amended or added the following provisions in Cap. 569:

- (a) sections 26A and 27 so that a candidate shall only be elected as the CE if the candidate obtains more than 600 valid votes under an election with one candidate only and a contested election respectively;
- (b) new section 22(3) to provide that after the required voting process, if no candidate can obtain more than 600 valid votes, the election will be terminated; and
- (c) section 27(2) so that where there are two candidates in the election or two candidates remain after the elimination of all other candidates, a single round of voting² must be conducted for the two candidates.

Consequential amendments to Cap. 541J are required to tie in with the changes and references above.

Amendments consequential to the LegCo (Amendment) Ordinance 2011

13. Consequential amendments to Cap. 541B, Cap. 541C, Cap. 541D, Cap. 541M and Cap. 541N are made to tie in with the LegCo (Amendment) Ordinance 2011. The main amendments are set out in the following paragraphs.

² In the past, as many rounds of voting as may be necessary shall be conducted for the two candidates until one of them is returned.

Proportional representation list system for DC(second) FC candidates

14. The LegCo (Amendment) Ordinance 2011 has provided for the establishment of the District Council (second) functional constituency (“DC(second) FC”) under which 5 seats will be returned from the whole Hong Kong Special Administrative Region as a single constituency in accordance with the proportional representation list system.

15. At present, in Cap. 541C, Cap. 541D, Cap. 541M and Cap. 541N, the proportional representation list system is only applicable to geographical constituency (“GC”) election, and nomination as candidates for FC election is entirely done on an individual basis. With the amendment made to the LegCo Ordinance (Cap. 542) outlined in the preceding paragraph, the interpretation of an FC candidate, nomination form, LegCo candidate, list of LegCo candidates, etc. in Cap. 541C, Cap. 541D, Cap. 541M and Cap. 541N have to be amended to cater for the adoption of proportional representation list system for the DC(second) FC.

16. Consequential amendments are also required for Cap. 541D to provide that the candidates for the DC(second) FC are to be nominated under a list system and the related electoral arrangements (e.g. how the candidates appoint agents, how they receive copy of final register of electors and notices from the CEO and the RO respectively, what is the form of the ballot paper, how is the order of appearance of lists of candidates arranged, how to mark the ballot paper and put it into the ballot box, what is the form of the notice of election result, etc.). The arrangements will, as appropriate, mirror the electoral arrangements for GC election which also adopts the proportional representation list system.

Voter registration for DC(second) FC – transitional arrangement

17. The LegCo (Amendment) Ordinance 2011 has also made the following amendments to Cap. 542:

- (a) added a transitional arrangement for the voter registration for the DC(second) FC under which the first register of electors for the DC(second) FC is compiled by using the 2011 GCs final register as the basis and deleting from it the names of all persons whose names

are in the current FCs register and the name of any person who elects not to be registered for the DC(second) FC. For any person who elects to be registered for the DC(second) FC during the 2012 voter registration cycle and any elector of the existing FCs³ who elects to be registered in the DC(second) FC, they will be included in the first register of electors for the DC(second) FC; and

- (b) amended section 25 of Cap. 542 to provide that a person who is eligible to be registered as an elector for the DC(first) FC and another FC may be registered only for the DC(first) FC and not for that other FC.

18. Upon the amendments to Cap. 542 outlined in the preceding paragraph, consequential amendments to Cap. 541B are required to provide for the detailed arrangements for voter registration and compilation of the first register of electors for the DC(second) FC and to make arrangements for issuing notifications for registration of electors in DC(first) FC and not for other FC (including the Heung Yee Kuk, agriculture and fisheries, insurance and transport FCs⁴). The ERO will inform the relevant electors of the above registration arrangement and the choice that they could exercise.

Maximum number of Members returned for a GC

19. Section 19(2) of Cap. 542 has been amended so that the maximum number of Members to be returned from a GC is increased from 8 to 9. Consequential amendment to the ballot paper form of a GC provided in Cap. 541D is required to reflect this change.

PUBLIC CONSULTATION

³ Except for the four Special FCs (namely the Heung Yee Kuk FC, the agriculture and fisheries FC, the insurance FC and the transport FC) and the District Council (first) FC.

⁴ Currently, according to the original section 25(3) of Cap. 542, a person eligible to be registered as an elector for the Heung Yee Kuk FC, the agriculture and fisheries FC, the insurance FC or the transport FC and would be eligible to be registered in another FC may be registered only for one of the four Special FCs and not for that other FC. According to the amended section 25(3) of Cap. 542, a person eligible to be registered as an elector for the DC(first) FC and would be eligible to be registered in another FC may be registered only for the DC(first) FC and not for that other FC (including the four Special FCs).

20. On 18 March 2011, we briefed the LegCo Panel on Constitutional Affairs on the scope of proposed legislative amendments. Members were generally supportive of the proposals made.

IMPLICATIONS OF THE AMENDMENT REGULATIONS

21. The Amendment Regulations are in conformity with the Basic Law, including the provisions concerning human rights, and has no environmental, productivity or sustainability implications. The amendments will not affect the current binding effect of the respective Regulations. The funding requirements for the preparation and conduct of the 2011 DC Election, 2011 ECSS Elections, 2012 CE Election and 2012 LegCo Election and coming VR elections would be reflected in the Estimates of the relevant years.

LEGISLATIVE TIMETABLE

22. The Amendment Regulations will be published in the Gazette on 13 May 2011 and tabled in the Council on 18 May 2011.

PUBLICITY

23. A press release will be issued and a spokesman will be made available to answer public enquiries.

ENQUIRIES

24. For enquiries about the Amendment Regulation on Cap. 541B, please contact Mr Eddie NG, Deputy Chief Electoral Officer (Operations) of the REO, at 2827 7047. For enquiries about the remaining parts of this brief, please contact Mr Anthony CHAN, Deputy Chief Electoral Officer (Elections)³ of the REO, at 3105 3721.

Registration and Electoral Office
May 2011

**Electoral Affairs Commission (Registration) (Electors
for Legislative Council Functional Constituencies)
(Voters for Election Committee Subsectors) (Members
of Election Committee) (Amendment) Regulation 2011**

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Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) (Amendment) Regulation 2011

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

1. Commencement

This Regulation comes into operation on 8 July 2011.

2. Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation amended

The 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) is amended as set out in sections 3 to 23.

3. Section 2 amended (Interpretation)

Section 2(1)—

Add in alphabetical order

“*elected DC member* (民選區議員) means a person who is elected to be an elected member under Part V of the District Councils Ordinance (Cap. 547);

GC Register Regulation (《地方選區登記冊規例》) means the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical

Constituencies) (District Council Constituencies) Regulation (Cap. 541 sub. leg. A);

geographical constituencies final register (地方選區正式選民登記冊) means a final register of electors for geographical constituencies required to be compiled under section 32(1)(b)(i) or (1A)(b)(i) of the Legislative Council Ordinance (Cap. 542);

geographical constituencies provisional register (地方選區臨時選民登記冊) means a provisional register of electors for geographical constituencies required to be compiled under section 32(1)(a)(i) or (1A)(a)(i) of the Legislative Council Ordinance (Cap. 542);

geographical constituencies register (地方選區選民登記冊) means a geographical constituencies provisional register or a geographical constituencies final register;”

4. Section 3 amended (Form of the functional constituencies register)

(1) Section 3(1)—

Repeal

“A”

Substitute

“Subject to subsection (1A), a”.

(2) After section 3(1)—

Add

“(1A) To the extent that the electors whose names and personal particulars in a geographical constituencies register are specified, by means of notes or indications, to be registered for the District Council (second) functional constituency, those names, personal particulars and notes

Section 5

3

or indications constitute the part of a functional constituencies register for that functional constituency.”.

(3) After section 3(2)—

Add

“(2A) Despite subsection (2), an entry in a functional constituencies register relating to an elector for the District Council (second) functional constituency is to be shown in a geographical constituencies register by a note or indication to that effect against the entry relating to the elector.”.

(4) Section 3(4), after “register”—

Add

“(other than a register for the District Council (second) functional constituency)”.

5. Section 5 amended (Form of the Election Committee register)

(1) After section 5(2)—

Add

“(2A) The particulars of a person to whom section 2A(8) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) applies must be recorded under the subsector for which the person is nominated.”.

(2) After section 5(5)—

Add

“(6) Subsection (2A) expires on the date on which the term of office of the fifth term of the Legislative Council commences under the Legislative Council Ordinance (Cap. 542) in 2012.”.

Section 6

4

6. Section 13 amended (Electoral Registration Officer may send notifications to members of Heung Yee Kuk to compile functional constituencies register)

Section 13(2A)(c), after “constituency”—

Add

“, but is not eligible to be registered as an elector for the District Council (first) functional constituency”.

7. Section 13A added

After section 13—

Add

“13A. Electoral Registration Officer may send notifications to elected DC members to compile functional constituencies register

(1) To compile a functional constituencies provisional register, the Electoral Registration Officer may send a notification to an elected DC member who—

- (a) is registered in the existing geographical constituencies final register;
- (b) is not registered for the District Council (first) functional constituency in the existing functional constituencies final register; and
- (c) is eligible to be registered as an elector for the District Council (first) functional constituency.

(2) A notification sent under subsection (1) must state that the recipient—

- (a) will be registered as an elector for the District Council (first) functional constituency and a voter for the Hong Kong and Kowloon District Councils subsector or the New Territories District Councils

subsector, as appropriate, unless the recipient elects not to be registered; and

- (b) cannot be registered only as an elector for the District Council (first) functional constituency and not as a voter for the Hong Kong and Kowloon District Councils subsector or the New Territories District Councils subsector, as appropriate.”.

8. Section 14 amended (Electoral Registration Officer may send notifications to natural persons eligible to be registered as electors for functional constituencies)

- (1) Section 14(1), after “member of the Heung Yee Kuk”—

Add

“or an elected DC member”.

- (2) Section 14(1)(c), after “Heung Yee Kuk functional constituency”—

Add

“and District Council (first) functional constituency”.

- (3) After section 14(5)—

Add

“(6) In addition to subsection (5), a notification sent under subsection (1) must state that if the recipient applies under Part V to be registered as an elector for the District Council (second) functional constituency, he or she will not be eligible to be registered as a voter for any subsector (other than an optional subsector).”.

9. Section 14A added

After section 14—

Add

“14A. Electoral Registration Officer may send notifications to elected DC members to compile subsector register

- (1) To compile a subsector provisional register, the Electoral Registration Officer may send a notification to an elected DC member who—
- (a) is registered in the existing geographical constituencies final register; and
- (b) is eligible to be registered as a voter for the Hong Kong and Kowloon District Councils subsector or the New Territories District Councils subsector, as appropriate.
- (2) A notification sent under subsection (1) must state that the recipient—
- (a) will be registered as a voter for the Hong Kong and Kowloon District Councils subsector or the New Territories District Councils subsector, as appropriate, and as an elector for the District Council (first) functional constituency, unless the recipient elects not to be registered;
- (b) cannot be registered only as a voter for the Hong Kong and Kowloon District Councils subsector or the New Territories District Councils subsector, as appropriate, and not as an elector for the District Council (first) functional constituency; and
- (c) will not be eligible to be registered as a voter for any optional subsector.
- (3) The Electoral Registration Officer may send one notification to a person for the purposes of this section and section 13A.”.

10. **Section 15 amended (Electoral Registration Officer may send notifications to natural persons eligible to be registered as voters for subsectors)**

After section 15(7)—

Add

“(8) This section does not apply in relation to a notification to a person who is an elected DC member.”

11. **Section 16 amended (Electoral Registration Officer to register persons in the functional constituencies provisional register or subsector provisional register in accordance with response to a notification)**

(1) Section 16(1)—

Repeal

“If a recipient under section 13(5) elects to be registered”

Substitute

“Unless a recipient under section 13(5) elects not to be registered”

(2) After section 16(1)—

Add

“(1A) Unless a recipient under section 13A(2)(a) elects not to be registered, the Electoral Registration Officer must register the recipient as an elector for the District Council (first) functional constituency.”

(3) Section 16(2)—

Repeal

“if a recipient under section 14(5) elects to be registered”

Substitute

“unless a recipient under section 14(5) elects not to be registered”

(4) After section 16(2)—

Add

“(2A) Unless a recipient under section 14A(2)(a) elects not to be registered, the Electoral Registration Officer must register the recipient as a voter for the Hong Kong and Kowloon District Councils subsector or the New Territories District Councils subsector, as appropriate.”

(5) Section 16(4)—

Repeal

“section 13(5) or section 14(5)”

Substitute

“section 13(5), 13A(2)(a), 14(5) or 14A(2)(a)”

12. **Section 18 amended (When Electoral Registration Officer cannot register persons under a notification)**

Section 18(1), after “he or she”—

Add

“has not elected not to be registered (within the meaning of section 11(2)) or”

13. **Section 19 amended (How to apply for registration in functional constituencies provisional register and subsector provisional register)**

(1) Section 19(1), after “functional constituencies provisional register”—

Add

“(other than a provisional register for the District Council (second) functional constituency)”

(2) After section 19(1)—

Add

“(1A) A person applying for registration in a geographical constituencies provisional register under section 4 of the GC Register Regulation is also regarded as having applied for registration as an elector for the District Council (second) functional constituency, unless the person indicates otherwise in the manner specified by the Electoral Registration Officer.”.

14. Section 20 amended (A corporate elector or corporate voter to appoint an authorized representative)

Section 20(8)(b)—

Repeal

“Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541 sub. leg. A)”

Substitute

“GC Register Regulation”.

15. Section 22 amended (Electoral Registration Officer may make inquiries regarding persons registered in the existing functional constituencies or subsector final register)

After section 22(3)—

Add

“(3A) A letter of inquiry sent to a person under subsection (3) must state that if the result of the inquiry falls under section 24(1)(i)(A), (D) or (F), the Electoral Registration Officer may, in compiling a functional constituencies provisional register, record the personal particulars of the person under the District Council (second) functional

constituency unless the person elects not to be registered as an elector for that constituency.”.

16. Section 24 amended (Electoral Registration Officer to prepare an omissions list)

(1) Section 24(1)—

Repeal

“subsection (5)”

Substitute

“subsections (1A), (1B), (1C) and (5)”.

(2) Section 24(1)(iii)—

Repeal

“(within the meaning of section 2(1) of the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541 sub. leg. A))”.

(3) Section 24(1)(iii)—

Repeal

“that Regulation”

Substitute

“the GC Register Regulation”.

(4) After section 24(1)—

Add

“(1A) Subject to subsection (1B), if the Electoral Registration Officer makes an inquiry under section 22(1) and the subject of the inquiry is a person—

(a) registered in the existing geographical constituencies final register;

- (b) referred to in section 24(1)(i)(A), (D) or (F); and
- (c) whose name and principal residential address are not entered on the omissions list prepared for the current year under section 9 of the GC Register Regulation,

the Electoral Registration Officer must, in compiling a functional constituencies provisional register, record the personal particulars of the person under the District Council (second) functional constituency unless the person elects not to be registered as an elector for that constituency.

- (1B) The Electoral Registration Officer must not record the personal particulars of a person under the District Council (second) functional constituency under subsection (1A) if the Electoral Registration Officer is satisfied that the letter of inquiry sent under section 22 has not reached the person.

- (1C) If a person is registered in the existing functional constituencies final register as an elector for a functional constituency which has a corresponding subsector and the Electoral Registration Officer, in compiling a functional constituencies provisional register, records the personal particulars of the person under the District Council (second) functional constituency—

- (a) under subsection (1A);
- (b) under section 35A(10) or (14); or
- (c) by virtue of the person's application under Part V, the Electoral Registration Officer must, in compiling a subsector provisional register, enter the personal particulars of the person on the subsector omissions list prepared for the current year.”.

- (5) After section 24(7)—

Add

- “(8) For the purposes of this section, an entry in an omissions list relating to a person whose personal particulars are proposed by the Electoral Registration Officer to be omitted from the next final register for the District Council (second) functional constituency is to be shown in a geographical constituencies omissions list by a note or indication to that effect against the entry relating to the person.

- (9) In this section—

corresponding subsector (對等界別分組) has the meaning given by section 11(1);

elects not to be registered (選擇不登記) has the meaning given by section 11(2) and—

- (a) a reference to “recipient” in section 11(2) is to be construed as a reference to a person in respect of whom an inquiry under section 22(1) is made; and
- (b) a reference to “notification” in section 11(2) is to be construed as a reference to a letter of inquiry sent under section 22(3);

principal residential address (主要住址), in relation to a person, means the address of the only or principal residence (within the meaning of section 28(1B) or (3) of the Legislative Council Ordinance (Cap. 542)) of the person.”.

- 17. **Section 27 amended (What is to be contained in a functional constituencies provisional register)**

- (1) Section 27—

Renumber the section as section 27(1).

(2) After section 27(1)—

Add

“(2) In addition to the particulars referred to in subsection (1), the functional constituencies provisional register to be compiled for 2012 is to also contain the personal particulars recorded in the first register of electors for the District Council (second) functional constituency compiled in accordance with section 35A.”.

18. Section 31 amended (Who may lodge a notice of claim)

After section 31(6)—

Add

“(6A) A person making a claim under section 15(1) or (2) of the GC Register Regulation that he or she is entitled to be registered in the geographical constituencies final register is also regarded as having made a claim that he or she is entitled to be registered as an elector for the District Council (second) functional constituency, unless the person indicates otherwise in the manner specified by the Electoral Registration Officer.”.

19. Section 34 amended (Electoral Registration Officer to correct entries in provisional register with approval of Revising Officer)

(1) After section 34(1)—

Add

“(1A) If the Electoral Registration Officer is satisfied that an additional entry ought to be made in a geographical constituencies final register under section 18 of the GC Register Regulation, the Electoral Registration Officer may, subject to subsection (2), make the additional entry

in the final register of electors for the District Council (second) functional constituency.”.

(2) Section 34(2)—

Repeal

“subsection (1)”

Substitute

“subsection (1) or (1A)”.

20. Section 35A added

After section 35—

Add

“35A. First register of electors for District Council (second) functional constituency

(1) For the purposes of compiling the first register of electors for the District Council (second) functional constituency, the Electoral Registration Officer must inform, in a manner he or she thinks fit, any person—

(a) whose name is recorded in the current GC register; and

(b) whose name is not recorded in the current FC register,

that the person will be registered as an elector for the District Council (second) functional constituency unless the person elects not to be so registered.

(2) The person referred to in subsection (1) may, on being informed by the Electoral Registration Officer, give a written notice to the Electoral Registration Officer on or before 29 June 2012 that he or she does not elect to be

- registered as an elector for the District Council (second) functional constituency.
- (3) On receiving a notice under subsection (2) from a person and on being satisfied that the notice is in order, the Electoral Registration Officer must not, subject to subsections (6) and (7), include the personal particulars of the person in the provisional register of electors for the District Council (second) functional constituency.
 - (4) If the Electoral Registration Officer makes a decision under subsection (3), the officer must inform the person concerned in writing.
 - (5) If the Electoral Registration Officer decides to include the personal particulars of a person in the provisional register of electors for the District Council (second) functional constituency despite the person's notice under subsection (2), the Officer must notify the person, by registered post, of the decision.
 - (6) If the Electoral Registration Officer receives the notice under subsection (2) after the publication of the provisional register of electors for the District Council (second) functional constituency, the Officer may only remove the relevant personal particulars with the approval of the Revising Officer when compiling the final register of electors for the District Council (second) functional constituency.
 - (7) If the Electoral Registration Officer receives the notice under subsection (2) after 29 June 2012, the Officer may only remove the relevant personal particulars for the purposes of compiling the next provisional register of electors for the District Council (second) functional constituency.

- (8) The Electoral Registration Officer must inform, in a manner he or she thinks fit, any natural person whose name is recorded in the current FC register (except for the Heung Yee Kuk functional constituency, the agriculture and fisheries functional constituency, the insurance functional constituency, the transport functional constituency and the District Council (first) functional constituency) that the person—
 - (a) will be registered as an elector for the District Council (second) functional constituency; and
 - (b) will not be registered as an elector for the functional constituency for which the person is currently registered as an elector,if the person so elects.
- (9) The person referred to in subsection (8) may, on being informed by the Electoral Registration Officer, give a written notice to the Electoral Registration Officer on or before 29 June 2012 that he or she elects to be registered as an elector for the District Council (second) functional constituency.
- (10) On receiving a notice under subsection (9) from a person and on being satisfied that the notice is in order, the Electoral Registration Officer must, subject to subsection (13), enter the personal particulars of the person in the final register of electors for the District Council (second) functional constituency.
- (11) If the Electoral Registration Officer makes a decision under subsection (10), the Officer must inform the person concerned in writing.
- (12) If the Electoral Registration Officer decides not to enter the personal particulars of a person in the final register of electors for the District Council (second) functional

- constituency despite the person's notice under subsection (9), the Officer must notify the person, by registered post, of the decision.
- (13) If the Electoral Registration Officer receives the notice under subsection (9) after 29 June 2012, the Officer may only enter the relevant personal particulars for the purposes of compiling the next provisional register of electors for the District Council (second) functional constituency.
- (14) If a person whose name is recorded in the current FC register informs the Electoral Registration Officer in writing on or before 16 May 2012 that he or she does not wish to be registered as an elector for the functional constituency for which the person is currently registered as an elector, the Electoral Registration Officer must record the personal particulars of the person under the District Council (second) functional constituency unless the person indicates otherwise.
- (15) In this section—
- current FC register* (現有功能界別登記冊) means the record comprising—
- the functional constituencies final register published for 2011; and
 - the records of the personal particulars of persons to be registered in the functional constituencies provisional register published for 2012 (other than for the District Council (second) functional constituency);
- current GC register* (現有地方選區登記冊) means the record comprising—
- the geographical constituencies final register published for 2011; and

- the records of the personal particulars of persons to be registered in the geographical constituencies provisional register published for 2012.”.
21. **Section 36 amended (What is to be contained in a subsector final register)**
After section 36(5)—
- Add**
- “(6) Despite subsection (5), the subsector final register to be compiled for 2011 must include any changes made by the Electoral Registration Officer in accordance with section 14(1B) of the Schedule to the Chief Executive Election Ordinance (Cap. 569).”.
22. **Section 37 amended (What is to be contained in an Election Committee interim register and an Election Committee final register)**
(1) After section 37(1AA)—
- Add**
- “(1AAA) In addition to the particulars referred to in subsection (1), an Election Committee interim register is to also consist of the specified particulars of the persons to whom section 2A(8) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) applies.”.
- (2) After section 37(2)—
- Add**
- “(2A) Despite subsection (6), as soon as practicable after the date on which the term of office of the fifth term of the Legislative Council commences under the Legislative Council Ordinance (Cap. 542) in 2012, the Electoral Registration Officer must remove the specified

particulars of the persons to whom section 2A(8) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) applies from an Election Committee final register.”.

(3) After section 37(3)—

Add

“(3A) Despite subsection (6), the Electoral Registration Officer must, within 14 days of removing the specified particulars from an Election Committee final register under subsection (2A), publish a notice in the Gazette of the removal under section 2A(12) of the Schedule to the Chief Executive Election Ordinance (Cap. 569).”.

(4) After section 37(5)—

Add

“(6) Subsections (1AAA), (2A) and (3A) expire on the date on which the term of office of the fifth term of the Legislative Council commences under the Legislative Council Ordinance (Cap. 542) in 2012.”.

23. Section 38 amended (Electoral Registration Officer to publish notice of and make available for public inspection functional constituencies final register and subsector final register)

After section 38(2)—

Add

“(2A) The Electoral Registration Officer must, as soon as practicable after complying with section 14(1B) of the Schedule to the Chief Executive Election Ordinance (Cap. 569), publish in the Gazette and in at least one Chinese language daily newspaper and one English language daily newspaper in circulation in Hong Kong, a notice specifying that—

- (a) a copy of the subsector final register is available for public inspection during ordinary business hours; and
- (b) the place or places at which a copy of the subsector final register may be inspected by the public.”.

Made this day of May 2011.

The Hon. Mr. Justice
Barnabas Wah FUNG
Chairman,
Electoral Affairs Commission

Lawrence LOK Ying-kam
Member,
Electoral Affairs Commission

Andrew CHAN Chi-fai
Member,
Electoral Affairs Commission

Explanatory Note

The main purpose of this Regulation is to amend the 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) (*principal Regulation*) to introduce amendments consequential upon amendments made under the Chief Executive Election (Amendment) Ordinance 2011 (1 of 2011) and the Legislative Council (Amendment) Ordinance 2011 (2 of 2011).

2. Section 1 provides for commencement.
3. Section 3 adds several new definitions to section 2(1) of the principal Regulation as a result of the proposed amendments to the principal Regulation. The new definitions include *elected DC member*, *GC Register Regulation*, *geographical constituencies final register*, *geographical constituencies provisional register* and *geographical constituencies register*.
4. Section 4 adds new subsections (1A) and (2A) to section 3 of the principal Regulation to provide for the form of the functional constituencies register for the District Council (second) functional constituency.
5. Section 5 adds a new subsection (2A) to section 5 of the principal Regulation to clarify that the particulars of a person to whom section 2A(8) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) (*CE Ordinance*) applies must be recorded in the Election Committee register under the subsector for which the person is nominated. The newly added subsection (2A) is to expire on the date on which the term of the office of the fifth term of the Legislative Council commences under the Legislative Council Ordinance (Cap. 542) (*LegCo Ordinance*) in 2012.

Explanatory Note
Paragraph 6

23

6. Section 6 amends section 13 of the principal Regulation to provide that the relevant notification will not be sent to a member of the Heung Yee Kuk who is elected as a District Council member.
7. Section 7 adds a new section 13A to the principal Regulation. The new section provides for the Electoral Registration Officer's sending of notifications to certain elected District Council members for the purposes of compiling a functional constituencies provisional register. The new section also provides for the matters that the notification must contain.
8. Section 8(1) and (2) amends section 14 of the principal Regulation to introduce technical amendments consequential upon amendments made to section 13 of, and the addition of the new section 13A to, the principal Regulation. Section 8(3) adds a new subsection (6) to section 14 of the principal Regulation to clarify that the relevant notification must inform the recipient that he or she will not be eligible to be registered as a voter for any subsector (other than an optional subsector) if he or she applies to be registered as an elector for the District Council (second) functional constituency.
9. Section 9 adds a new section 14A to the principal Regulation. The new section provides for the Electoral Registration Officer's sending of notifications to certain elected District Council members for the purposes of compiling a subsector provisional register. The new section also provides for the matters that the notification must contain.
10. Section 10 amends section 15 of the principal Regulation to introduce technical amendments consequential upon the addition of the new section 14A to the principal Regulation.
11. Section 11 amends section 16 of the principal Regulation to provide that the Electoral Registration Officer must register a person in the functional constituencies provisional register or the subsector provisional register in accordance with the responses given under

Explanatory Note
Paragraph 12

24

- the proposed sections 13A(2)(a) and 14A(2)(a) of the principal Regulation.
12. Section 12 introduces a technical amendment to section 18 of the principal Regulation.
13. Section 13 adds a new subsection (1A) to section 19 of the principal Regulation to provide that a person applying for registration in a geographical constituencies provisional register is also regarded as having applied for registration as an elector for the District Council (second) functional constituency, unless the person indicates otherwise.
14. Section 14 introduces a textual amendment to section 20 of the principal Regulation.
15. Section 15 adds a new subsection (3A) to section 22 of the principal Regulation to specify the matters that must be stated in a letter of inquiry sent under section 22(3) of the principal Regulation.
16. Section 24 of the principal Regulation provides for the preparation of a functional constituencies omissions list and a subsector omissions list. Section 16 amends section 24 of the principal Regulation to introduce amendments consequential upon the provisions concerning the newly added District Council (second) functional constituency. A new subsection (8) is added to section 24 of the principal Regulation to provide for the form of an omissions list for the District Council (second) functional constituency.
17. Section 27 of the principal Regulation provides for the matters to be contained in a functional constituencies provisional register. Section 17 amends section 27 of the principal Regulation to introduce amendments consequential upon the provisions concerning the newly added District Council (second) functional constituency.

Explanatory Note
Paragraph 18

25

18. Section 18 adds a new subsection (6A) to section 31 of the principal Regulation to provide that a person making a claim that he or she is entitled to be registered in a geographical constituencies final register is also regarded as having made a claim that he or she is entitled to be registered as an elector for the District Council (second) functional constituency, unless the person indicates otherwise.
19. Section 19 adds a new subsection (1A) to section 34 of the principal Regulation to empower the Electoral Registration Officer to make an additional entry in a final register of electors for the District Council (second) functional constituency if the additional entry ought to be made in a geographical constituencies final register.
20. Section 20 provides for the arrangement for the compilation of the first register of electors for the District Council (second) functional constituency. Registered electors for geographical constituencies will be automatically registered as electors for the District Council (second) functional constituency. They can however elect not to be so registered. Registered electors for other functional constituencies (except for the 4 special functional constituencies and the District Council (first) functional constituency) can elect to be registered instead as electors for the District Council (second) functional constituency.
21. Section 21 amends section 36 of the principal Regulation to introduce technical amendments consequential upon amendments made to section 14(1B) of the Schedule to the CE Ordinance.
22. Section 2A of the Schedule to the CE Ordinance provides for transitional arrangements for the filling of 10 vacancies in the Election Committee during the period between the subsector ordinary election in 2011 and the commencement of the term of office of the fifth term of the Legislative Council in 2012. Section 37 of the principal Regulation provides for matters to be contained in an Election Committee register. Section 22 introduces certain

Explanatory Note
Paragraph 23

26

- consequential amendments to section 37 of the principal Regulation.
23. Section 23 introduces technical amendments to section 38 of the principal Regulation to provide for publication of notice of and making available for public inspection the subsector final register after complying with section 14(1B) of the Schedule to the CE Ordinance.

Electoral Affairs Commission (Nominations Advisory Committees (Legislative Council)) (Amendment) Regulation 2011

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

1. Commencement

This Regulation comes into operation on 1 April 2012.

2. Electoral Affairs Commission (Nominations Advisory Committees (Legislative Council)) Regulation amended

The Electoral Affairs Commission (Nominations Advisory Committees (Legislative Council)) Regulation (Cap. 541 sub. leg. C) is amended as set out in section 3.

3. Section 1 amended (Interpretation)

(1) Section 1(1), definition of *candidate*, paragraph (a)—

Repeal

“and”.

(2) Section 1(1), definition of *candidate*, after paragraph (a)—

Add

“(aa) in relation to the District Council (second) functional constituency, a person who is nominated to be returned as a Member for that functional constituency at a general election or by-election, including a person whose name is included as a candidate on a nomination list within the meaning of section 3(1) of the Legislative Council Ordinance (Cap. 542);”.

(3) Section 1(1), definition of *candidate*, paragraph (b)—

Repeal

“a particular functional constituency”

Substitute

“any other functional constituency”.

(4) Section 1(1), definition of *nomination form*, after paragraph (a)—

Add

“(aa) in relation to the District Council (second) functional constituency, nominating a candidate or candidates by a nomination list within the meaning of section 3(1) of the Legislative Council Ordinance (Cap. 542) to be returned as a Member for the functional constituency;”.

(5) Section 1(1), definition of *nomination form*, paragraph (b)—

Repeal

“a functional constituency”

Substitute

“any other functional constituency”.

Made this day of May 2011.

The Hon. Mr. Justice
Barnabas Wah FUNG
Chairman,
Electoral Affairs Commission

Lawrence LOK Ying-kam
Member,
Electoral Affairs Commission

Andrew CHAN Chi-fai
Member,
Electoral Affairs Commission

Explanatory Note

The purpose of this Regulation is to amend the Electoral Affairs Commission (Nominations Advisory Committees (Legislative Council)) Regulation (Cap. 541 sub. leg. C) (*principal Regulation*) to introduce amendments consequential upon amendments made under the Legislative Council (Amendment) Ordinance 2011 (2 of 2011).

2. Section 1 provides for commencement.
3. The method of election of the 5 members of the new District Council (second) functional constituency is the same as that of the seats assigned to the geographical constituencies. Consequentially, section 3 introduces amendments to the definitions of *candidate* and *nomination form* in section 1(1) of the principal Regulation to reflect the method of election of the 5 members of the new District Council (second) functional constituency.

**Electoral Affairs Commission (Electoral Procedure)
(Legislative Council) (Amendment) Regulation 2011****Contents**

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Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2011

(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 (except Part 4) comes into operation on 8 July 2011.
- (2) Part 4 comes into operation on 1 June 2012.

2. Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation amended

The Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541 sub. leg. D) is amended as set out in Parts 2 to 4.

Part 2

Amendments to Streamline Electoral Procedures and Minor and Textual Amendments

3. **Section 34 heading amended**

Section 34, English text, heading—

Repeal

“Presiding Officers”.

Substitute

“Presiding Officer”.

4. **Section 91 amended (Presiding Officer may perform functions
through polling officers)**

Section 91(2), after “a poll”—

Add

“or a count”.

5. **Section 102 amended (Election advertisements)**

(1) After section 102(4)—

Add

“(4A) Despite section 3 of the Electronic Transactions
(Exclusion) Order (Cap. 553 sub. leg. B), if—

- (a) an election advertisement is to be displayed,
distributed or otherwise used by electronic means;
or
- (b) a digital image of an election advertisement is
furnished to the Returning Officer in accordance
with subsection (7)(b),

the declaration in respect of the advertisement may be
submitted to the Returning Officer by electronic means
in the manner and format specified by the
Commission.”.

(2) After section 102(5)—

Add

“(5A) If it is not practicable for a candidate to comply with
subsection (5) in relation to an election advertisement to
be displayed, distributed or otherwise used by electronic
means, the declaration in respect of the advertisement
may be submitted in accordance with subsection (4A)
within the time specified by the Commission.”.

(3) Section 102—

Repeal subsections (6) and (7)

Substitute

“(6) A candidate must furnish to the Returning Officer—

- (a) in the manner and format specified by the
Commission, an electronic copy of an election
advertisement that is to be displayed, distributed or
otherwise used by electronic means—
 - (i) before so displaying, distributing or using it;
or
 - (ii) if compliance with subparagraph (i) is not
practicable, within the time specified by the
Commission; or
- (b) subject to subsection (7), 2 copies of any other
election advertisement before displaying,
distributing or otherwise using it.

(7) If it is not practicable to make a copy of an election
advertisement, the candidate must furnish to the
Returning Officer—

- (a) 2 colour photographs in postcard size of the advertisement; or
- (b) in the manner and format specified by the Commission, an image of the advertisement that is kept on a computer system or on an electronic medium.”.

6. **Schedule 2, section 3 amended (Adjournment of poll at a particular polling station)**

- (1) Schedule 2, section 3, heading—

Repeal

everything after “poll”

Substitute

“or count at a particular station”.

- (2) Schedule 2, after section 3(1)—

Add

“(1A) If, at any time during counting at a general election or by-election, it appears to the Presiding Officer that the count at the counting station is likely to be obstructed, disrupted, undermined or seriously affected by an occurrence specified in subsection (2), the Presiding Officer may adjourn the count at the counting station by making a declaration under section 4.”.

- (3) Schedule 2, section 3(2)—

Repeal

“subsection (1)”

Substitute

“subsections (1) and (1A)”.

Part 3

Amendments to Refine Voting Arrangements for Electors in Custody

7. **Section 2 amended (Interpretation)**

Section 2(1), definition of *verification of the ballot paper account*—

Repeal

“74AA(c)”

Substitute

“74AA(d)”.

8. **Section 22A amended (Returning Officer to notify and declare if a validly nominated candidate for a GC is proved to have died)**

Section 22A(2)(b)—

Repeal

everything after “prominent”

Substitute

“place—

- (i) outside each polling station (other than a dedicated polling station) used for polling for the geographical constituency concerned; and
- (ii) inside each dedicated polling station used for polling for the geographical constituency concerned.”.

9. **Section 22B amended (Returning Officer to notify and declare if a validly nominated candidate for a GC is proved to be disqualified)**

Section 22B(2)(b)—

Repeal

everything after “prominent”

Substitute

“place—

- (i) outside each polling station (other than a dedicated polling station) used for polling for the geographical constituency concerned; and
- (ii) inside each dedicated polling station used for polling for the geographical constituency concerned.”

10. **Section 30 amended (Chief Electoral Officer to assign polling stations for constituencies and to allocate polling stations to electors and authorized representatives)**

Section 30—

Repeal subsections (6) and (7)

Substitute

“(6) To enable the Chief Electoral Officer to perform his or her functions under this section in relation to electors, the Commissioner of Correctional Services must, upon a request by the Chief Electoral Officer, provide the following information concerning every person who is serving a sentence of imprisonment or detained by the Correctional Services Department on remand—

- (a) the name of the person;
- (b) the number of the person’s identity document;

(c) the prisoner registration number allocated by the Commissioner of Correctional Services to the person for identification purposes;

(d) the name and address of the premises in which the person is detained.

(7) To enable the Chief Electoral Officer to perform his or her functions under this section in relation to electors, the head of any law enforcement agency must, upon a request by the Chief Electoral Officer, provide the following information concerning every person who is detained by the law enforcement agency under any lawful authority—

- (a) the name of the person;
- (b) the number of the person’s identity document;
- (c) the name and address of the premises in which the person is detained.”

11. **Section 38 amended (Chief Electoral Officer to supply list of polling officers to assist Presiding Officer)**

Section 38(3)—

Repeal

everything after “prominent”

Substitute

“place—

- (a) (if the polling station for which the Officer is appointed is not a dedicated polling station) outside the polling station; or
- (b) (if the polling station for which the Officer is appointed is a dedicated polling station) inside the polling station.”

12. Section 40 amended (Returning Officer to determine no canvassing zones and no staying zones)

- (1) Section 40(16)(b), before “use”—

Add

“subject to subsection (19).”

- (2) After section 40(18)—

Add

“(19) An officer of the Correctional Services Department may, on polling day, use a sound amplifying system or device for the performance of his or her duties in the no canvassing zone of a dedicated polling station situated in a prison.”

13. Section 41 amended (Presiding Officer to keep order in no canvassing zone and no staying zone)

- (1) Section 41(1)(b), before “use”—

Add

“subject to subsection (1A).”

- (2) After section 41(1)—

Add

“(1A) An officer of the Correctional Services Department may, on polling day, use a sound amplifying system or device for the performance of his or her duties in the no canvassing zone of a dedicated polling station situated in a prison.”

14. Section 42 amended (Candidates may appoint polling agents)

- (1) Section 42(12)—

Repeal

“subsection (14)”

Substitute

“subsections (14) and (14A)”.

- (2) Section 42(14)—

Repeal

everything after “Chief Electoral Officer.”

- (3) After section 42(14)—

Add

- “(14A) If the notice of revocation is given on the polling day—
- (a) (if the polling station for which the polling agent is appointed is not a dedicated polling station) it must be given to the Presiding Officer for the polling station; or
 - (b) (if the polling station for which the polling agent is appointed is a dedicated polling station) it must be given to the Chief Electoral Officer.”

15. Section 52 amended (A candidate or election agent or polling agent may challenge a person who has applied for a ballot paper or who has voted)

- (1) Section 52(3), after “arrested” (wherever appearing)—

Add

“or removed”.

- (2) Section 52(3)—

Repeal

“or the arrest”

Substitute

“, arrest or removal”.

16. **Section 74A amended (Arrangements for verification of ballot paper account at GC counting station)**

Section 74A(1)(b)(ii)—

Repeal

“(f)”

Substitute

“(e)”.

17. **Section 74AA amended (Arrangements for sorting in ballot paper sorting stations)**

Section 74AA—

Repeal paragraphs (a), (b), (c), (d), (e), (f), (g), (h) and (i)

Substitute

- “(a) sort the GC ballot papers in each ballot box under the Officer’s charge according to each geographical constituency;
- (b) count and record the number of GC ballot papers for each geographical constituency;
- (c) verify the ballot paper account by comparing it with the number of GC ballot papers recorded under paragraph (b);
- (d) prepare a statement in writing as to the result of the verification;
- (e) prepare a statement in writing as to the number of GC ballot papers recorded under paragraph (b);
- (f) make into separate bundles the sorted GC ballot papers together with the relevant statement prepared under paragraph (e);
- (g) place each bundle in a separate receptacle and seal it in the presence of those present at the counting zone;

- (h) arrange the receptacles to be delivered to the Presiding Officers of the respective main counting stations of the relevant geographical constituencies; and
- (i) send to the Chief Electoral Officer the ballot paper accounts, verification of the ballot paper accounts and the sealed packets made up under section 63A.”
-

Part 4

Amendments Consequential to Legislative Council (Amendment) Ordinance 2011 (2 of 2011)

18. Section 2 amended (Interpretation)

- (1) Section 2(1), definition of *nomination form*—

Repeal

everything after “means”

Substitute

“a form referred to in section 10(1) or 11(1) (as applicable);”.

- (2) Section 2(1), definition of *ordinary functional constituencies*—

Repeal

“(zb)”

Substitute

“(zc)”.

19. Section 10 amended (How to nominate a candidate for a geographical constituency)

- (1) Section 10, heading, after “geographical constituency”—

Add

“or District Council (second) functional constituency”.

- (2) Section 10(1), after “geographical constituency”—

Add

“or a candidate for the District Council (second) functional constituency (as applicable)”.

- (3) Section 10(5)(a), after “geographical constituency”—

Add

“or a candidate for the District Council (second) functional constituency (as applicable)”.

- (4) Section 10(10)(a), after “geographical constituency”—

Add

“or a candidate for the District Council (second) functional constituency (as applicable)”.

20. Section 11 amended (How to nominate a candidate for a functional constituency)

- (1) Section 11, heading, after “functional constituency”—

Add

“(other than District Council (second) functional constituency)”.

- (2) Section 11(1), after “functional constituency”—

Add

“(other than the District Council (second) functional constituency)”.

21. Section 15 amended (Returning Officer not to accept nomination form without deposit and to issue receipt for deposit)

Section 15(3)—

Repeal

everything after “having regard to”

Substitute

“which constituency for which the nomination form is submitted.”.

22. **Section 16 amended (Returning Officer to decide whether candidates are validly nominated)**

Section 16(4)—

Repeal

everything after “having regard to”

Substitute

“which constituency for which the nomination form is submitted.”.

23. **Section 18 amended (Returning Officer may give opportunity to rectify a nomination form)**

Section 18(2), after “geographical constituency”—

Add

“or the District Council (second) functional constituency”.

24. **Section 21 amended (Returning Officer to publish a notice of particulars of validly nominated candidates)**

(1) After section 21(4)—

Add

“(4A) A notice published for the District Council (second) functional constituency must state—

- (a) which lists of candidates are validly nominated for that functional constituency;
- (b) state the letter of the alphabet assigned to that functional constituency followed by the number allocated to each list under section 49(6A); and
- (c) the name and the principal residential address of each validly nominated candidate in each list.”.

(2) Section 21(5), after “a functional constituency”—

Add

“(other than the District Council (second) functional constituency)”.

25. **Section 22A amended (Returning Officer to notify and declare if a validly nominated candidate for a GC is proved to have died)**

(1) Section 22A, heading—

Repeal

“GC”

Substitute

“geographical constituency or District Council (second) functional constituency”.

(2) Section 22A(1)(b)—

Repeal

“geographical”.

(3) Section 22A(2)(b)—

Repeal

“geographical” (wherever appearing).

(4) Section 22A(4)(b)—

Repeal

“geographical”.

(5) Section 22A(4)(c)—

Repeal

“that geographical constituency”

Substitute

“the constituency concerned”.

(6) Section 22A(5)(b)—

Repeal

- “geographical”.
- (7) Section 22A(5)(c)—
Repeal
“that geographical constituency”
Substitute
“the constituency concerned”.
- (8) After section 22A(5)—
Add
“(6) In this section—
constituency (選區或選舉界別) means a geographical constituency or the District Council (second) functional constituency (as applicable).”.
26. **Section 22B amended (Returning Officer to notify and declare if a validly nominated candidate for a GC is proved to be disqualified)**
- (1) Section 22B, heading—
Repeal
“GC”
Substitute
“geographical constituency or District Council (second) functional constituency”.
- (2) Section 22B(1)(b)—
Repeal
“geographical”.
- (3) Section 22B(2)(b)—
Repeal
“geographical” (wherever appearing).

- (4) Section 22B(4)(b)—
Repeal
“geographical”.
- (5) Section 22B(4)(d)—
Repeal
“that geographical constituency”
Substitute
“the constituency concerned”.
- (6) Section 22B(5)(b)—
Repeal
“geographical”.
- (7) Section 22B(5)(c)—
Repeal
“that geographical constituency”
Substitute
“the constituency concerned”.
- (8) After section 22B(5)—
Add
“(6) In this section—
constituency (選區或選舉界別) means a geographical constituency or the District Council (second) functional constituency (as applicable).”.
27. **Section 22C amended (No poll upon death or disqualification of candidate for a GC under certain circumstances)**
- (1) Section 22C, heading—
Repeal
“GC”

Substitute

“geographical constituency or District Council (second functional constituency)”.

- (2) Section 22C(1)(a)—

Repeal

“geographical” (wherever appearing).

- (3) Section 22C(1)(b)—

Repeal

“geographical”.

- (4) Section 22C(1)—

Repeal

“held for that geographical”

Substitute

“held for the”.

- (5) After section 22C(4)—

Add

“(5) In this section—

constituency (選區或選舉界別) means a geographical constituency or the District Council (second) functional constituency (as applicable).”.

28. Section 23 amended (A candidate or a list of candidates may appoint election agent)

Section 23(3), after “functional constituency”—

Add

“(other than the District Council (second) functional constituency)”.

29. Section 24 amended (Returning Officer to send to other candidates a notice of particulars of election agent)

- (1) Section 24(1)—

Repeal

“geographical”

Substitute

“same”.

- (2) Section 24(2), after “functional constituency”—

Add

“(other than the District Council (second) functional constituency)”.

30. Section 35 amended (Chief Electoral Officer to supply candidates with copy of final register)

- (1) Section 35(1), Chinese text—

Repeal

“某地方選區”

Substitute

“有關選區或界別”.

- (2) Section 35(2), after “functional constituency”—

Add

“(other than the District Council (second) functional constituency)”.

31. Section 40 amended (Returning Officer to determine no canvassing zones and no staying zones)

- (1) Section 40(3), after “one geographical constituency”—

Add

“or the District Council (second) functional constituency”.

- (2) Section 40(3)—

Repeal

“the geographical constituency”

Substitute

“the constituency”.

- (3) Section 40(4), after “one functional constituency”—

Add

“(other than the District Council (second) functional constituency)”.

32. Section 42 amended (Candidates may appoint polling agents)

- (1) Section 42(5), after “functional constituency”—

Add

“(other than the District Council (second) functional constituency)”.

- (2) Section 42(13), after “functional constituency”—

Add

“(other than the District Council (second) functional constituency)”.

33. Section 49 amended (Form of ballot papers and order of appearance of lists or names of candidates on ballot papers)

- (1) After section 49(2)—

Add

“(2A) A ballot paper to be used to vote for the District Council (second) functional constituency is to be in Form 2A in Schedule 3.”.

- (2) Section 49(3)—

Repeal

“an ordinary functional constituency”

Substitute

“any other functional constituency”.

- (3) Section 49—

Repeal subsection (6)

Substitute

“(6) The order in which lists of candidates appear on a GC ballot paper is to be determined by the Returning Officer by the drawing of lots. A number is to be allocated to each list according to the result of the draw, and the number is to be printed on the ballot paper against the list of candidates.

(6A) The order in which lists of candidates appear on an FC ballot paper for the District Council (second) functional constituency is to be determined by the Returning Officer by the drawing of lots. A number which is preceded by a letter of the alphabet assigned by the Chief Electoral Officer to the District Council (second) functional constituency is to be allocated to each list according to the result of the draw, and the letter and number are to be printed on the ballot paper against the list of candidates.

(6B) In each list to which subsections (6) and (6A) apply, each candidate is to be allocated a letter of the alphabet to indicate the order of priority, beginning with the letter “a” for the candidate ranking first in priority; and the letter so allocated is to be printed on the ballot paper against the name of the candidate.”.

- (4) Section 49(7), after “functional constituency”—

Add

“(other than the District Council (second) functional constituency)”.

- (5) Section 49(8), after “Each ordinary functional constituency”—

Add

“(other than the District Council (second) functional constituency)”.

- (6) Section 49(8), after “an ordinary functional constituency”—

Add

“(other than the District Council (second) functional constituency)”.

34. Section 54 amended (Procedure for voting)

- (1) Section 54—

Repeal subsection (3)

Substitute

“(3) An elector voting for a geographical constituency or the District Council (second) functional constituency must fold the ballot paper so that the marked side is inside and put the folded ballot paper into the ballot box.

- (3A) An elector or authorized representative voting for a functional constituency (other than the District Council (second) functional constituency) must put the ballot paper, unfolded, into the ballot box with the marked side facing down.”.

- (2) Section 54(5)—

Repeal

“subsection (3)”

Substitute

“subsections (3) and (3A)”.

35. Section 55 amended (How GC ballot papers are to be marked)

- (1) Section 55, heading—

Repeal

“GC”

Substitute

“geographical constituency and District Council (second) functional constituency”.

- (2) Section 55(1), after “geographical constituency”—

Add

“or the District Council (second) functional constituency (as applicable)”.

36. Section 57 amended (How ordinary functional constituency ballot papers are to be marked)

- (1) Section 57, heading, after “ordinary functional constituency”—

Add

“(other than District Council (second) functional constituency)”.

- (2) Section 57(1), after “an ordinary functional constituency”—

Add

“(other than the District Council (second) functional constituency)”.

37. Section 66 amended (Candidates may appoint counting agents)

- (1) Section 66(1)—

Repeal

“for a functional constituency”.

- (2) Section 66(10)—

Repeal

“functional constituency”

Substitute

“candidate”.

38. Section 80 amended (Votes recorded on invalid ballot papers not to be counted)

- (1) Section 80(1)(g)(i), after “GC ballot paper”—

Add

“or an FC ballot paper for the District Council (second) functional constituency,”.

- (2) Section 80(1)(g)(ii), after “an ordinary functional constituency”—

Add

“(other than the District Council (second) functional constituency)”.

- (3) Section 80(1)(ha), after “GC ballot paper”—

Add

“or an FC ballot paper for the District Council (second) functional constituency,”.

- (4) Section 80(1)(hb), after “an ordinary functional constituency”—

Add

“(other than the District Council (second) functional constituency)”.

- (5) Section 80(1)(i), after “GC ballot paper”—

Add

“or an FC ballot paper for the District Council (second) functional constituency,”.

39. Section 81 amended (Returning Officer or Presiding Officer to make decisions on questionable ballot papers)

Section 81(6)(i)—

Repeal

“a GC”

Substitute

“(in the case of a GC ballot paper or an FC ballot paper for the District Council (second) functional constituency) a”.

40. Section 83 amended (Returning Officer to declare election result)

- (1) Section 83(2)(b)(i), after “a geographical constituency”—

Add

“or the District Council (second) functional constituency”.

- (2) Section 83(2)(b)(i)(A)—

Repeal

“geographical”.

- (3) Section 83(2)(b)(ii), after “functional constituency”—

Add

“(other than the District Council (second) functional constituency)”.

41. Section 84 amended (The form in which Returning Officer is to publish result of election)

Section 84(2)—

Repeal

“Form 2 in Schedule 4”

Substitute

“Form 2 or Form 4 in Schedule 4, as appropriate”.

42. Schedule 3 amended (Forms of ballot papers for a general election/by-election)

(1) Schedule 3, Form 1, note @—

Repeal

““h””

Substitute

“1”.

(2) Schedule 3, after Form 2—

Add

“FORM 2A

BALLOT PAPER FOR THE DISTRICT COUNCIL
(SECOND) FUNCTIONAL CONSTITUENCY

存根 COUNTERFOIL		(編號) (Serial Number)
(選舉管理委員會(選舉程序)(立法會)規例) ELECTORAL AFFAIRS COMMISSION (ELECTORAL PROCEDURE)(LEGISLATIVE COUNCIL)REGULATION (立法會(第二)功能界別/功能界別) LEGISLATIVE COUNCIL (GENERAL ELECTION/BY-ELECTION) DISTRICT COUNCIL (SECOND) FUNCTIONAL CONSTITUENCY *(選舉日期) *(Date of election)		選票 BALLOT PAPER 投票站 VOTE STATION 投票日期 DATE OF POLLING
請用投票站提供的印章在所選名單內的圓圈蓋上“✓”號 Use the chop provided at the polling station to stamp “✓” in the circle of the list of your choice.		
<p style="font-size: x-small;"> *詳情請參閱登記及規例處網頁 *For more details, please refer to the website of the Electoral Affairs Commission. *詳情請參閱登記及規例處網頁 *For more details, please refer to the website of the Electoral Affairs Commission. *詳情請參閱登記及規例處網頁 *For more details, please refer to the website of the Electoral Affairs Commission. </p> <p style="font-size: x-small;"> * * (候選人姓名及中、英文姓名) * * (Name of candidate as shown in Practice of Nominations to order of priority) </p> <p style="font-size: x-small;"> 候選人姓名 Candidate's Name </p>		<p style="font-size: x-small;"> *詳情請參閱登記及規例處網頁 *For more details, please refer to the website of the Electoral Affairs Commission. *詳情請參閱登記及規例處網頁 *For more details, please refer to the website of the Electoral Affairs Commission. *詳情請參閱登記及規例處網頁 *For more details, please refer to the website of the Electoral Affairs Commission. </p> <p style="font-size: x-small;"> * * (候選人姓名及中、英文姓名) * * (Name of candidate as shown in Practice of Nominations to order of priority) </p> <p style="font-size: x-small;"> 候選人姓名 Candidate's Name </p>
@ 1		@ 4
@ 2		@ 5
@ 3		@ 6

- # A code will be assigned to the District Council (second) functional constituency. Only the appropriate code will be printed.
- * Only the appropriate information will be printed.
- + Address of the candidate to be included if required under section 49(13)(b).
- ^ Each candidate on the list will be allocated a letter of the alphabet starting from 'a' and up to 'e', depending on the number of candidates.
- @ The code assigned for the District Council (second) functional constituency will precede the number allocated to each list of candidates.”

(3) Schedule 3, Form 3(a), heading, after “FUNCTIONAL CONSTITUENCY”—

Add

“(OTHER THAN THE DISTRICT COUNCIL (SECOND) FUNCTIONAL CONSTITUENCY)”.

(4) Schedule 3, Form 3(a), note #—

Repeal

“each of the ordinary functional constituencies”

Substitute

“the ordinary functional constituency concerned”.

(5) Schedule 3, Form 3(b), heading, after “FUNCTIONAL CONSTITUENCY”—

Add

“(OTHER THAN THE DISTRICT COUNCIL (SECOND) FUNCTIONAL CONSTITUENCY)”.

43. Schedule 4 amended (Forms for the notice of election result under section 58 of the Legislative Council Ordinance (Cap. 542))

(1) Schedule 4, Form 2, heading, after “FUNCTIONAL CONSTITUENCIES”—

Add

“(OTHER THAN THE DISTRICT COUNCIL (SECOND) FUNCTIONAL CONSTITUENCY)”.

(2) At the end of Schedule 4—

Add

“FORM 4

NOTICE OF RESULT OF ELECTION FOR THE DISTRICT COUNCIL (SECOND) FUNCTIONAL CONSTITUENCY

<p>《選舉管理委員會(選舉程序)(立法會)規例》 ELECTORAL AFFAIRS COMMISSION (ELECTORAL PROCEDURE) (LEGISLATIVE COUNCIL) REGULATION</p> <p>選舉結果公告 NOTICE OF RESULT OF ELECTION</p> <p>立法會*換屆選舉/補選 (區議會(第二)功能界別) LEGISLATIVE COUNCIL *GENERAL ELECTION/BY-ELECTION (District Council (Second) Functional Constituency)</p>		
<p>1. 於*(年 月 日)舉行的上述選舉的結果公布如下— The following is a statement of the result of the above election held on *(date)—</p>		
名單編號 List Number	名單候選人姓名 Name(s) of Candidate(s)	名單所得票數 Number of Votes Given to the List

2. 現公布: 以下候選人 *依據以抽籤方式決定的選舉結果而在區議會 (第二) 功能界別當選 —

It is notified that the following candidate(s) *is/are declared to be elected for the District Council (second) functional constituency *pursuant to a result determined by drawing lots—

名單編號 List Number	當選的候選人姓名 Name(s) of Candidate(s) Elected

日期:
Date:

區議會 (第二) 功能界別的選舉主任
Returning Officer
for the District Council (second) functional
constituency

* Only the appropriate information will be printed.”.

Made this day of May 2011.

The Hon. Mr. Justice
Barnabas Wah FUNG
Chairman,
Electoral Affairs Commission

Lawrence LOK Ying-kam
Member,
Electoral Affairs Commission

Andrew CHAN Chi-fai
Member,
Electoral Affairs Commission

Explanatory Note

This Regulation amends the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541 sub. leg. D) (*principal Regulation*). The main purposes of the amendments are to improve certain election arrangements; to refine the voting arrangements for electors in custody; to introduce amendments consequential upon amendments made under the Legislative Council (Amendment) Ordinance 2011 (2 of 2011); and to provide for several technical and textual amendments.

2. Section 1 provides for commencement.

Part 2—Amendments to streamline electoral procedures and minor and textual amendments

3. Section 3 introduces a textual amendment to the English text of the heading of section 34 of the principal Regulation.
4. Sections 4 and 6 respectively amend section 91 of, and section 3 of Schedule 2 to, the principal Regulation to empower a Presiding Officer to adjourn the count at the counting station.
5. Section 5 amends section 102 of the principal Regulation to allow a candidate to submit the relevant declaration by electronic means if the election advertisement is to be displayed, distributed or otherwise used by electronic means, and to provide for the submission of an electronic copy of the election advertisement displayed, distributed or otherwise used by electronic means.

Part 3—Amendments to refine voting arrangements for electors in custody

6. Section 7 introduces a consequential amendment to the definition of *verification of the ballot paper account* in section 2(1) of the principal Regulation.

7. Sections 8 and 9 respectively amend sections 22A and 22B of the principal Regulation to empower the Returning Officer to display certain notices inside a dedicated polling station.
8. Section 10 amends section 30 of the principal Regulation to require the Commissioner of Correctional Services to, on request by the Chief Electoral Officer, provide the prisoner registration number of a person detained by the Correctional Services Department.
9. Section 11 amends section 38 of the principal Regulation to empower the Presiding Officer to display the list of polling officers inside a dedicated polling station.
10. Sections 12 and 13 respectively amend sections 40 and 41 of the principal Regulation to enable an officer of the Correctional Services Department to, on the polling day, use a sound amplifying system in the no canvassing zone of a dedicated polling station situated in a prison.
11. Section 14 amends section 42 of the principal Regulation to provide that a notice of revocation of appointment of a polling agent, if given on the polling day, must be given to the Chief Electoral Officer if the relevant polling station is a dedicated polling station situated in a prison.
12. Section 52 of the principal Regulation provides that in a dedicated polling station, an elector who is suspected to have engaged in corrupt conduct by impersonation is to be removed by an officer of the Correctional Services Department or any other law enforcement agency who is to report the case to the police. Section 15 introduces a consequential amendment to section 52(3) of the principal Regulation.
13. Section 16 introduces a consequential amendment to section 74A of the principal Regulation.
14. Section 17 amends section 74AA of the principal Regulation to refine the arrangements for sorting ballot papers in ballot paper sorting stations.

**Part 4—Amendments consequential to Legislative Council
(Amendment) Ordinance 2011 (2 of 2011)**

15. Section 18 amends 2 definitions in section 2(1) of the principal Regulation.
16. The method of election of the 5 members of the new District Council (second) functional constituency is the same as that of the seats assigned to the geographical constituencies. Consequentially, amendments are made—
 - (a) to references to geographical constituencies in the principal Regulation to include the District Council (second) functional constituencies as regards electoral procedure (sections 19, 23, 25, 26, 27, 31(1), 34(2), 35, 38(1), (3) and (5), 39 and 40(1)); and
 - (b) to exclude the District Council (second) functional constituency from references to functional constituencies in the principal Regulation as regards electoral procedure (sections 20, 24(2), 28, 29, 30, 31(3), 32, 33(3), (4), (5) and (6), 34(1), 36, 37, 38(2) and (4) and 40(3)).
17. Section 21 introduces a technical amendment to section 15(3) of the principal Regulation.
18. Section 22 introduces a technical amendment to section 16(4) of the principal Regulation.
19. Section 24(1) adds a new subsection (4A) to section 21 of the principal Regulation to provide for the information that must be stated in a notice of particulars of validly nominated candidates published for the District Council (second) functional constituency.
20. Section 33(1) adds a new subsection (2A) to section 49 of the principal Regulation to provide that a ballot paper to be used to vote for the District Council (second) functional constituency is to be in Form 2A in Schedule 3. Section 33(3) amends section 49 of the principal Regulation to provide for the order of appearances of lists

- of candidates on ballot papers to be used to vote for the District Council (second) functional constituency.
21. Section 41 introduces a consequential amendment to section 84(2) of the principal Regulation.
 22. Section 42 amends Schedule 3 to the principal Regulation by prescribing the form of ballot paper for the District Council (second) functional constituency.
 23. Section 43 amends Schedule 4 to the principal Regulation by prescribing the form of notice of result of election for the District Council (second) functional constituency.

Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2011

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Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2011

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

1. Commencement

This Regulation comes into operation on 8 July 2011.

2. Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation amended

The Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap. 541 sub. leg. F) is amended as set out in sections 3 to 24.

3. Section 2 amended (Interpretation)

Section 2(1), definition of *verification of the ballot paper account*—

Repeal

“75A(c)”

Substitute

“75A(d)”.

4. Section 24 amended (Returning Officer to notify and declare if a validly nominated candidate is proved to have died)

Section 24(8)—

Repeal

everything after “prominent”

Substitute

“place—

Section 5

2

- (a) outside each polling station (other than a dedicated polling station) used for polling for the constituency concerned; and
- (b) inside each dedicated polling station used for polling for the constituency concerned.”.

5. **Section 25 amended (Returning Officer to vary decision if a validly nominated candidate is proved to be disqualified)**

Section 25(8)—

Repeal

everything after “prominent”

Substitute

“place—

- (a) outside each polling station (other than a dedicated polling station) used for polling for the constituency concerned; and
- (b) inside each dedicated polling station used for polling for the constituency concerned.”.

6. **Section 28 amended (A candidate may authorize persons to incur election expenses on the candidate’s behalf)**

(1) After section 28(12)—

Add

“(12A) Service of the notice of revocation may be effected by delivery by hand, by post or by facsimile transmission.”.

(2) Section 28(13)—

Repeal

“the relevant Officer receives the notice of revocation”

Substitute

Section 7

3

“the notice of revocation has been served on the relevant Officer”.

7. **Section 33 amended (Chief Electoral Officer to assign polling stations for constituencies and to allocate polling stations to electors)**

Section 33—

Repeal subsections (5) and (6)

Substitute

“(5) To enable the Chief Electoral Officer to perform his or her functions under this section in relation to electors, the Commissioner of Correctional Services must, upon a request by the Chief Electoral Officer, provide the following information concerning every person who is serving a sentence of imprisonment or detained by the Correctional Services Department on remand—

- (a) the name of the person;
- (b) the number of the person’s identity document;
- (c) the prisoner registration number allocated by the Commissioner of Correctional Services to the person for identification purposes;
- (d) the name and address of the premises in which the person is detained.

(6) To enable the Chief Electoral Officer to perform his or her functions under this section in relation to electors, the head of any law enforcement agency must, upon a request by the Chief Electoral Officer, provide the following information concerning every person who is detained by the law enforcement agency under any lawful authority—

- (a) the name of the person;
- (b) the number of the person’s identity document;

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4

- (c) the name and address of the premises in which the person is detained.”.

8. **Section 37 heading amended**

Section 37, English text, heading—

Repeal

“**Presiding Officers**”

Substitute

“**Presiding Officer**”.

9. **Section 41 amended (Chief Electoral Officer to supply list of polling officers to assist Presiding Officer)**

Section 41(3)—

Repeal

everything after “prominent”

Substitute

“place—

- (a) (if the polling station for which the Officer is appointed is not a dedicated polling station) outside the polling station; or
- (b) (if the polling station for which the Officer is appointed is a dedicated polling station) inside the polling station.”.

10. **Section 43 amended (Returning Officer to determine no canvassing zones and no staying zones)**

- (1) Section 43(13)(b), before “use”—

Add

“subject to subsection (13A),”.

- (2) Section 43(13)(c), Chinese text—

Section 11

5

Repeal

“而以”

Substitute

“以致”.

- (3) After section 43(13)—

Add

“(13A) An officer of the Correctional Services Department may, on polling day, use a sound amplifying system or device for the performance of his or her duties in the no canvassing zone of a dedicated polling station situated in a prison.”.

11. **Section 44 amended (Presiding Officer to keep order in no canvassing zone and no staying zone)**

- (1) Section 44(1)(b), before “use”—

Add

“subject to subsection (1C),”.

- (2) Section 44(1)(c), Chinese text—

Repeal

“而以”

Substitute

“以致”.

- (3) After section 44(1B)—

Add

“(1C) An officer of the Correctional Services Department may, on polling day, use a sound amplifying system or device for the performance of his or her duties in the no canvassing zone of a dedicated polling station situated in a prison.”.

12. Section 45 amended (Candidates may appoint polling agents)

(1) Section 45(11)—

Repeal

everything after “Returning Officer.”.

(2) After section 45(11)—

Add

“(11A) If the notice of revocation is given on the polling day—

(a) (if the polling station for which the polling agent is appointed is not a dedicated polling station situated in a prison) it must be given to the Presiding Officer of the polling station; or

(b) (if the polling station for which the polling agent is appointed is a dedicated polling station situated in a prison) it must be given to the Returning Officer.”.

13. Section 48 amended (What constitutes an offence at a polling station)

Section 48(1)—

Repeal

“, Deputy Presiding Officer, Assistant Presiding Officer”.

14. Section 55 amended (A candidate or election agent or polling agent may challenge a person who has applied for a ballot paper or who has voted)

(1) Section 55(3), after “arrested” (wherever appearing)—

Add

“or removed”.

(2) Section 55(3)—

Repeal

“or the arrest”

Substitute

“, arrest or removal”.

15. Section 64 amended (Presiding Officer to prepare a ballot paper account for each packet of sealed ballot papers)

(1) Section 64(1), after “Presiding Officer”—

Add

“(other than the Presiding Officer of a dedicated polling station)”.

(2) After section 64(2)—

Add

“(3) The Presiding Officer of a dedicated polling station must—

(a) (if one or more ballot papers have been issued by the Presiding Officer on the polling day) prepare a statement which complies with subsection (4) for each District in respect of which ballot papers have been issued; or

(b) (if no ballot paper has been issued by the Presiding Officer on the polling day) prepare a statement in the specified form confirming that no ballot paper has been issued by the Presiding Officer on the polling day.

(4) The statement prepared under subsection (3)(a) must be in the specified form and show the number of ballot papers for the District supplied to the Presiding Officer under section 40(2) and account for those ballot papers under the following heads—

(a) the number of ballot papers estimated by the Presiding Officer to be in the ballot box or boxes;

(b) the number of un-issued ballot papers;

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8

- (c) the number of unused ballot papers;
- (d) the number of spoiled ballot papers.”.

16. Section 69 amended (What constitutes an offence at a counting station)

(1) Section 69(1), after “who”—

Add

“, during the relevant period,”.

(2) After section 69(1)—

Add

“(1A) In subsection (1)—

relevant period (有關期間), in relation to a counting zone, means the period commencing at the time, determined under section 65, at which the counting of the votes is to begin at the zone and ending upon the completion of the counting and re-count, if any, at the zone.”.

17. Section 75 amended (Presiding Officer to verify ballot paper account)

(1) Section 75(1)—

Repeal

“, a dedicated polling station”.

(2) Section 75(1A)(b)—

Repeal

“(f)”

Substitute

“(e)”.

Section 19

9

18. Section 75A amended (Arrangements for sorting in ballot paper sorting stations)

Section 75A—

Repeal paragraphs (a), (b), (c), (d), (e), (f), (g), (h) and (i)

Substitute

- “(a) sort the envelopes in each ballot box under the Officer’s charge according to each constituency;
- (b) count and record the number of envelopes for each constituency;
- (c) verify the ballot paper account by comparing it with the number of envelopes recorded under paragraph (b);
- (d) prepare a statement in writing as to the result of the verification;
- (e) prepare a statement in writing as to the number of envelopes recorded under paragraph (b);
- (f) make into separate bundles the sorted envelopes together with the relevant statement prepared under paragraph (e);
- (g) place each bundle in a separate receptacle and seal it in the presence of those present at the counting zone;
- (h) arrange the receptacles to be delivered to the Presiding Officers of the respective main counting stations of the relevant constituencies; and
- (i) send to the Chief Electoral Officer the ballot paper accounts, verification of the ballot paper accounts and the sealed packets made up under section 63A.”.

19. Section 89 amended (Presiding Officer may perform functions through polling officers)

Section 89(2), after “a poll”—

Add

Section 20

10

“or a count”.

20. Section 95 amended (Procedure after election proceedings are terminated)

Section 95(2)—

Repeal

everything after “the close of”

Substitute

“the poll for the constituency, a declaration under subsection (1) is made by the Returning Officer in respect of the election, the Officer must direct that the poll for the constituency be abandoned.”.

21. Section 99A added

Before section 100—

Add

“99A. Election return to be lodged in specified form

The election return required to be lodged under section 37 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) in respect of an ordinary election or a by-election must be in the specified form (if any).”.

22. Section 103 amended (Election advertisements)

(1) After section 103(4)—

Add

“(4A) Despite section 3 of the Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B), if—

- (a) an election advertisement is to be displayed, distributed or otherwise used by electronic means;
or

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- (b) a digital image of an election advertisement is furnished to the Returning Officer in accordance with subsection (7)(b),

the declaration in respect of the advertisement may be submitted to the Returning Officer by electronic means in the manner and format specified by the Commission.”.

(2) After section 103(5)—

Add

- “(5A) If it is not practicable for a candidate to comply with subsection (5) in relation to an election advertisement to be displayed, distributed or otherwise used by electronic means, the declaration in respect of the advertisement may be submitted in accordance with subsection (4A) within the time specified by the Commission.”.

(3) Section 103—

Repeal subsections (6) and (7)

Substitute

“(6) A candidate must furnish to the Returning Officer—

- (a) in the manner and format specified by the Commission, an electronic copy of an election advertisement that is to be displayed, distributed or otherwise used by electronic means—

(i) before so displaying, distributing or using it;
or

(ii) if compliance with subparagraph (i) is not practicable, within the time specified by the Commission; or

- (b) subject to subsection (7), 2 copies of any other election advertisement before displaying, distributing or otherwise using it.

- (7) If it is not practicable to make a copy of an election advertisement, the candidate must furnish to the Returning Officer—
- (a) 2 colour photographs in postcard size of the advertisement; or
 - (b) in the manner and format specified by the Commission, an image of the advertisement that is kept on a computer system or on an electronic medium.”.
- (4) Section 103—
- Repeal subsections (9) and (9A)**
- Substitute**
- “(9) Before displaying an election advertisement in the form of a bill or poster within the meaning of section 104E of the Public Health and Municipal Services Ordinance (Cap. 132), the candidate must deposit with the Returning Officer a copy of the permission or other authorization obtained for the purposes of section 104A(1) of that Ordinance.
- (9A) Before displaying, distributing or otherwise using an election advertisement which is of a kind referred to in subsection (1) or (2) of section 27 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), the candidate must deposit with the Returning Officer a copy of the consent in writing referred to in that subsection.”.
- (5) Section 103(10), after “authorization” (wherever appearing)—
- Add**
- “, consent”.

23. **Schedule 1, section 3 amended (Adjournment of poll at a particular polling station)**
- (1) Schedule 1, section 3, heading—
- Repeal**
- everything after “poll”
- Substitute**
- “or count at a particular station”.
- (2) Schedule 1, after section 3(1)—
- Add**
- “(1A) If, at any time during counting at an ordinary election or by-election, it appears to the Presiding Officer that the count at the counting station is likely to be obstructed, disrupted, undermined or seriously affected by an occurrence specified in subsection (2), the Presiding Officer may adjourn the count at the counting station by making a declaration under section 4.”.
- (3) Schedule 1, section 3(2)—
- Repeal**
- “subsection (1)”
- Substitute**
- “subsections (1) and (1A)”.
24. **Schedule 3 substituted**
- Schedule 3—
- Repeal the Schedule**
- Substitute**

“Schedule 3 [s. 82]

**Form for the Notice of Election Result under
Section 46 of the District Councils Ordinance
(Cap. 547)**

《選舉管理委員會(選舉程序)(區議會)規例》
ELECTORAL AFFAIRS COMMISSION
(ELECTORAL PROCEDURE)
(DISTRICT COUNCILS) REGULATION

選舉結果公告
NOTICE OF RESULT OF ELECTION

區議會*一般選舉/補選

*(區議會名稱)

*(選區名稱)

DISTRICT COUNCILS *ORDINARY ELECTION/BY-ELECTION

*(Name of District Council)

*(Name of Constituency)

1. 於*(日期)舉行的上述選舉的結果公布如下 –

The following is a statement of the result of the above election held on *(date) –

候選人編號 <i>Candidate Number</i>	候選人姓名 <i>Name of Candidate</i>	候選人所得票數 <i>Number of Votes Given to the Candidate</i>

2. 現公布：以下候選人*依據以抽籤方式決定的選舉結果，在上述選區當選 –

It is notified that the following candidate is declared to be elected for the above-mentioned constituency *pursuant to a result determined by drawing lots –

*(當選的候選人姓名)

*(Name of Candidate Elected)

日期:

Date:

上述選區的選舉主任

Returning Officer

for the above-mentioned constituency

* Only the appropriate information will be printed.”.

Made this day of May 2011.

The Hon. Mr. Justice
Barnabas Wah FUNG
Chairman,
Electoral Affairs Commission

Lawrence LOK Ying-kam
Member,
Electoral Affairs Commission

Andrew CHAN Chi-fai
Member,
Electoral Affairs Commission

Explanatory Note

This Regulation amends the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap. 541 sub. leg. F) (*principal Regulation*). The main purposes of the amendments are to align the provisions for the District Council election, if appropriate, with those for other elections and to improve certain arrangements; to refine the voting arrangements for electors in custody; and to provide for several technical and textual amendments.

2. Section 1 provides for commencement.
3. Section 3 introduces a consequential amendment to the definition of *verification of the ballot paper* in section 2(1) of the principal Regulation.
4. Sections 4 and 5 respectively amend sections 24(8) and 25(8) of the principal Regulation to empower the Returning Officer to display certain notices inside a dedicated polling station.
5. Section 6 amends section 28 of the principal Regulation to provide for the mode of service of the notice of revocation of authorization of an election expense agent.
6. Section 7 amends section 33 of the principal Regulation to require the Commissioner of Correctional Services to, on request by the Chief Electoral Officer, provide the prisoner registration number of a person detained by the Correctional Services Department.
7. Section 8 introduces a textual amendment to the English text of the heading of section 37 of the principal Regulation.
8. Section 9 amends section 41(3) of the principal Regulation to empower the Presiding Officer to display the list of polling officers inside a dedicated polling station.
9. Sections 10 and 11 respectively amend sections 43 and 44 of the principal Regulation to enable an officer of the Correctional

Services Department to, on the polling day, use a sound amplifying system in the no canvassing zone of a dedicated polling station situated in a prison. Sections 10 and 11 also introduce certain textual amendments to the Chinese text of sections 43 and 44 of the principal Regulation.

10. Section 12 amends section 45 of the principal Regulation to provide that a notice of revocation of appointment of a polling agent, if given on the polling day, must be given to the Returning Officer if the relevant polling station is a dedicated polling station situated in a prison.
11. Section 13 introduces a textual amendment to section 48(1) of the principal Regulation.
12. Section 55(2A) of the principal Regulation provides that in a dedicated polling station, an elector who is suspected to have engaged in corrupt conduct of impersonation is to be removed by an officer of the Correctional Services Department or any other law enforcement agency who is to report the case to the police. Section 14 introduces a consequential amendment to section 55(3) of the principal Regulation.
13. Section 15 amends section 64 of the principal Regulation to provide for the preparation of a ballot paper account by the Presiding Officer of a dedicated polling station.
14. Section 16 amends section 69 of the principal Regulation to align the provision for the District Council election with similar provisions for the Legislative Council election and Election Committee subsector election.
15. Section 17(1) amends section 75(1) of the principal Regulation to exclude the reference to a dedicated polling station. Section 17(2) introduces a consequential amendment to section 75(1A)(b) of the principal Regulation.

16. Section 18 amends section 75A of the principal Regulation to refine the arrangements for sorting ballot papers in ballot paper sorting stations.
17. Section 19 amends section 89 of the principal Regulation to empower a Presiding Officer to adjourn a count under Schedule 1 to the principal Regulation.
18. Section 20 amends section 95(2) of the principal Regulation to align the provision for the District Council election with a similar provision for the Legislative Council election.
19. Section 21 adds a new section 99A to the principal Regulation to clarify that the election return required under section 37 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) must be in the specified form (if any).
20. Section 22 amends section 103 of the principal Regulation to allow a candidate to submit the relevant declaration by electronic means if the election advertisement is to be displayed, distributed or otherwise used by electronic means, and to provide for the submission of an electronic copy of the election advertisement displayed, distributed or otherwise used by electronic means. Section 22 also clarifies that section 103(9) of the principal Regulation applies only to an election advertisement in the form of a bill or poster within the meaning of section 104E of the Public Health and Municipal Services Ordinance (Cap. 132). Section 22 further amends section 103(9A) of the principal Regulation to clarify that the provision applies only to an election advertisement which is of a kind referred to in section 27(1) or (2) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).
21. Section 23 amends section 3 of Schedule 1 to the principal Regulation to empower the Presiding Officer to adjourn a count.
22. Section 24 amends Schedule 3 to the principal Regulation by replacing the prescribed form of notice of election result with a new one.

Electoral Affairs Commission (Electoral Procedure) (Election Committee) (Amendment) Regulation 2011

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Electoral Affairs Commission (Electoral Procedure) (Election Committee) (Amendment) Regulation 2011

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

1. Commencement

- (1) This Regulation (except section 3) comes into operation on 8 July 2011.
- (2) Section 3 comes into operation on 25 September 2011.

2. Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation amended

The Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541 sub. leg. I) is amended as set out in sections 3 to 24.

3. Section 13 amended (Returning Officer to decide whether candidates are validly nominated)

- (1) Section 13(2)—

Repeal

“section 8 and sections 17, 18 and 18A of the Schedule to the Chief Executive Election Ordinance (Cap. 569)”

Substitute

“sections 17, 18, 18A, 18B and 18C of the Schedule to the Chief Executive Election Ordinance (Cap. 569) and section 8”.

- (2) Section 13(3)—

Repeal

“and 18A”

Substitute

“, 18A, 18B and 18C”.

4. Section 20 amended (Returning Officer to notify or declare if validly nominated candidate has died)

(1) Section 20, heading—

Repeal

“or”

Substitute

“and”.

(2) Section 20(2)(b)—

Repeal

everything after “prominent”

Substitute

“place—

- (i) outside each polling station (other than a dedicated polling station) used for polling for the subsector concerned; and
- (ii) inside each dedicated polling station used for polling for the subsector concerned.”.

5. Section 21 amended (Returning Officer to notify or declare if validly nominated candidate is disqualified)

(1) Section 21, heading—

Repeal

“or”

Substitute

“and”.

(2) Section 21(2)(b)—

Repeal

everything after “prominent”

Substitute

“place—

- (i) outside each polling station (other than a dedicated polling station) used for polling for the subsector concerned; and
- (ii) inside each dedicated polling station used for polling for the subsector concerned.”.

6. Section 25 amended (Authorization of election expense agent to incur election expenses at or in connection with subsector election)

(1) Section 25(6)—

Repeal

everything after “copy of the authorization”

Substitute

“may be effected by delivery by hand, by post or by facsimile transmission.”.

(2) Section 25(8)—

Repeal

everything after “revoked,”

Substitute

“a written notice of the revocation must be served as soon as possible—

- (a) on the Returning Officer; or
- (b) if the Returning Officer has not been appointed, on the Chief Electoral Officer.”.

(3) After section 25(9)—

Add

“(9A) Service of the notice of revocation may be effected by delivery by hand, by post or by facsimile transmission.”.

(4) Section 25(10)—

Repeal

“the relevant Officer receives the notice of revocation”

Substitute

“the notice of revocation has been served on the relevant Officer”.

7. **Section 30 amended (Chief Electoral Officer may arrange for voting for subsectors to take place at polling station and to allocate polling stations to voters and authorized representatives)**

Section 30—

Repeal subsections (5) and (6)

Substitute

“(5) To enable the Chief Electoral Officer to perform his or her functions under this section in relation to electors, the Commissioner of Correctional Services must, upon a request by the Chief Electoral Officer, provide the following information concerning every person who is serving a sentence of imprisonment or detained by the Correctional Services Department on remand—

- (a) the name of the person;
- (b) the number of the person’s identity document;
- (c) the prisoner registration number allocated by the Commissioner of Correctional Services to the person for identification purposes;
- (d) the name and address of the premises in which the person is detained.

(6) To enable the Chief Electoral Officer to perform his or her functions under this section in relation to electors, the head of any law enforcement agency must, upon a request by the Chief Electoral Officer, provide the following information concerning every person who is detained by the law enforcement agency under any lawful authority—

- (a) the name of the person;
- (b) the number of the person’s identity document;
- (c) the name and address of the premises in which the person is detained.”.

8. **Section 34 heading amended**

Section 34, English text, heading—

Repeal

“Presiding Officers”

Substitute

“Presiding Officer”.

9. **Section 38 amended (Chief Electoral Officer to supply list of polling officers to assist Presiding Officer)**

Section 38(3)—

Repeal

everything after “prominent”

Substitute

“place—

- (a) (if the polling station for which the Officer is appointed is not a dedicated polling station) outside the polling station; or

- (b) (if the polling station for which the Officer is appointed is a dedicated polling station) inside the polling station.”.

10. Section 40 amended (Returning Officer to determine no canvassing zones and no staying zones)

- (1) Section 40—

Repeal subsection (8A).

- (2) After section 40(9)—

Add

“(9A) A Returning Officer may perform any act which the Officer is required or authorized to perform under subsections (7), (8) and (9) through a Presiding Officer.”.

- (3) Section 40(14)(b), before “use”—

Add

“subject to subsection (14A).”.

- (4) After section 40(14)—

Add

“(14A) An officer of the Correctional Services Department may, on polling day, use a sound amplifying system or device for the performance of his or her duties in the no canvassing zone of a dedicated polling station situated in a prison.”.

11. Section 41 amended (Presiding Officer to keep order in no canvassing zone and no staying zone)

- (1) Section 41(1)(b), before “use”—

Add

“subject to subsection (1A).”.

- (2) After section 41(1)—

Add

“(1A) An officer of the Correctional Services Department may, on polling day, use a sound amplifying system or device for the performance of his or her duties in the no canvassing zone of a dedicated polling station situated in a prison.”.

12. Section 42 amended (Candidates may appoint polling agents)

- (1) Section 42(11)—

Repeal

everything after “Chief Electoral Officer.”.

- (2) After section 42(11)—

Add

“(11A) If the notice of revocation is given on the polling day—

- (a) (if the polling station for which the polling agent is appointed is not a dedicated polling station situated in a prison) it must be given to the Presiding Officer of the polling station; or

- (b) (if the polling station for which the polling agent is appointed is a dedicated polling station situated in a prison) it must be given to the Chief Electoral Officer.”.

13. Section 44 amended (Who may enter or be present at polling station)

Section 44(4)(i), Chinese text—

Repeal

“當值”

Substitute

“執勤”。

14. **Section 45 amended (What constitutes offence at polling station)**

Section 45(6)(h), (i), (j) and (k), Chinese text—

Repeal

“當值”

Substitute

“執勤”。

15. **Section 52 amended (Candidate or election agent may challenge person who has applied for ballot paper or who has voted)**

(1) Section 52, heading, after “election agent”—

Add

“or polling agent”。

(2) Section 52(3), after “arrested” (wherever appearing)—

Add

“or removed”。

(3) Section 52(3)—

Repeal

“or the arrest”

Substitute

“, arrest or removal”。

16. **Section 54 amended (Procedure for voting)**

Section 54(3)—

Repeal

everything after “anything”

Substitute

“into the ballot box other than a marked ballot paper or an envelope referred to in subsection (1B).”。

17. **Section 56 amended (How ballot papers are to be marked)**

Section 56(1), Chinese text—

Repeal

everything after “代表，”

Substitute

“須藉以下方式填劃選票：在該選票上，將其選取的候選人的姓名旁邊的橢圓形圈內的範圍用筆填滿。”。

18. **Section 66 amended (Who may be present at counting of votes)**

(1) Section 66(1)(f), Chinese text—

Repeal

“當值”

Substitute

“執勤”。

(2) Section 66(1)(g), Chinese text—

Repeal

“當值”

Substitute

“執勤”。

(3) Section 66(5)—

Repeal

“document”

Substitute

“card”。

19. **Section 77 amended (Ballot papers the votes recorded on which are not to be counted)**

- (1) Section 77, heading—

Repeal

“Ballot papers the votes recorded on which are not to be counted”

Substitute

“Votes recorded on invalid ballot papers not to be counted”.

- (2) Section 77(1)—

Repeal

“Upon counting of”

Substitute

“When counting”.

- (3) Section 77(1)(c)—

Repeal

“thereon”

Substitute

“on the front of it”.

20. **Section 81 amended (Form in which Returning Officer is to publish result of subsector election)**

- (1) After section 81(1)—

Add

“(1A) The notice to be published under sections 2A(9)(a) and 35(1) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) for a subsector election is to be in Form 4 in Schedule 2.”.

- (2) Section 81(2)—

Repeal

“subsection (1) must be published in the Gazette, within 7 days after the date”

Substitute

“subsections (1) and (1A) must be published in the Gazette within 7 days after the date on which”.

21. **Section 92 amended (Electoral officers, candidates and agents to make declaration of secrecy)**

Section 92(5), Chinese text—

Repeal

“當值”

Substitute

“執勤”.

22. **Section 96A added**

After section 96—

Add

“96A. Election return to be lodged in specified form

The election return required to be lodged under section 37 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) in respect of an ordinary election or a by-election must be in the specified form (if any).”.

23. **Section 100 amended (Election advertisements)**

- (1) After section 100(4)—

Add

“(4A) Despite section 3 of the Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B), if—

- (a) an election advertisement is to be displayed, distributed or otherwise used by electronic means; or
- (b) a digital image of an election advertisement is furnished to the Returning Officer in accordance with subsection (7)(b),

the declaration in respect of the advertisement may be submitted to the Returning Officer by electronic means in the manner and format specified by the Commission.”.

- (2) After section 100(5)—

Add

“(5A) If it is not practicable for a candidate to comply with subsection (5) in relation to an election advertisement to be displayed, distributed or otherwise used by electronic means, the declaration in respect of the advertisement may be submitted in accordance with subsection (4A) within the time specified by the Commission.”.

- (3) Section 100—

Repeal subsections (6) and (7)

Substitute

“(6) A candidate must furnish to the Returning Officer—

- (a) in the manner and format specified by the Commission, an electronic copy of an election advertisement that is to be displayed, distributed or otherwise used by electronic means—
 - (i) before so displaying, distributing or using it; or
 - (ii) if compliance with subparagraph (i) is not practicable, within the time specified by the Commission; or

- (b) subject to subsection (7), 2 copies of any other election advertisement before displaying, distributing or otherwise using it.

- (7) If it is not practicable to make a copy of an election advertisement, the candidate must furnish to the Returning Officer—

- (a) 2 colour photographs in postcard size of the advertisement; or
- (b) in the manner and format specified by the Commission, an image of the advertisement that is kept on a computer system or on an electronic medium.”.

- (4) Section 100—

Repeal subsection (9)

Substitute

“(9) Before displaying an election advertisement in the form of a bill or poster within the meaning of section 104E of the Public Health and Municipal Services Ordinance (Cap. 132), the candidate must deposit with the Returning Officer a copy of the permission or other authorization obtained for the purposes of section 104A(1) of that Ordinance.

- (9A) Before displaying, distributing or otherwise using an election advertisement which is of a kind referred to in subsection (1) or (2) of section 27 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), the candidate must deposit with the Returning Officer a copy of the consent in writing referred to in that subsection.”.

24. **Schedule 2 amended (Form of ballot paper and form of notice of result of subsector election under section 35 of Schedule to Chief Executive Election Ordinance (Cap. 569))**

(1) Schedule 2, heading—
Repeal

“SCHEDULE 2 [ss. 49 & 81]

FORM OF BALLOT PAPER AND FORM OF NOTICE OF
RESULT OF SUBSECTOR ELECTION UNDER SECTION 35
OF SCHEDULE TO CHIEF EXECUTIVE ELECTION
ORDINANCE (CAP. 569)”

Substitute

“Schedule 2 [ss. 49 & 81]

**Form of Ballot Paper and Form of Notice of
Result of Subsector Election”.**

(2) Schedule 2, after Form 3—
Add

“Form 4

Notice of Result of Subsector Election (For Persons to whom Section 2A(8) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) Applies)

《選舉管理委員會(選舉程序)(選舉委員會)規例》
ELECTORAL AFFAIRS COMMISSION
(ELECTORAL PROCEDURE) (ELECTION COMMITTEE) REGULATION

界別分組選舉結果公告(就《行政長官選舉條例》(第 569 章)的附表第 2A(8)條適用的人士)
NOTICE OF RESULT OF SUBSECTOR ELECTION (FOR PERSONS TO WHOM
SECTION 2A(8) OF THE SCHEDULE TO THE CHIEF EXECUTIVE ELECTION
ORDINANCE (CAP. 569) APPLIES)

選舉委員會界別分組一般選舉
* (界別分組名稱)
ELECTION COMMITTEE SUBSECTOR ORDINARY ELECTION
* (Name of subsector)

根據《行政長官選舉條例》(第 569 章)的附表第 2A 條, 現公布: 以下候選人*依據以抽籤方式決定的選舉結果, 於*(年 月 日)舉行的上述界別分組選舉中當作為妥為選出的委員—

It is notified that in accordance with section 2A of the Schedule to the Chief Executive Election Ordinance (Cap. 569), the following candidate(s) *is/are deemed to be duly elected as member(s) for the above-mentioned subsector election held on *(date) *pursuant to a result determined by drawing lots –

候選人編號 <i>Candidate Number</i>	候選人姓名 <i>Name of Candidate</i>	候選人所得票數 <i>Number of Votes Given to the Candidate</i>

日期: _____ 上述*界別分組的選舉主任
Date: _____ Returning Officer
for the above-mentioned *subsector

* Only the appropriate information will be printed.”.

Made this day of May 2011.

The Hon. Mr. Justice
Barnabas Wah FUNG
Chairman,
Electoral Affairs Commission

Lawrence LOK Ying-kam
Member,
Electoral Affairs Commission

Andrew CHAN Chi-fai
Member,
Electoral Affairs Commission

Explanatory Note

This Regulation amends the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541 sub. leg. 1) (*principal Regulation*). The main purposes of the amendments are to align the provisions for the Election Committee subsector election, if appropriate, with those for other elections and to improve certain arrangements; to refine the voting arrangements for electors in custody; to introduce amendments consequential upon amendments made under the Chief Executive Election (Amendment) Ordinance 2011 (1 of 2011); and to provide for several technical and textual amendments.

2. Section 1 provides for commencement.
3. Sections 18B and 18C of the Schedule to the Chief Executive Election Ordinance (Cap. 569) (*Ordinance*) provide for nomination for the District Councils subsectors elections. Section 3 adds the references to sections 18B and 18C of the Schedule to the Ordinance to section 13 of the principal Regulation.
4. Sections 4 and 5 respectively amend sections 20 and 21 of the principal Regulation to empower the Returning Officer to display certain notices inside a dedicated polling station.
5. Section 6 amends section 25 of the principal Regulation to provide for the mode of service of the copy of the authorization and the notice of revocation of authorization of an election expense agent.
6. Section 7 amends section 30 of the principal Regulation to require the Commissioner of Correctional Services to, on request by the Chief Electoral Officer, provide the prisoner registration number of a person detained by the Correctional Services Department.
7. Section 8 introduces a textual amendment to the English text of the heading of section 34 of the principal Regulation.

8. Section 9 amends section 38(3) of the principal Regulation to empower the Presiding Officer to display the list of polling officers inside a dedicated polling station.
9. Sections 10 and 11 respectively amend sections 40 and 41 of the principal Regulation to enable an officer of the Correctional Services Department to, on the polling day, use a sound amplifying system in the no canvassing zone of a dedicated polling station situated in a prison. Section 10 also introduces certain technical amendments to section 40 of the principal Regulation.
10. Section 12 amends section 42 of the principal Regulation to provide that a notice of revocation of appointment of a polling agent, if given on the polling day, must be given to the Chief Electoral Officer if the relevant polling station is a dedicated polling station situated in a prison.
11. Sections 13 and 14 substitute “執勤” for “當值” in the Chinese text of sections 44(4)(i) and 45(6)(h), (i), (j) and (k) of the principal Regulation to align the terminologies used in the Chinese text of legislation for various elections.
12. Section 52(2A) of the principal Regulation provides that in a dedicated polling station, an elector who is suspected to have engaged in corrupt conduct of impersonation is to be removed by an officer of the Correctional Services Department or any other law enforcement agency who is to report the case to the police. Section 15 introduces a consequential amendment to section 52(3) of the principal Regulation.
13. Section 16 amends section 54(3) of the principal Regulation to align the provision for the Election Committee subsector election with a similar provision for the District Council election.
14. Section 17 introduces certain textual amendments to the Chinese text of section 56(1) of the principal Regulation.
15. Section 18 substitutes “執勤” for “當值” in the Chinese text of section 66(1)(f) and (g) of the principal Regulation and substitutes

- “identity card” for “identity document” to align the terminologies used in the legislation for various elections.
16. Section 19 introduces certain textual amendments to section 77 of the principal Regulation.
17. Section 20 adds a new subsection (1A) to section 81 of the principal Regulation to provide that the notice to be published under sections 2A(9)(a) and 35(1) of the Schedule to the Ordinance is to be in Form 4 in Schedule 2 to the principal Regulation.
18. Section 21 substitutes “執勤” for “當值” in the Chinese text of section 92(5) of the principal Regulation to align the terminologies used in the Chinese text of the legislation for various elections.
19. Section 22 adds a new section 96A to the principal Regulation to clarify that the election return required under section 37 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) must be in the specified form (if any).
20. Section 23 amends section 100 of the principal Regulation to allow a candidate to submit the relevant declaration by electronic means if the election advertisement is to be displayed, distributed or otherwise used by electronic means, and to provide for the submission of an electronic copy of the election advertisement displayed, distributed or otherwise used by electronic means. Section 23 further clarifies that the requirement of depositing the relevant permission or authorization applies only in respect of an election advertisement in the form of a bill or poster within the meaning of section 104E of the Public Health and Municipal Services Ordinance (Cap. 132). The provision further clarifies that the requirement of depositing the relevant consent applies only in respect of an election advertisement which is of a kind referred to in section 27(1) or (2) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).
21. Section 24 amends Schedule 2 to the principal Regulation by prescribing the form of notice of result of subsector election (for

Electoral Affairs Commission (Electoral Procedure) (Election Committee)
(Amendment) Regulation 2011

Explanatory Note
Paragraph 21

20

persons to whom section 2A(8) of the Schedule to the Ordinance applies).

Electoral Procedure (Chief Executive Election) (Amendment) Regulation 2011

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Electoral Procedure (Chief Executive Election) (Amendment) Regulation 2011

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

1. **Commencement**
 - (1) This Regulation (except sections 3, 4, 5, 13, 14 and 15) comes into operation on 8 July 2011.
 - (2) Sections 3, 4, 5, 13, 14 and 15 come into operation on 1 February 2012.
2. **Electoral Procedure (Chief Executive Election) Regulation amended**
The Electoral Procedure (Chief Executive Election) Regulation (Cap. 541 sub. leg. J) is amended as set out in sections 3 to 18.
3. **Section 8 amended (Nomination forms to be available for inspection)**
Section 8(1)—
Repeal
“or (1)”
Substitute
“, (1AB)(e), (1) or (3)(e)”.
4. **Section 11 amended (Notice of termination of election proceedings)**
Section 11(1)—
Repeal
“or (1)”
Substitute

“, (1) or (3)(e)”.

5. **Section 17 amended (Appointment of polling hours)**
Section 17(3)(a), after “returned”—
Add
“or until the election proceedings are terminated under section 22(3)(e) of the Election Ordinance”.
6. **Section 18A amended (Allocation of polling stations to electors in custody)**
Section 18A—
Repeal subsections (3) and (4)
Substitute
“(3) To enable the Chief Electoral Officer to perform his or her functions under this section in relation to electors, the Commissioner of Correctional Services must, upon a request by the Chief Electoral Officer, provide the following information concerning every person who is serving a sentence of imprisonment or detained by the Correctional Services Department on remand—
(a) the name of the person;
(b) the number of the person’s identity document;
(c) the prisoner registration number allocated by the Commissioner of Correctional Services to the person for identification purposes;
(d) the name and address of the premises in which the person is detained.
(4) To enable the Chief Electoral Officer to perform his or her functions under this section in relation to electors, the head of any law enforcement agency must, upon a request by the Chief Electoral Officer, provide the following information concerning every person who is

detained by the law enforcement agency under any lawful authority—

- (a) the name of the person;
- (b) the number of the person's identity document;
- (c) the name and address of the premises in which the person is detained.”.

7. **Section 20 amended (Appointment of Presiding Officers and polling officers)**

- (1) Section 20, English text, heading—

Repeal

“Presiding Officers”

Substitute

“Presiding Officer”.

- (2) Section 20(3)—

Repeal

everything after “prominent”

Substitute

“place—

- (a) (if the polling station is not a dedicated polling station) immediately outside the polling station; or
- (b) (if the polling station is a dedicated polling station) inside the polling station.”.

8. **Section 24 amended (Order in no canvassing zone and no staying zone)**

- (1) Section 24(2)(b), before “use”—

Add

“subject to subsection (3A),”.

- (2) After section 24(3)—

Add

“(3A) An officer of the Correctional Services Department may, on polling day, use a sound amplifying system or device for the performance of his or her duties in the no canvassing zone of a dedicated polling station situated in a prison.”.

9. **Section 25 amended (Polling agents)**

- (1) Section 25(6), after “a polling station”—

Add

“(other than a dedicated polling station situated in a prison)”.

- (2) After section 25(6)—

Add

“(6A) The appointment of a polling agent for a dedicated polling station situated in a prison may be revoked by giving a notice of revocation to the Chief Electoral Officer.”.

10. **Section 26 amended (Admission to polling station)**

- (1) Section 26(1)—

Repeal

“subsection (1A)”

Substitute

“subsections (1A) and (1B)”.

- (2) After section 26(1B)(a)—

Add

“(aa) a candidate may be present in the polling station subject to the availability of any seat in the area designated for accommodating the candidate;”.

- (3) Section 26(2)(a), Chinese text, before “投票站”—

Add

“主”。

11. Section 33 amended (Challenging a person who has applied for a ballot paper or who has voted)

- (1) Section 33(4), after “arrested” (wherever appearing)—

Add

“or removed”.

- (2) Section 33(4)—

Repeal

“or arrest”

Substitute

“, arrest or removal”.

12. Section 47 amended (Order in the counting station)

- (1) Section 47(2)—

Repeal

“No person shall”

Substitute

“A person must not during the relevant period”.

- (2) After section 47(2)—

Add

“(2A) In subsection (2)—

relevant period (有關期間), in relation to a counting zone, means the period commencing at the time, determined under section 43, at which the counting of the votes is to begin at the zone and ending upon the completion of the counting and re-count, if any, at the zone.”.

13. Section 54 amended (Notice of further round of voting)

- (1) Section 54—

Renumber subsection (1) as subsection (1A).

- (2) Before section 54(1A)—

Add

“(1) This section applies to an election in which—

- (a) there are 3 or more candidates; and
 (b) after the completion of the counting of the votes cast—
 (i) no candidate obtains more than 600 votes; and
 (ii) 2 or more candidates remain after the elimination of all other candidates under section 27(3)(c) or (4)(c) of the Election Ordinance.”.

- (3) Section 54(1A)—

Repeal

“If, after the completion of the counting of the votes cast in a contested election, no candidate obtains more than half of the total number of valid votes cast, the Returning Officer shall”

Substitute

“If subsection (1) applies, the Returning Officer must”.

- (4) Section 54(2)—

Repeal

“(1) shall”

Substitute

“(1A) must”.

14. Section 56 amended (Ballot papers to be sealed)

Section 56(1), after “section 22(1AB)(e)”—

Add

“or (3)(e)”.

15. Section 60 amended (Procedure after termination of election proceedings)

(1) Section 60(1)—

Repeal

“or (1)”

Substitute

“, (1) or (3)(e)”.

(2) Section 60(2A), after “section 22(1AB)(e)—

Add

“or (3)(e)”.

16. Section 72 amended (Manner of giving notice)

Section 72(1)(i), after “25(6)—

Add

“or (6A)”.

17. Section 72A added

After section 72—

Add**“72A. Election return to be lodged in specified form**

The election return required to be lodged under section 37 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) in respect of an election must be in the specified form (if any).”.

18. Section 81 amended (Election advertisement)

(1) Section 81(1)(a), after the semicolon—

Add

“and”.

(2) Section 81(1)(b)—

Repeal the semicolon**Substitute a full stop.**

(3) Section 81(1)—

Repeal paragraphs (c) and (d).

(4) After section 81(1)—

Add

“(1A) Despite sections 2 and 3 of the Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B), if—

(a) an election advertisement is to be displayed, distributed or otherwise used by electronic means; or

(b) a digital image of an election advertisement is furnished to the Returning Officer in accordance with subsection (1E)(b),

the declaration in respect of the advertisement may be submitted to the Returning Officer by electronic means in the manner and format specified by the Commission.

(1B) A declaration required under subsection (1)(b) must be submitted to the Returning Officer before the candidate displays, distributes or otherwise uses an election advertisement.

(1C) If it is not practicable for a candidate to comply with subsection (1B) in relation to an election advertisement to be displayed, distributed or otherwise used by electronic means, the declaration in respect of the advertisement may be submitted in accordance with subsection (1A) within the time specified by the Commission.

(1D) A candidate must furnish to the Returning Officer—

(a) in the manner and format specified by the Commission, an electronic copy of an election

advertisement that is to be displayed, distributed or otherwise used by electronic means—

- (i) before so displaying, distributing or using it; or
 - (ii) if compliance with subparagraph (i) is not practicable, within the time specified by the Commission; or
- (b) subject to subsection (1E), 2 copies of any other election advertisement before displaying, distributing or otherwise using it.
- (1E) If it is not practicable to make a copy of an election advertisement, the candidate must furnish to the Returning Officer—
- (a) 2 colour photographs in postcard size of the advertisement; or
 - (b) in the manner and format specified by the Commission, an image of the advertisement that is kept on a computer system or on an electronic medium.
- (1F) If an election advertisement is recorded on a videotape or an audio tape or disc, the candidate must, for the purposes of subsection (1D), furnish to the Returning Officer 2 copies of the tape or disc.
- (1G) Before displaying an election advertisement in the form of a bill or poster within the meaning of section 104E of the Public Health and Municipal Services Ordinance (Cap. 132), the candidate must deposit with the Returning Officer a copy of the permission or other authorization obtained for the purposes of section 104A(1) of that Ordinance.
- (1H) Before displaying, distributing or otherwise using an election advertisement which is of a kind referred to in subsection (1) or (2) of section 27 of the Elections

(Corrupt and Illegal Conduct) Ordinance (Cap. 554), the candidate must deposit with the Returning Officer a copy of the consent in writing referred to in that subsection.”.

Made this day of May 2011.

The Hon. Mr. Justice
Barnabas Wah FUNG
Chairman,
Electoral Affairs Commission

Lawrence LOK Ying-kam
Member,
Electoral Affairs Commission

Andrew CHAN Chi-fai
Member,
Electoral Affairs Commission

Explanatory Note

This Regulation amends the Electoral Procedure (Chief Executive Election) Regulation (Cap. 541 sub. leg. J) (*principal Regulation*). The main purposes of the amendments are to align the provisions for the Chief Executive election, if appropriate, with those for other elections and to improve certain arrangements; to refine the voting arrangements for electors in custody; to introduce amendments consequential upon amendments made under the Chief Executive Election (Amendment) Ordinance 2011 (1 of 2011); and to provide for several technical and textual amendments.

2. Section 1 provides for commencement.
3. Section 22(1AB)(e) and (3)(e) of the Chief Executive Election Ordinance (Cap. 569) (*Ordinance*) provides for the termination of election proceedings. Section 3 adds the references to section 22(1AB)(e) and (3)(e) of the Ordinance to section 8(1) of the principal Regulation.
4. Section 22(3)(e) of the Ordinance provides for the termination of election proceedings. Section 4 adds the reference to section 22(3)(e) of the Ordinance to section 11(1) of the principal Regulation.
5. Section 5 amends section 17(3)(a) of the principal Regulation to provide that the fourth or any subsequent round of voting must be conducted day after day until a candidate is returned or until the election proceedings are terminated under section 22(3)(e) of the Ordinance.
6. Section 6 amends section 18A of the principal Regulation to require the Commissioner of Correctional Services to, on request by the Chief Electoral Officer, provide the prisoner registration number of a person detained by the Correctional Services Department.
7. Section 7(1) introduces a textual amendment to the English text of the heading of section 20 of the principal Regulation. Section 7(2) amends section 20(3) of the principal Regulation to empower the

- Presiding Officer to display the list of polling officers inside a dedicated polling station.
8. Section 8 amends section 24 of the principal Regulation to enable an officer of the Correctional Services Department to, on the polling day, use a sound amplifying system in the no canvassing zone of a dedicated polling station situated in a prison.
 9. Section 9 amends section 25 of the principal Regulation to provide that the appointment of a polling agent for a dedicated polling station situated in a prison may be revoked by giving a notice of revocation to the Chief Electoral Officer.
 10. Section 10 introduces certain technical and textual amendments to section 26 of the principal Regulation.
 11. Section 33(3A) of the principal Regulation provides that in a dedicated polling station, an elector who is suspected to have engaged in corrupt conduct of impersonation is to be removed by an officer of the Correctional Services Department or any other law enforcement agency who is to report the case to the police. Section 11 introduces a consequential amendment to section 33(4) of the principal Regulation.
 12. Section 12 amends section 47 of the principal Regulation to align the provision for the Chief Executive election with a similar provision for the Legislative Council election.
 13. Section 27 of the Ordinance provides that further round of voting is to apply to a contested election with 3 or more candidates when none of them obtains more than 600 votes. If there are only 2 candidates in the election, a single round of voting is to be conducted. Section 13 amends section 54 of the principal Regulation to reflect the new arrangement.
 14. Section 22(3)(e) of the Ordinance provides for the termination of election proceedings. Sections 14 and 15 add the reference to section 22(3)(e) of the Ordinance to sections 56 and 60 of the principal Regulation.

15. Section 16 introduces a technical amendment to section 72(1)(i) of the principal Regulation.
16. Section 17 adds a new section 72A to the principal Regulation to clarify that the election return required under section 37 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) must be in the specified form (if any).
17. Section 18(4) amends section 81 of the principal Regulation to allow a candidate to submit the relevant declaration by electronic means if the election advertisement is to be displayed, distributed or otherwise used by electronic means, and to provide for the submission of an electronic copy of the election advertisement displayed, distributed or otherwise used by electronic means. Section 18(4) further amends section 81 of the principal Regulation to align the provisions with those for other elections.

Electoral Procedure (Village Representative Election) (Amendment) Regulation 2011

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Electoral Procedure (Village Representative Election) (Amendment) Regulation 2011

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

1. **Commencement**
This Regulation comes into operation on 8 July 2011.
2. **Electoral Procedure (Village Representative Election) Regulation amended**
The Electoral Procedure (Village Representative Election) Regulation (Cap. 541 sub. leg. L) is amended as set out in sections 3 to 13.
3. **Section 2 amended (Interpretation)**
Section 2(1), definition of *verification statement*—
Repeal
“60A(c)”
Substitute
“60A(d)”.
4. **Section 17 amended (Returning Officer to notify and declare if a validly nominated candidate is known before date of election to have died)**
Section 17(2)(b)—
Repeal
everything after “prominent”
Substitute
“place—

Section 5 2

- (i) immediately outside each polling station (other than a dedicated polling station) used for polling for the Village; and
 - (ii) inside each dedicated polling station used for polling for the Village.”.
5. **Section 18 amended (Returning Officer to notify and declare if a validly nominated candidate is known before date of election to be disqualified)**
Section 18(2)(b)—
Repeal
everything after “prominent”
Substitute
“place—
 - (i) immediately outside each polling station (other than a dedicated polling station) used for polling for the Village; and
 - (ii) inside each dedicated polling station used for polling for the Village.”.
6. **Section 20 amended (Returning Officer to declare termination of election proceedings and procedure after termination)**
After section 20(2)—
Add
“(2A) If a notice is displayed under subsection (1), the Commissioner of Correctional Services or the head of a law enforcement agency must, as soon as practicable, inform all electors in custody detained by him or her who have not yet voted in the poll of the declaration.”.

7. **Section 28A amended (Allocation of polling stations to electors in custody)**

Section 28A—

Repeal subsections (2) and (3)

Substitute

“(2) To enable the Director of Home Affairs to perform his or her functions under this section in relation to electors, the Commissioner of Correctional Services must, upon a request by the Director of Home Affairs, provide the following information concerning every person who is serving a sentence of imprisonment or detained by the Correctional Services Department on remand—

- (a) the name of the person;
- (b) the number of the person’s identity document;
- (c) the prisoner registration number allocated by the Commissioner of Correctional Services to the person for identification purposes;
- (d) the name and address of the premises in which the person is detained;
- (e) the date of birth of the person.

(3) To enable the Director of Home Affairs to perform his or her functions under this section in relation to electors, the head of any law enforcement agency must, upon a request by the Director of Home Affairs, provide the following information concerning every person who is detained by the law enforcement agency under any lawful authority—

- (a) the name of the person;
- (b) the number of the person’s identity document;
- (c) the name and address of the premises in which the person is detained;

(d) the date of birth of the person.”.

8. **Section 31 amended (Appointment of Presiding Officer and polling officers)**

Section 31(5)—

Repeal

everything after “for the polling”

Substitute

“station in—

- (a) (if the polling station is not a dedicated polling station) a prominent place immediately outside the station; or
- (b) (if the polling station is a dedicated polling station) a prominent place inside the station.”.

9. **Section 35 amended (Order at no canvassing zone and no staying zone)**

(1) Section 35(2)(b), before “use”—

Add

“subject to subsection (2A),”.

(2) After section 35(2)—

Add

“(2A) An officer of the Correctional Services Department may, on polling day, use a sound amplifying system or device for the performance of his or her duties in the no canvassing zone of a dedicated polling station situated in a prison.”.

10. **Section 37 amended (Admission to polling station)**

(1) Section 37(1)(j)—

Repeal

“(6A),”.

- (2) Section 37(1)(k)—

Repeal

“(6A),”.

- (3) Section 37—

Repeal subsection (6A).

11. Section 44 amended (Challenging a person who has applied for a ballot paper or who has voted)

- (1) Section 44(4), after “arrested” (wherever appearing)—

Add

“or removed”.

- (2) Section 44(4)—

Repeal

“or arrest”

Substitute

“, arrest or removal”.

12. Section 54 amended (Ballot paper account)

- (1) Section 54(1), after “Presiding Officer”—

Add

“(other than the Presiding Officer of a dedicated polling station)”.

- (2) After section 54(2)—

Add

“(3) The Presiding Officer of a dedicated polling station must—

- (a) (if one or more ballot papers have been issued by the Presiding Officer on the polling day) prepare a statement which complies with subsection (4) for each Village in respect of which ballot papers have been issued; or

- (b) (if no ballot paper has been issued by the Presiding Officer on the polling day) prepare a statement in the specified form confirming that no ballot paper has been issued by the Presiding Officer on the polling day.

- (4) The statement prepared under subsection (3)(a) must be in the specified form and show the number of ballot papers for the Village supplied to the Presiding Officer under section 33(2) and account for those ballot papers under the following heads—

- (a) the number of ballot papers estimated by the Presiding Officer to be in the ballot box or boxes;

- (b) the number of un-issued ballot papers;

- (c) the number of unused ballot papers;

- (d) the number of spoilt ballot papers.”.

13. Section 60A amended (Arrangements for sorting in ballot paper sorting stations)

Section 60A—

Repeal paragraphs (a), (b), (c), (d), (e), (f), (g) and (h)

Substitute

- “(a) sort the envelopes in each ballot box according to each Village;

- (b) count and record the number of envelopes for each Village;

- (c) verify the ballot paper account by comparing it with the number of envelopes recorded under paragraph (b);
- (d) prepare a statement in writing as to the result of the verification;
- (e) prepare a statement in writing as to the number of envelopes recorded for each Village under paragraph (b);
- (f) make into separate bundles the sorted envelopes together with the relevant statement prepared under paragraph (e);
- (g) place each bundle in a separate receptacle and seal it in the presence of those present at the counting zone;
- (h) arrange the receptacles to be delivered to the Returning Officers of the respective counting stations of the relevant Villages; and
- (i) send to the Director of Home Affairs the ballot paper accounts, verification of the ballot paper accounts and the sealed packets made up under section 53.”.

Made this day of May 2011.

The Hon. Mr. Justice
Barnabas Wah FUNG
Chairman,
Electoral Affairs Commission

Lawrence LOK Ying-kam
Member,
Electoral Affairs Commission

Andrew CHAN Chi-fai
Member,
Electoral Affairs Commission

Explanatory Note

This Regulation amends the Electoral Procedure (Village Representative Election) Regulation (Cap. 541 sub. leg. L) (*principal Regulation*). The main purpose of the amendments is to refine the voting arrangements for electors in custody.

2. Section 1 provides for commencement.
3. Section 3 introduces a consequential amendment to the definition of *verification statement* in section 2(1) of the principal Regulation.
4. Sections 4 and 5 respectively amend sections 17(2)(b) and 18(2)(b) of the principal Regulation to empower the Returning Officer to display certain notices inside a dedicated polling station.
5. Section 6 amends section 20 of the principal Regulation to align the provision for the Village Representative election with a similar provision for the District Council election.
6. Section 7 amends section 28A(2) and (3) of the principal Regulation to require the Commissioner of Correctional Services to, on request by the Director of Home Affairs, provide the prisoner registration number of a person detained by the Correctional Services Department.
7. Section 8 amends section 31(5) of the principal Regulation to empower the Presiding Officer to display the list of polling officers inside a dedicated polling station.
8. Section 9 amends section 35 of the principal Regulation to enable an officer of the Correctional Services Department to, on the polling day, use a sound amplifying system in the no canvassing zone of a dedicated polling station situated in a prison.
9. Section 10 introduces a technical amendment to section 37 of the principal Regulation.

10. Section 44(3A) of the principal Regulation provides that in a dedicated polling station, an elector who is suspected to have engaged in corrupt conduct of impersonation is to be removed by an officer of the Correctional Services Department or any other law enforcement agency who is to report the case to the police. Section 11 introduces a consequential amendment to section 44(4) of the principal Regulation.
11. Section 12 amends section 54 of the principal Regulation to provide for the preparation of a ballot paper account by the Presiding Officer of a dedicated polling station.
12. Section 13 amends section 60A of the principal Regulation to refine the arrangements for sorting ballot papers in ballot paper sorting stations.

**Particulars Relating to Candidates on Ballot Papers
(Legislative Council and District Councils)
(Amendment) Regulation 2011**

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

1. Commencement

This Regulation comes into operation on 1 June 2012.

**2. Particulars Relating to Candidates on Ballot Papers
(Legislative Council and District Councils) Regulation amended**

The Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) Regulation (Cap. 541 sub. leg. M) is amended as set out in section 3.

3. Section 3 amended (Request by candidate for LC functional constituency or sole candidate on LC nomination list or by candidate for DC constituency)

Section 3(1)(a)(i), after “LC functional constituency”—

Add

“(other than the District Council (second) functional constituency)”.

Made this day of May 2011.

The Hon. Mr. Justice
Barnabas Wah FUNG
Chairman,
Electoral Affairs Commission

Lawrence LOK Ying-kam
Member,
Electoral Affairs Commission

Andrew CHAN Chi-fai
Member,
Electoral Affairs Commission

Explanatory Note

The purpose of this Regulation is to amend the Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) Regulation (Cap. 541 sub. leg. M) (*principal Regulation*) to introduce amendments consequential upon amendments made under the Legislative Council (Amendment) Ordinance 2011 (2 of 2011).

2. Section 1 provides for commencement.
3. The method of election of the 5 members of the new District Council (second) functional constituency is the same as that of the seats assigned to the geographical constituencies. Consequentially, section 3 amends section 3(1)(a)(i) of the principal Regulation to exclude the District Council (second) functional constituency from references to functional constituencies as regards a candidate's request to print certain particulars on a ballot paper as particulars relating to the candidate.

Made this day of May 2011.

**Electoral Affairs Commission (Financial Assistance for
Legislative Council Elections and District Council
Elections) (Application and Payment Procedure)
(Amendment) Regulation 2011**

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

1. Commencement

This Regulation comes into operation on 1 June 2012.

**2. Electoral Affairs Commission (Financial Assistance for
Legislative Council Elections and District Council Elections)
(Application and Payment Procedure) Regulation amended**

The Electoral Affairs Commission (Financial Assistance for
Legislative Council Elections and District Council Elections)
(Application and Payment Procedure) Regulation (Cap. 541 sub.
leg. N) is amended as set out in section 3.

3. Section 2 amended (Interpretation)

(1) Section 2(1), definition of *LC candidate*, after “(Cap. 542)”—

Add

“(other than the District Council (second) functional
constituency)”.

(2) Section 2(1), definition of *list of LC candidates*, after “(Cap.
542)”—

Add

“or a list of candidates nominated for election for the District
Council (second) functional constituency”.

The Hon. Mr. Justice
Barnabas Wah FUNG
Chairman,
Electoral Affairs Commission

Lawrence LOK Ying-kam
Member,
Electoral Affairs Commission

Andrew CHAN Chi-fai
Member,
Electoral Affairs Commission

Explanatory Note

The purpose of this Regulation is to amend the Electoral Affairs Commission (Financial Assistance for Legislative Council Elections and District Council Elections) (Application and Payment Procedure) Regulation (Cap. 541 sub. leg. N) (*principal Regulation*) to introduce amendments consequential upon amendments made under the Legislative Council (Amendment) Ordinance 2011 (2 of 2011).

2. Section 1 provides for commencement.
3. The method of election of the 5 members of the new District Council (second) functional constituency is the same as that of the seats assigned to the geographical constituencies. Consequentially, section 3 introduces amendments to the definitions of *LC candidate* and *list of LC candidates* in section 2(1) of the principal Regulation to reflect the method of election of the 5 members of the new District Council (second) functional constituency.