

《2015年選舉法例(雜項修訂)(第2號)
條例草案》

**Electoral Legislation (Miscellaneous
Amendments) (No. 2) Bill 2015**

Electoral Legislation (Miscellaneous Amendments) (No. 2) Bill 2015

Contents

Clause	Page
Part 1	
Preliminary	
1.	Short title..... C3363
Part 2	
Amendments Relating to Lodging of Election Returns	
2.	Elections (Corrupt and Illegal Conduct) Ordinance amended..... C3365
3.	Section 5A amended (effect of inclement weather warning on date and period)..... C3365
4.	Section 36 repealed (interpretation: Part 6)..... C3365
5.	Section 37 amended (candidate to lodge election return with appropriate authority)..... C3365
6.	Section 41 amended (appropriate authority to keep election returns)..... C3377
7.	Section 50 added..... C3377
50.	Transitional provision for Electoral Legislation (Miscellaneous Amendments) (No. 2) Ordinance 2015..... C3377

Clause

Page

Part 3

**Amendments Relating to Composition of Legislative Council Functional
Constituencies and Election Committee Subsector**

Division 1—Enactments Amended

8. Enactments amended C3381

Division 2—Amendments to Legislative Council Ordinance (Cap. 542)

9. Section 20E amended (composition of the education functional constituency)..... C3381
10. Section 20U amended (composition of the financial services functional constituency)..... C3381
11. Schedule 1 amended (composition of the agriculture and fisheries functional constituency)..... C3383
12. Schedule 1A amended (composition of the transport functional constituency)..... C3383
13. Schedule 1B amended (composition of the sports, performing arts, culture and publication functional constituency)..... C3383

Division 3—Amendments to Chief Executive Election Ordinance (Cap. 569)

14. Schedule, section 2 amended (how Election Committee is to be constituted)..... C3387

Clause

Page

Part 4

Amendments Relating to Effect of Inclement Weather on Date and Period

Division 1—Enactments Amended

15. Enactments amended C3389

**Division 2—Amendment to 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)**

16. Section 2A amended (effect of inclement weather
warning on date and period)..... C3389

**Division 3—Amendments to Electoral Affairs Commission (Electoral Procedure)
(Election Committee) Regulation (Cap. 541 sub. leg. I)**

17. Section 1A added..... C3389

1A. Effect of inclement weather warning on date
and period..... C3391

18. Section 5 amended (Chief Electoral Officer to determine
nomination period) C3395

19. Section 24 amended (Returning Officer to send to other
candidates notice of particulars of election agent) C3395

20. Schedule 1 amended (postponement and adjournment of
subsector elections) C3397

Clause	Page
--------	------

**Division 4—Amendment to Electoral Procedure (Chief Executive Election)
Regulation (Cap. 541 sub. leg. J)**

21.	Section 2A added.....	C3397
	2A. Effect of inclement weather warning on date and period.....	C3397

Division 5—Amendments to Chief Executive Election Ordinance (Cap. 569)

22.	Section 2 amended (interpretation).....	C3401
23.	Section 2A added.....	C3401
	2A. Effect of inclement weather warning on date and period.....	C3403
24.	Section 15 amended (nomination period).....	C3405
25.	Section 31 amended (winning candidate to declare he is not a member of political party)	C3407
26.	Section 34 amended (period within which election petition and appeal must be lodged).....	C3407
27.	Schedule, section 1A amended (effect of inclement weather warning on date).....	C3409

**Division 6—Amendments to Election Committee (Appeals) Regulation
(Cap. 569 sub. leg. A)**

28.	Section 2 amended (interpretation).....	C3411
29.	Section 2A added.....	C3411
	2A. Effect of inclement weather warning on date and period.....	C3411

Clause	Page
30.	Section 5 amended (fixing of hearing and notifying appellant thereof)..... C3415
31.	Section 10 amended (review of rulings by Revising Officer)..... C3417

Division 7—Amendments to Election Committee (Registration) (Voters for Subsectors) (Members of Election Committee) (Appeals) Regulation (Cap. 569 sub. leg. B)

32.	Section 2A amended (effect of inclement weather warning on date and period)..... C3417
33.	Section 3 amended (fixing of hearing and notifying appellant thereof)..... C3419
34.	Section 5 amended (Electoral Registration Officer to be notified of rulings)..... C3421
35.	Section 7 amended (review of rulings by Revising Officer)..... C3423

Part 5

Amendments Relating to Documents for Appointment of Various Agents and Delivery of Documents

Division 1—Enactments Amended

36.	Enactments amended..... C3425
-----	-------------------------------

Division 2—Amendments to Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541 sub. leg. I)

37.	Section 23 amended (candidate may appoint election agent)..... C3425
-----	--

Clause	Page
38. Section 25 amended (authorization of election expense agent to incur election expenses at or in connection with subsector election).....	C3427
39. Section 33 amended (Chief Electoral Officer may allocate special polling stations).....	C3429
40. Section 42 amended (candidates may appoint polling agents).....	C3429
41. Section 64 amended (candidates may appoint counting agents).....	C3433
42. Section 95 amended (publication and display of notices, etc.)	C3437

**Division 3—Amendments to Electoral Procedure (Chief Executive Election)
Regulation (Cap. 541 sub. leg. J)**

43. Section 12 amended (appointment of election agent).....	C3437
44. Section 14 amended (provisions applicable to appointment of agents).....	C3439
45. Section 25 amended (polling agents).....	C3441
46. Section 44 amended (appointment of counting agent)	C3445
47. Section 72 amended (manner of giving notice).....	C3449

**Division 4—Amendments to Electronic Transactions (Exclusion) Order
(Cap. 553 sub. leg. B)**

48. Schedule 1 amended (provisions excluded from application of section 5 of Ordinance)	C3449
---	-------

Clause	Page
49.	Schedule 2 amended (provisions excluded from application of section 6 of Ordinance)..... C3451

Part 6

Amendments Relating to Postponement or Adjournment of Election, Poll or Counting

Division 1—Enactments Amended

50.	Enactments amended..... C3455
-----	-------------------------------

Division 2—Amendments to Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541 sub. leg. I)

51.	Schedule 1, section 1 amended (postponement of subsector election and adjournment of poll or counting of votes in respect of subsector election)..... C3455
52.	Schedule 1, section 2 amended (adjournment of poll at particular polling station)..... C3455
53.	Schedule 1, section 6 amended (appointment of date by Commission for subsector election, polling or counting after postponement or adjournment)..... C3457

Division 3—Amendments to Electoral Procedure (Chief Executive Election) Regulation (Cap. 541 sub. leg. J)

54.	Section 65 amended (resumption of postponed or adjourned polling or counting)..... C3457
-----	--

Division 4—Amendments to Chief Executive Election Ordinance (Cap. 569)

55.	Section 21 amended (postponement or adjournment of polling or counting of votes)..... C3459
-----	---

Clause	Page
56.	Schedule, section 24 amended (when holding of a subsector election can be postponed or adjourned)..... C3461

Part 7

Amendments Relating to Election Agent’s Authority to Act on Behalf of Candidate

Division 1—Enactments Amended

57.	Enactments amended C3463
-----	--------------------------------

Division 2—Amendment to Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541 sub. leg. I)

58.	Section 23 amended (candidate may appoint election agent) C3463
-----	---

Division 3—Amendment to Electoral Procedure (Chief Executive Election) Regulation (Cap. 541 sub. leg. J)

59.	Section 12 amended (appointment of election agent) C3465
-----	--

Part 8

Amendments Relating to Notices Designating Polling Stations and Counting Stations, etc.

Division 1—Enactments Amended

60.	Enactments amended C3467
-----	--------------------------------

Division 2—Amendments to Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541 sub. leg. I)

61.	Section 28 amended (Chief Electoral Officer to designate polling stations and counting stations) C3467
-----	--

Clause	Page
62. Section 29 amended (Chief Electoral Officer to designate some polling stations as special polling stations).....	C3467
63. Section 63 amended (Returning Officer to give notice of time and place of counting of votes to candidates).....	C3469

**Division 3—Amendments to Electoral Procedure (Chief Executive Election)
Regulation (Cap. 541 sub. leg. J)**

64. Section 18 amended (designation of polling station and counting station).....	C3469
65. Section 43 amended (determination and notice of time of counting of votes).....	C3471

Part 9

Other Technical Amendments

Division 1—Enactments Amended

66. Enactments amended.....	C3473
-----------------------------	-------

Division 2—Amendments to Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541 sub. leg. I)

67. Section 1 amended (interpretation).....	C3473
68. Section 67 amended (what constitutes offence at counting station).....	C3475
69. Section 101 amended (offence of false declaration).....	C3475

**Division 3—Amendments to Electoral Procedure (Chief Executive Election)
Regulation (Cap. 541 sub. leg. J)**

70. Section 2 amended (interpretation).....	C3477
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Clause	Page
71. Section 24 amended (order in no canvassing zone and no staying zone).....	C3479

A BILL

To

Amend various electoral legislation and the Electronic Transactions (Exclusion) Order to change the period for lodging election returns; to make technical amendments concerning the lists of persons comprising certain Legislative Council functional constituencies and an Election Committee subsector, effect of inclement weather, documents relating to appointment of various agents, means of delivery of documents, postponement or adjournment of election, poll or counting, election agent's authority and designation of polling and counting stations; and to make other minor amendments that do not affect the substance of the electoral systems.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title

This Ordinance may be cited as the Electoral Legislation (Miscellaneous Amendments) (No. 2) Ordinance 2015.

Part 2

Amendments Relating to Lodging of Election Returns

2. **Elections (Corrupt and Illegal Conduct) Ordinance amended**
The Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) is amended as set out in this Part.
3. **Section 5A amended (effect of inclement weather warning on date and period)**
 - (1) Section 5A(2)—
Repeal
“, 37(2)(a)(i)(A), (B) or (C) or (ii)(A), (B) or (C)”.
 - (2) Section 5A(3), after “section 34(7)”—
Add
“, 37(1A), (1B), (1D), (1F), (1H), (1J), (1L) or (1N)”.
4. **Section 36 repealed (interpretation: Part 6)**
Section 36—
Repeal the section.
5. **Section 37 amended (candidate to lodge election return with appropriate authority)**
 - (1) After section 37(1)—
Add
“(1A) For an election to elect the Chief Executive, the candidate must ensure that the return is lodged before the expiry of the period of 30 days after the date on which—

-
- (a) the result of the election is published in the Gazette; or
 - (b) the proceedings for the election are declared to have been terminated.
- (1B) For an election to membership of the Legislative Council, the candidate must ensure that the return is lodged before the expiry of the period of 60 days after—
- (a) if the election is held for 2 or more constituencies—the date on which the election becomes settled in relation to all of the constituencies; or
 - (b) if the election is held for only 1 constituency—the date on which the election becomes settled in relation to the constituency.
- (1C) For the purposes of subsection (1B), an election is settled in relation to a constituency on the date on which any of the following events occurs in relation to the constituency, or, if more than one of the following events occurs in relation to the constituency, on the date on which the last of those events occurs—
- (a) the result of the election is notified in the Gazette;
 - (b) the proceedings for the election are declared to have been terminated;
 - (c) the election is declared to have failed.
- (1D) For an election to membership of the Election Committee, the candidate must ensure that the return is lodged before the expiry of the period of 30 days after—

- (a) if, according to a notice published under section 4 of the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541 sub. leg. I), the election is one of the subsector elections that are to be held on the same date—the date on which the subsector elections become settled or, if the subsector elections become settled on different dates, the last of those dates; or
 - (b) in any other case—the date on which the election becomes settled.
- (1E) For the purposes of subsection (1D), an election is settled on the date on which any of the following events occurs in relation to the election—
- (a) the result of the election is notified in the Gazette;
 - (b) a declaration that no candidate was validly nominated is made.
- (1F) For an election to membership of any District Council, the candidate must ensure that the return is lodged before the expiry of the period of 30 days after—
- (a) if the election is held for 2 or more constituencies in relation to 1 or more District Councils—the date on which the election becomes settled in relation to all of the constituencies; or
 - (b) if the election is held for only 1 constituency—the date on which the election becomes settled in relation to the constituency.

- (1G) For the purposes of subsection (1F), an election is settled in relation to a constituency on the date on which any of the following events occurs in relation to the constituency—
- (a) the result of the election is notified in the Gazette;
 - (b) the proceedings for the election are declared to have been terminated;
 - (c) the election is declared to have failed.
- (1H) For an election relating to the Heung Yee Kuk, the candidate must ensure that the return is lodged before the expiry of the period of 30 days after—
- (a) if the election is held for 2 or more vacancies—the date on which the election becomes settled in relation to all of the vacancies; or
 - (b) if the election is held for only 1 vacancy—the date on which the election becomes settled in relation to the vacancy.
- (1I) For the purposes of subsection (1H), an election is settled in relation to a vacancy on the date on which any of the following events occurs in relation to the vacancy—
- (a) the result of the election is announced by the returning officer for the election;
 - (b) the election is declared to be invalid.
- (1J) For an election relating to a Rural Committee, the candidate must ensure that the return is lodged before the expiry of the period of 30 days after—
- (a) if the election is held for 2 or more offices—the date on which the election becomes settled in relation to all of the offices; or

- (b) if the election is held for only 1 office—the date on which the election becomes settled in relation to the office.
- (1K) For the purposes of subsection (1J), an election is settled in relation to an office on the date on which any of the following events occurs in relation to the office—
- (a) the result of the election is announced by the returning officer for the election;
 - (b) the proceedings for the election are declared to have been terminated;
 - (c) the election is declared to have failed.
- (1L) For a Rural Representative election for a Rural Area, the candidate must ensure that the return is lodged before the expiry of the period of 30 days after—
- (a) if, according to a notice under section 20(3)(b) of the Rural Representative Election Ordinance (Cap. 576) or section 6 of the Electoral Procedure (Rural Representative Election) Regulation (Cap. 541 sub. leg. L), the election is one of the Rural Representative elections in relation to the same Rural Committee that are to be held on the same date—the date on which the Rural Representative elections become settled or, if the Rural Representative elections become settled on different dates, the last of those dates; or
 - (b) in any other case—the date on which the election becomes settled.

(1M) For the purposes of subsection (1L), an election is settled on the date on which any of the following events occurs in relation to the election, or, if more than one of the following events occurs in relation to the election, on the date on which the last of those events occurs—

- (a) the result of the election is notified in the Gazette;
- (b) the proceedings for the election are declared to have been terminated;
- (c) the election is declared to have failed.

(1N) Despite subsections (1A), (1B), (1D), (1F), (1H), (1J) and (1L), the return may be lodged within any extended period allowed by the Court under section 40.”.

(2) Section 37(2)—

Repeal paragraph (a).

(3) After section 37(3)—

Add

“(4) In this section—

Rural Representative election (鄉郊代表選舉) means a rural ordinary election as defined by section 2(1) of the Rural Representative Election Ordinance (Cap. 576) or a rural by-election as defined by that section;

subsector election (界別分組選舉) has the meaning given by section 1(1) of the Schedule to the Chief Executive Election Ordinance (Cap. 569) (as read together with section 1(2)(b) of that Schedule).”.

6. Section 41 amended (appropriate authority to keep election returns)

Section 41(6)—

Repeal

everything after “ending with”

Substitute

“—

- (a) for an election referred to in section 37(1A), (1D), (1F), (1H), (1J) or (1L)—the 30th day before the first anniversary of the date of the deadline for lodging the relevant election return under that section (disregarding any order made by the Court under section 40); or
- (b) for an election referred to in section 37(1B)—the 60th day before the first anniversary of the date of the deadline for lodging the relevant election return under that section (disregarding any order made by the Court under section 40).”.

7. Section 50 added

After section 49—

Add

“50. Transitional provision for Electoral Legislation (Miscellaneous Amendments) (No. 2) Ordinance 2015

If the poll of an election—

- (a) is held on a date before the commencement date of the Electoral Legislation (Miscellaneous Amendments) (No. 2) Ordinance 2015 (of 2015) (*amending Ordinance*);

- (b) would have been held on a date before that commencement date if the election were contested; or
- (c) would have been held on a date before that commencement date but for—
 - (i) any postponement or adjournment;
 - (ii) the termination of the proceedings for the election;
 - (iii) the failure of the election; or
 - (iv) the invalidity of the election,

the amendments to sections 5A, 37 and 41, and the repeal of section 36, made by the amending Ordinance do not apply to the election, and the provisions of this Ordinance in force immediately before that commencement date continue to apply to the election as if the amending Ordinance had not been enacted.”

Part 3

Amendments Relating to Composition of Legislative Council Functional Constituencies and Election Committee Subsector

Division 1—Enactments Amended

8. Enactments amended

The enactments specified in Divisions 2 and 3 are amended as set out in those Divisions.

Division 2—Amendments to Legislative Council Ordinance (Cap. 542)

9. Section 20E amended (composition of the education functional constituency)

(1) Section 20E(b)(xix)—

Repeal

“and”.

(2) After section 20E(b)(xix)—

Add

“(xx) Board of Governors of the Gratia Christian College; and”.

10. Section 20U amended (composition of the financial services functional constituency)

Section 20U(1)(c), Chinese text—

Repeal

“香港”.

11. Schedule 1 amended (composition of the agriculture and fisheries functional constituency)

Schedule 1—

Repeal item 45.

12. Schedule 1A amended (composition of the transport functional constituency)

(1) Schedule 1A—

Repeal items 115, 122, 138, 147, 159 and 162.

(2) Schedule 1A, item 200—

Repeal

“Hing Taxi Radio Service General”

Substitute

“Star Taxi Operators”.

13. Schedule 1B amended (composition of the sports, performing arts, culture and publication functional constituency)

(1) Schedule 1B, English text, Part 3, item 9—

Repeal

“HK Film Directors’ Guild Ltd”

Substitute

“Hong Kong Film Directors’ Guild Limited”.

(2) Schedule 1B, English text, Part 3, item 22—

Repeal

“Ltd”

Substitute

“Limited”.

(3) Schedule 1B, English text, Part 3, item 33—

Repeal

“PEN”

Substitute

“P.E.N.”.

- (4) Schedule 1B, English text, Part 3, item 34—

Repeal

“Ltd”

Substitute

“Limited”.

- (5) Schedule 1B, English text, Part 3, item 39—

Repeal

“Ltd”

Substitute

“Limited”.

- (6) Schedule 1B, English text, Part 3, item 42—

Repeal

“Ltd”

Substitute

“Limited”.

- (7) Schedule 1B, English text, Part 3, item 45—

Repeal

“Co. Ltd”

Substitute

“Company Limited”.

- (8) Schedule 1B, English text, Part 3, item 56—

Repeal

“(HK) Ltd”

Substitute

“(Hong Kong) Limited”.

(9) Schedule 1B, Part 3, item 61—

Repeal

“Videotage”

Substitute

“Videotage Limited”.

Division 3—Amendments to Chief Executive Election Ordinance (Cap. 569)

14. Schedule, section 2 amended (how Election Committee is to be constituted)

(1) The Schedule, section 2, Table 5, item 5, column 3, paragraph (2)(s)—

Repeal the full stop

Substitute a semicolon.

(2) The Schedule, section 2, Table 5, item 5, column 3, after paragraph (2)(s)—

Add

“(t) the Board of Governors of the Gratia Christian College.”.

Part 4

Amendments Relating to Effect of Inclement Weather on Date and Period

Division 1—Enactments Amended

15. Enactments amended

The enactments specified in Divisions 2 to 7 are amended as set out in those Divisions.

Division 2—Amendment to 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)

**16. Section 2A amended (effect of inclement weather warning on
date and period)**

Section 2A—

Repeal subsection (8).

Division 3—Amendments to Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541 sub. leg. I)

17. Section 1A added

After section 1—

Add

“1A. Effect of inclement weather warning on date and period

(1) In this section—

gale warning (烈風警告) has the same meaning as in the Judicial Proceedings (Adjournment During Gale Warnings) Ordinance (Cap. 62);

inclement weather warning day (惡劣天氣警告日) means a working day on which a gale warning or a rainstorm warning is in force at any time during ordinary business hours;

rainstorm warning (暴雨警告) has the same meaning as in the Judicial Proceedings (Adjournment During Gale Warnings) Ordinance (Cap. 62);

working day (工作日) means—

- (a) any Monday, Tuesday, Wednesday, Thursday or Friday other than a general holiday;
- (b) in relation to a nomination or supplementary nomination for the religious subsector, a Saturday (other than a general holiday) during the period between—
 - (i) the date of publication of a notice under section 3(1) or (2) in respect of the nomination or supplementary nomination; and
 - (ii) the date of the declaration made under section 7(8) of the Schedule to the Chief Executive Election Ordinance (Cap. 569);
- (c) in relation to a subsector election, a Saturday (other than a general holiday) during the period between—

- (i) the date of publication of a notice under section 4(1) or (2) in respect of the subsector election; and
 - (ii) the date of publication of the result of the subsector election under section 35 of the Schedule to the Chief Executive Election Ordinance (Cap. 569) or the date of the declaration made under section 25 of that Schedule, as may be appropriate.
- (2) If—
 - (a) a date is prescribed in this Regulation (whether by reference to a specific day of a specific month or to a day otherwise ascertainable under this Regulation) or is fixed under this Regulation;
 - (b) an act is required or permitted by a provision of this Regulation to be done not later than, or on or before, the date or on the date; and
 - (c) the date falls on an inclement weather warning day,
the next working day which is not an inclement weather warning day, following the date is taken to be prescribed or fixed in relation to the act instead for the provision.
- (3) If—
 - (a) a period is prescribed in or fixed under this Regulation;

(b) an act is required or permitted by a provision of this Regulation to be done in, during or within the period; and

(c) the last day of the period falls on an inclement weather warning day,

the period is extended, in relation to the act, to end on the next working day which is not an inclement weather warning day, following the day mentioned in paragraph (c), and the provision has effect accordingly.

(4) Subsections (2) and (3) are subject to Schedule 1.”.

18. Section 5 amended (Chief Electoral Officer to determine nomination period)

After section 5(3)—

Add

“(4) Despite subsection (3), the nomination period may end during the period of 12 days before the date on which the relevant subsector election is to be held if the nomination period is extended under section 1A(3).”.

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

Section 24(4)—

Repeal

“period of 5 days”

Substitute

“notice period”.

20. Schedule 1 amended (postponement and adjournment of subsector elections)

Schedule 1—

Repeal

“[ss. 63”

Substitute

“[ss. 1A, 63”.

Division 4—Amendment to Electoral Procedure (Chief Executive Election) Regulation (Cap. 541 sub. leg. J)

21. Section 2A added

Part 1, after section 2—

Add

“2A. Effect of inclement weather warning on date and period

(1) In this section—

gale warning (烈風警告) has the same meaning as in the Judicial Proceedings (Adjournment During Gale Warnings) Ordinance (Cap. 62);

inclement weather warning day (惡劣天氣警告日) means a working day on which a gale warning or a rainstorm warning is in force at any time during ordinary business hours;

rainstorm warning (暴雨警告) has the same meaning as in the Judicial Proceedings (Adjournment During Gale Warnings) Ordinance (Cap. 62);

working day (工作日) means—

- (a) any Monday, Tuesday, Wednesday, Thursday or Friday other than a general holiday;

- (b) a Saturday (other than a general holiday) during the period between—
 - (i) the date of publication of a notice under section 3 in respect of an election; and
 - (ii) the date of publication of the result of the election under the Election Ordinance or the date of the declaration of the termination of the proceedings for the election under that Ordinance, as may be appropriate.
- (2) If—
 - (a) a date is prescribed in this Regulation (whether by reference to a specific day of a specific month or to a day otherwise ascertainable under this Regulation) or is fixed under this Regulation;
 - (b) an act is required or permitted by a provision of this Regulation to be done not later than, or on or before, the date or on the date; and
 - (c) the date falls on an inclement weather warning day,
the next working day which is not an inclement weather warning day, following the date is taken to be prescribed or fixed in relation to the act instead for the provision.

- (3) If—
- (a) a period is prescribed in or fixed under this Regulation;
 - (b) an act is required or permitted by a provision of this Regulation to be done in, during or within the period; and
 - (c) the last day of the period falls on an inclement weather warning day,
the period is extended, in relation to the act, to end on the next working day which is not an inclement weather warning day, following the day mentioned in paragraph (c), and the provision has effect accordingly.
- (4) Subsections (2) and (3) are subject to section 65.”.

Division 5—Amendments to Chief Executive Election Ordinance (Cap. 569)

22. Section 2 amended (interpretation)

- (1) Section 2(1), English text, definition of *subsector election*—

Repeal the semicolon

Substitute a full stop.

- (2) Section 2(1)—

Repeal the definition of *working day*.

23. Section 2A added

Part 1, after section 2—

Add

“2A. Effect of inclement weather warning on date and period

(1) In this section—

gale warning (烈風警告) has the same meaning as in the Judicial Proceedings (Adjournment During Gale Warnings) Ordinance (Cap. 62);

inclement weather warning day (惡劣天氣警告日) means a working day on which a gale warning or a rainstorm warning is in force at any time during the ordinary business hours;

ordinary business hours (通常辦公時間) means the hours—

- (a) between 9 a.m. and 5 p.m. on any Monday, Tuesday, Wednesday, Thursday or Friday (other than a general holiday); and
- (b) between 9 a.m. and 12 noon on a Saturday (other than a general holiday) during the period between—
 - (i) the date of publication of a notice under section 3 of the Electoral Procedure (Chief Executive Election) Regulation (Cap. 541 sub. leg. J) in respect of an election; and
 - (ii) the date of publication of the result of the election under this Ordinance or the date of the declaration of the termination of the proceedings for the election under this Ordinance, as may be appropriate;

rainstorm warning (暴雨警告) has the same meaning as in the Judicial Proceedings (Adjournment During Gale Warnings) Ordinance (Cap. 62);

working day (工作日) means—

- (a) any Monday, Tuesday, Wednesday, Thursday or Friday other than a general holiday;

- (b) a Saturday (other than a general holiday) during the period between—
 - (i) the date of publication of a notice under section 3 of the Electoral Procedure (Chief Executive Election) Regulation (Cap. 541 sub. leg. J) in respect of an election; and
 - (ii) the date of publication of the result of the election under this Ordinance or the date of the declaration of the termination of the proceedings for the election under this Ordinance, as may be appropriate.
- (2) If the last day of the nomination period fixed under section 15 falls on an inclement weather warning day, the nomination period is extended to end on the next working day which is not an inclement weather warning day, following that last day, and that section has effect accordingly.
- (3) If—
 - (a) a person is required by section 18 or 31 to do an act within a period; and
 - (b) the last day of the period falls on an inclement weather warning day,
the period is extended, in relation to the act, to end on the next working day which is not an inclement weather warning day, following the day mentioned in paragraph (b), and that section has effect accordingly.”.

24. Section 15 amended (nomination period)

- (1) Section 15(1)—

Repeal

“and the time at which the nomination period terminates”.

(2) Section 15—

Repeal subsection (3).

(3) At the end of section 15—

Add

“(4) Despite subsection (2), the nomination period may end during the period of 21 days before the polling date if the nomination period is extended under section 2A(2).”.

25. Section 31 amended (winning candidate to declare he is not a member of political party)

(1) Section 31(2), English text, definition of *political party*, paragraph (b)—

Repeal the full stop

Substitute a semicolon.

(2) Section 31(2)—

Add in alphabetical order

“*working day* (工作日) has the meaning given by section 2A(1).”.

26. Section 34 amended (period within which election petition and appeal must be lodged)

After section 34(2)—

Add

“(3) In this section—

working day (工作日) means any day other than—

(a) a general holiday;

- (b) a black rainstorm warning day as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap. 1); or
- (c) a gale warning day as defined by that section.”.

27. Schedule, section 1A amended (effect of inclement weather warning on date)

- (1) The Schedule, section 1A, heading, after “**date**”—

Add

“and period”.

- (2) The Schedule, after section 1A(2)—

Add

“(3) If—

- (a) the Electoral Registration Officer is required by section 40(3A)(b) to do an act on a date; and
- (b) the date falls on an inclement weather warning day,

that section has effect as if it required the Officer to do the act on the next working day which is not an inclement weather warning day, following the date.

(4) If—

- (a) the Electoral Registration Officer is required by section 4(1) or 40 to do an act within a period; and
- (b) the last day of the period falls on an inclement weather warning day,

the period is extended, in relation to the act, to end on the next working day which is not an inclement weather warning day, following the day mentioned in paragraph (b), and that section has effect accordingly.”.

Division 6—Amendments to Election Committee (Appeals) Regulation (Cap. 569 sub. leg. A)

28. Section 2 amended (interpretation)

Section 2(1)—

Add in alphabetical order

“*working day* (工作日) means any Monday, Tuesday, Wednesday, Thursday or Friday other than a general holiday;”.

29. Section 2A added

After section 2—

Add

“2A. Effect of inclement weather warning on date and period

(1) In this section—

gale warning (烈風警告) has the same meaning as in the Judicial Proceedings (Adjournment During Gale Warnings) Ordinance (Cap. 62);

inclement weather warning day (惡劣天氣警告日) means a working day on which a gale warning or a rainstorm warning is in force at any time during ordinary business hours of the office of a Revising Officer;

rainstorm warning (暴雨警告) has the same meaning as in the Judicial Proceedings (Adjournment During Gale Warnings) Ordinance (Cap. 62).

(2) If—

- (a) a date is prescribed in this Regulation (whether by reference to a specific day of a specific month or to a day otherwise ascertainable under this Regulation) or is fixed under this Regulation;
- (b) an act is required or permitted by a provision of this Regulation to be done not later than, or on or before, the date or on the date; and
- (c) the date falls on an inclement weather warning day,

the next working day which is not an inclement weather warning day, following the date is taken to be prescribed or fixed in relation to the act instead for the provision.

(3) If—

- (a) a period is prescribed in or fixed under this Regulation;
- (b) an act is required or permitted by a provision of this Regulation to be done in, during or within the period; and
- (c) the last day of the period falls on an inclement weather warning day,

the period is extended, in relation to the act, to end on the next working day which is not an inclement weather warning day, following the day mentioned in paragraph (c), and the provision has effect accordingly.

- (4) If the last day of the period referred to in section 5(3) or (4) falls on an inclement weather warning day, section 8 has effect as if the reference to the expiry of that period in section 8 were substituted by a reference to the next working day which is not an inclement weather warning day, following that last day.
- (5) Subsections (2) and (3) are subject to sections 5(5) and 10(2A).”.

30. Section 5 amended (fixing of hearing and notifying appellant thereof)

After section 5(4)—

Add

- “(5) Despite subsections (3) and (4) and sections 6(1)(b) and (2)(b) and 9, if—
- (a) the date fixed under subsection (1)(a) for a hearing—
 - (i) is the last day of the period referred to in subsection (3) or (4); or
 - (ii) is postponed under section 2A to or beyond the last day of the period mentioned in subparagraph (i); and
 - (b) the deadline for making representations in writing to the Revising Officer under this section is postponed under section 2A to that hearing day,
- the Revising Officer may, in his or her discretion, postpone the hearing to the next working day which is not an inclement weather warning day, following the postponed deadline.

(6) In this section—

inclement weather warning day (惡劣天氣警告日) has the meaning given by section 2A(1).”.

31. Section 10 amended (review of rulings by Revising Officer)

(1) After section 10(2)—

Add

“(2A) Despite subsection (2), if the conditions under section 5(5)(a)(i) or (ii) and (b) are met, the period for a review of the ruling in respect of the appeal notice or written representation in question is extended to end on the next working day which is not an inclement weather warning day, following the postponed deadline for the making of representations in writing to the Revising Officer specified in section 5(5) in relation to that appeal notice or written representation.”.

(2) After section 10(3)—

Add

“(4) In this section—

inclement weather warning day (惡劣天氣警告日) has the meaning given by section 2A(1).”.

Division 7—Amendments to Election Committee (Registration) (Voters for Subsectors) (Members of Election Committee) (Appeals) Regulation (Cap. 569 sub. leg. B)

32. Section 2A amended (effect of inclement weather warning on date and period)

(1) Section 2A(4), Table 1, column 2—

Repeal

“5(aa)”

Substitute

“5(1)(aa)”.

- (2) Section 2A(4), Table 1, column 2—

Repeal

“5(ab)”

Substitute

“5(1)(ab)”.

- (3) Section 2A(8), Table 3, column 2—

Repeal

“5(aa)”

Substitute

“5(1)(aa)”.

- (4) Section 2A(8), Table 3, column 2—

Repeal

“5(ab)”

Substitute

“5(1)(ab)”.

- (5) Section 2A—

Repeal subsection (10).

33. Section 3 amended (fixing of hearing and notifying appellant thereof)

- (1) Section 3(5)—

Repeal

“not later than the twentieth day”

Substitute

“within the period of 20 days”.

- (2) Section 3(5A)—

Repeal

“(3) and (4)”

Substitute

“(3), (4) and (5)”.

- (3) Section 3(5A)(a)(i)—

Repeal

“or (4)(ab), (b) or (c)(i) or (ii)”

Substitute

“, (4)(ab), (b) or (c)(i) or (ii) or (5)”.

34. Section 5 amended (Electoral Registration Officer to be notified of rulings)

- (1) Section 5—

Renumber the section as section 5(1).

- (2) Section 5(1)(a)—

Repeal

“not later than the third working day”

Substitute

“on a date at least 3 days (excluding any general holiday)”.

- (3) After section 5(1)—

Add

- “(2) Despite subsection (1)(f), if a hearing is postponed under section 2A or 3(5A) and concluded on a date later than the twentieth day after the date of publication mentioned in that subsection, the Revising Officer may give notification under that

subsection on or before the next working day which is not an inclement weather warning day, following the date on which the hearing is concluded.

(3) In this section—

inclement weather warning day (惡劣天氣警告日) has the meaning given by section 2A(1);

working day (工作日) has the meaning given by section 2A(1).”.

35. Section 7 amended (review of rulings by Revising Officer)

After section 7(2C)—

Add

“(2D) A ruling made or reviewed after the twentieth day after the date of publication of the relevant Election Committee provisional register as referred to in section 3(5) because of an extension under subsection (2A) is deemed, for section 37(1E) of 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), to be made not later than the twentieth day after that date.”.

Part 5

Amendments Relating to Documents for Appointment of Various Agents and Delivery of Documents

Division 1—Enactments Amended

36. Enactments amended

The enactments specified in Divisions 2, 3 and 4 are amended as set out in those Divisions.

Division 2—Amendments to Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541 sub. leg. I)

37. Section 23 amended (candidate may appoint election agent)

(1) Section 23(13)—

Repeal

“in the specified form.”

Substitute

“—

(a) in the specified form; and

(b) delivered to the Returning Officer by hand, by electronic mail, by facsimile transmission or (except a notice of an appointment or a revocation of appointment made on polling day) by post.”.

(2) Section 23(15)(d)—

Repeal

“lodged with”

Substitute

“delivered by hand, by post, by electronic mail or by facsimile transmission to”.

- (3) Section 23(17)—

Repeal

“lodged” (wherever appearing)

Substitute

“made”.

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

- (1) Section 25—

Repeal subsection (6)

Substitute

“(6) A copy of the authorization may be served by hand, by post, by electronic mail or by facsimile transmission.”.

- (2) Section 25—

Repeal subsection (9A)

Substitute

“(9A) The notice of revocation may be served by hand, by post, by electronic mail or by facsimile transmission.”.

39. Section 33 amended (Chief Electoral Officer may allocate special polling stations)

Section 33(2)(a)(ii)—

Repeal

“or sent by post”

Substitute

“, by post, by electronic mail”.

40. Section 42 amended (candidates may appoint polling agents)

(1) Section 42(5)—

Repeal

everything after “appointment”

Substitute

“to the Chief Electoral Officer at least 7 days before polling day.”.

(2) After section 42(5)—

Add

“(5AA) A notice of appointment given under subsection (5) must be delivered by hand, by post, by electronic mail or by facsimile transmission.”.

(3) Section 42(5A)(d)—

Repeal

everything before “Commissioner”

Substitute

- “(d) the appointment of a polling agent for a dedicated polling station situated in a prison is not effective unless—
- (i) a notice of appointment is given in accordance with subsection (5); and
 - (ii) the”.
- (4) Section 42(5B)—
- Repeal**
- “the Commissioner of Correctional Services may, on an application lodged under that subsection during the week before polling day,”
- Substitute**
- “even though a notice of appointment is given during the week before polling day, the Commissioner of Correctional Services may still”.
- (5) Section 42(5B)(b), English text—
- Repeal**
- “application is lodged”
- Substitute**
- “notice of appointment is given”.
- (6) Section 42(7)—
- Repeal**
- “The”
- Substitute**
- “Subject to subsection (5A)(d), the”.

- (7) Section 42(9)—

Repeal

“Presiding Officer.”

Substitute

“Presiding Officer of the polling station in accordance with subsection (11) or (11A).”.

- (8) Section 42(11)—

Repeal

everything after “must be”

Substitute

“delivered to the Chief Electoral Officer by hand, by post, by electronic mail or by facsimile transmission.”.

- (9) Section 42(11A)(a)—

Repeal

everything after “must be”

Substitute

“delivered to the Presiding Officer of the polling station by the candidate, or the election agent of the candidate, in person; or”.

- (10) Section 42(11A)(b)—

Repeal

everything after “must be”

Substitute

“delivered to the Chief Electoral Officer by hand, by electronic mail or by facsimile transmission.”.

41. Section 64 amended (candidates may appoint counting agents)

- (1) Section 64(5)(a)—

Repeal

“1 week”

Substitute

“7 days”.

- (2) After section 64(5)—

Add

“(5A) A notice of appointment given under subsection (5)(a) must be delivered by hand, by post, by electronic mail or by facsimile transmission.”.

- (3) Section 64(9)—

Repeal

“Officer.”

Substitute

“Officer in accordance with subsection (10A) or (11).”.

- (4) After section 64(10)—

Add

“(10A) If the notice of revocation is given before polling day, it must be delivered to the Returning Officer by hand, by post, by electronic mail or by facsimile transmission.”.

- (5) Section 64(11)—

Repeal

everything after “must be”

Substitute

“delivered to the Returning Officer by the candidate, or the election agent of the candidate, in person.”.

42. Section 95 amended (publication and display of notices, etc.)

(1) Section 95(2)—

Repeal

“sent by post”

Substitute

“by post, by electronic mail”.

(2) Section 95(2)—

Repeal paragraph (c).

(3) Section 95(2)(f)—

Repeal

“papers;”

Substitute

“papers; and”.

(4) Section 95(2)—

Repeal paragraphs (g) and (h).

(5) Section 95(3)—

Repeal

“post”

Substitute

“post, by electronic mail”.

Division 3—Amendments to Electoral Procedure (Chief Executive Election) Regulation (Cap. 541 sub. leg. J)

43. Section 12 amended (appointment of election agent)

(1) Section 12(3)(h)—

Repeal

“lodged with”

Substitute

“delivered by hand, by post, by electronic mail or by facsimile transmission to”.

- (2) Section 12(3B)—

Repeal

“lodged” (wherever appearing)

Substitute

“made”.

44. Section 14 amended (provisions applicable to appointment of agents)

- (1) Section 14(3)—

Repeal paragraph (a)

Substitute

“(a) be delivered to the Returning Officer by hand, by electronic mail, by facsimile transmission or (except a notice of an appointment made on the polling date) by post;”.

- (2) Section 14(5)—

Repeal paragraph (a)

Substitute

“(a) delivered to the Returning Officer by hand, by electronic mail, by facsimile transmission or (except a notice of a revocation of appointment made on the polling date) by post;”.

45. Section 25 amended (polling agents)

(1) Section 25(4)—

Repeal

everything after “agent”

Substitute

“is effective only if a notice of appointment is delivered to—

- (a) the Chief Electoral Officer by hand, by post, by electronic mail or by facsimile transmission at least 7 days before the polling date; or
- (b) the Presiding Officer of the polling station by the candidate, or the election agent of the candidate, in person on the polling date.”.

(2) Section 25(4A)—

Repeal

everything before “Commissioner”

Substitute

“(4A) Despite subsections (1) and (4), the appointment of a polling agent for a dedicated polling station situated in a prison is not effective unless—

- (a) a notice of appointment is given in accordance with subsection (4)(a); and
- (b) the”.

- (3) Section 25(4B)—

Repeal

“the Commissioner of Correctional Services may, on an application lodged under that subsection during the week before the polling date,”

Substitute

“even though a notice of appointment is given during the week before the polling date, the Commissioner of Correctional Services may still”.

- (4) Section 25(4B)(b), English text—

Repeal

“application is lodged”

Substitute

“notice of appointment is given”.

- (5) Section 25(5)—

Repeal paragraph (a).

- (6) Section 25(6)—

Repeal

everything after “agent”

Substitute

“may be revoked by giving a notice of revocation to the Chief Electoral Officer or the Presiding Officer of the polling station in accordance with subsection (7A) or (7B).”.

- (7) Section 25—

Repeal subsection (6A).

(8) Section 25(7)—

Repeal paragraph (a).

(9) After section 25(7)—

Add

“(7A) If the notice of revocation is given before the polling date, it must be delivered to the Chief Electoral Officer by hand, by post, by electronic mail or by facsimile transmission.

(7B) If the notice of revocation is given on the polling date—

(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 delivered to the Presiding Officer of the polling station by the candidate, or the election agent of the candidate, in person; 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 delivered to the Chief Electoral Officer by hand, by electronic mail or by facsimile transmission.”.

(10) Section 25—

Repeal subsection (10).

46. Section 44 amended (appointment of counting agent)

(1) Section 44(3)—

Repeal

everything after “agent”

Substitute

“is effective only if a notice of appointment is delivered to the Returning Officer—

- (a) by hand, by post, by electronic mail or by facsimile transmission at least 7 days before the polling date; or
- (b) by the candidate, or the election agent of the candidate, in person on the polling date.”.

(2) Section 44(4)—

Repeal paragraph (a).

(3) Section 44—

Repeal subsection (5)

Substitute

“(5) If the appointment of a counting agent is revoked, the candidate must give notice of the revocation to the Returning Officer in accordance with subsection (6A) or (6B).”.

(4) Section 44(6)—

Repeal paragraph (a).

(5) After section 44(6)—

Add

“(6A) If the notice of revocation is given before the polling date, it must be delivered to the Returning Officer by hand, by post, by electronic mail or by facsimile transmission.

(6B) If the notice of revocation is given on the polling date, it must be delivered to the Returning Officer by the candidate, or the election agent of the candidate, in person.”.

- (6) Section 44—
Repeal subsection (9).

47. Section 72 amended (manner of giving notice)

- (1) Section 72(1)—
Repeal
“sent by hand, by post”
Substitute
“delivered by hand, by post, by electronic mail”.
- (2) Section 72(1)—
Repeal paragraphs (b), (c), (h) and (i).
- (3) Section 72(1)(j)—
Repeal
“lots);”
Substitute
“lots); or”.
- (4) Section 72(1)(k)—
Repeal the semicolon
Substitute a full stop.
- (5) Section 72(1)—
Repeal paragraphs (l) and (m).

**Division 4—Amendments to Electronic Transactions
(Exclusion) Order (Cap. 553 sub. leg. B)**

- 48. Schedule 1 amended (provisions excluded from application of section 5 of Ordinance)**
- (1) Schedule 1, item 59B—

Repeal everything in column 3

Substitute

“Section 42(8) and (10) (to the extent to which it relates to a notice of appointment, or a notice of revocation, delivered to the Presiding Officer on polling day) and section 64(8) and (10) (to the extent to which it relates to a notice of appointment, or a notice of revocation, delivered to the Returning Officer on polling day)”.

- (2) Schedule 1, item 59C—

Repeal everything in column 3

Substitute

“Section 4(1), section 9(2), section 25(5) and (7) (to the extent to which it relates to a notice of appointment, or a notice of revocation, delivered to the Presiding Officer on the polling date), section 44(4) and (6) (to the extent to which it relates to a notice of appointment, or a notice of revocation, delivered to the Returning Officer on the polling date) and section 80(2)”.

49. Schedule 2 amended (provisions excluded from application of section 6 of Ordinance)

- (1) Schedule 2, item 18B—

Repeal everything in column 3

Substitute

“Section 7(4), section 8(6) and (7), section 17(2), section 42(8) and (10) (to the extent to which it relates to a notice of appointment, or a notice of revocation, delivered to the Presiding Officer on polling day), section 64(8) and (10) (to the extent to which it relates to a notice of appointment, or a notice of revocation, delivered to the Returning Officer on polling day) and section 99(2)(b)”.

(2) Schedule 2, item 18C—

Repeal everything in column 3

Substitute

“Section 4(1), section 9(2), section 25(5) and (7) (to the extent to which it relates to a notice of appointment, or a notice of revocation, delivered to the Presiding Officer on the polling date), section 44(4) and (6) (to the extent to which it relates to a notice of appointment, or a notice of revocation, delivered to the Returning Officer on the polling date) and section 80(2)”.

Part 6

Amendments Relating to Postponement or Adjournment of Election, Poll or Counting

Division 1—Enactments Amended

50. Enactments amended

The enactments specified in Divisions 2, 3 and 4 are amended as set out in those Divisions.

Division 2—Amendments to Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541 sub. leg. I)

51. Schedule 1, section 1 amended (postponement of subsector election and adjournment of poll or counting of votes in respect of subsector election)

Schedule 1, section 1(3)(b)—

Repeal

“other occurrence of public danger”

Substitute

“any danger to public health or safety”.

52. Schedule 1, section 2 amended (adjournment of poll at particular polling station)

Schedule 1, section 2(2)(b)—

Repeal

“other occurrence of public danger”

Substitute

“any danger to public health or safety”.

53. Schedule 1, section 6 amended (appointment of date by Commission for subsector election, polling or counting after postponement or adjournment)

Schedule 1, section 6—

Repeal subsection (3)

Substitute

“(3) A date appointed under this section must not be later than 14 days after the date on which the postponed subsector election or the adjourned poll or counting would have been held.”.

Division 3—Amendments to Electoral Procedure (Chief Executive Election) Regulation (Cap. 541 sub. leg. J)

54. Section 65 amended (resumption of postponed or adjourned polling or counting)

(1) Section 65(1)—

Repeal

“the prescribed period”

Substitute

“14 days”.

(2) Section 65(2)(a)—

Repeal

“the prescribed period”

Substitute

“14 days”.

- (3) Section 65(3)—
Repeal
“the prescribed period”

Substitute

“14 days”.

- (4) Section 65(4)—
Repeal
“the prescribed period”

Substitute

“14 days”.

- (5) Section 65—
Repeal subsection (5).

Division 4—Amendments to Chief Executive Election Ordinance (Cap. 569)

55. Section 21 amended (postponement or adjournment of polling or counting of votes)

- (1) Section 21(1)—
Repeal
“occurrence of public danger”
Substitute
“danger to public health or safety”.

- (2) Section 21(2)—
Repeal
“occurrence of public danger”

Substitute

“danger to public health or safety”.

56. Schedule, section 24 amended (when holding of a subsector election can be postponed or adjourned)

(1) The Schedule, section 24(1)—

Repeal

“other occurrence of public danger”

Substitute

“danger to public health or safety”.

(2) The Schedule, section 24(2)—

Repeal

“other occurrence of public danger”

Substitute

“danger to public health or safety”.

(3) The Schedule, section 24(4)—

Repeal

“14 days from”

Substitute

“14 days after”.

Part 7

Amendments Relating to Election Agent’s Authority to Act on Behalf of Candidate

Division 1—Enactments Amended

57. Enactments amended

The enactments specified in Divisions 2 and 3 are amended as set out in those Divisions.

Division 2—Amendment to Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541 sub. leg. I)

58. Section 23 amended (candidate may appoint election agent)

Section 23(14), before “in connection”—

Add

“under this Regulation”.

Division 3—Amendment to Electoral Procedure (Chief Executive Election) Regulation (Cap. 541 sub. leg. J)

59. Section 12 amended (appointment of election agent)

Section 12(3), before “in connection”—

Add

“under this Regulation”.

Part 8

Amendments Relating to Notices Designating Polling Stations and Counting Stations, etc.

Division 1—Enactments Amended

60. Enactments amended

The enactments specified in Divisions 2 and 3 are amended as set out in those Divisions.

Division 2—Amendments to Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541 sub. leg. I)

61. Section 28 amended (Chief Electoral Officer to designate polling stations and counting stations)

Section 28(1), after “Gazette”—

Add

“at least 10 days before polling day”.

62. Section 29 amended (Chief Electoral Officer to designate some polling stations as special polling stations)

(1) Section 29—

Repeal subsection (1)

Substitute

“(1) If the polling station or polling stations designated by the Chief Electoral Officer for a subsector would be difficult of access for persons with a disability, the Chief Electoral Officer must designate one or more

polling stations as special polling station or stations to be used for voting by them.”.

(2) Section 29—

Repeal subsection (3)

Substitute

“(3) In a notice published under section 28(1), the Chief Electoral Officer must indicate—

(a) the special polling stations (if any); and

(b) the subsector or subsectors for which a particular special polling station is designated.”.

63. Section 63 amended (Returning Officer to give notice of time and place of counting of votes to candidates)

Section 63(4)—

Repeal

“1 working day”

Substitute

“10 days”.

Division 3—Amendments to Electoral Procedure (Chief Executive Election) Regulation (Cap. 541 sub. leg. J)

64. Section 18 amended (designation of polling station and counting station)

Section 18(1), after “Gazette”—

Add

“at least 10 days before the polling date”.

65. Section 43 amended (determination and notice of time of counting of votes)

Section 43(4)(c)—

Repeal

“one clear working day”

Substitute

“10 days”.

Part 9

Other Technical Amendments

Division 1—Enactments Amended

66. Enactments amended

The enactments specified in Divisions 2 and 3 are amended as set out in those Divisions.

Division 2—Amendments to Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541 sub. leg. I)

67. Section 1 amended (interpretation)

Section 1(1)—

Repeal the definition of *ordinary business hours*

Substitute

“*ordinary business hours* (通常辦公時間) means the hours—

- (a) between 9 a.m. and 5 p.m. on any Monday, Tuesday, Wednesday, Thursday or Friday (other than a general holiday);
- (b) in relation to a nomination or supplementary nomination for the religious subsector, between 9 a.m. and 12 noon on a Saturday (other than a general holiday) during the period between—

- (i) the date of publication of a notice under section 3(1) or (2) in respect of the nomination or supplementary nomination; and
 - (ii) the date of the declaration made under section 7(8) of the Schedule to the Chief Executive Election Ordinance (Cap. 569); and
- (c) in relation to a subsector election, between 9 a.m. and 12 noon on a Saturday (other than a general holiday) during the period between—
- (i) the date of publication of a notice under section 4(1) or (2) in respect of the subsector election; and
 - (ii) the date of publication of the result of the subsector election under section 35 of the Schedule to the Chief Executive Election Ordinance (Cap. 569) or the date of the declaration made under section 25 of that Schedule, as may be appropriate;”.

68. Section 67 amended (what constitutes offence at counting station)

Section 67, Chinese text, heading—

Repeal

“投票站”

Substitute

“點票站”.

69. Section 101 amended (offence of false declaration)

Section 101(4)—

Repeal

“sections 14 and 26 of, and sections 9, 18 and 30”

Substitute

“section 14 of, and sections 9 and 18”.

Division 3—Amendments to Electoral Procedure (Chief Executive Election) Regulation (Cap. 541 sub. leg. J)

70. Section 2 amended (interpretation)

Section 2(1)—

Repeal the definition of *ordinary business hours*

Substitute

“*ordinary business hours* (通常辦公時間) means the hours—

- (a) between 9 a.m. and 5 p.m. on any Monday, Tuesday, Wednesday, Thursday or Friday (other than a general holiday); and
- (b) between 9 a.m. and 12 noon on a Saturday (other than a general holiday) during the period between—
 - (i) the date of publication of a notice under section 3 in respect of an election; and
 - (ii) the date of publication of the result of the election under the Election Ordinance or the date of the declaration of the termination of the proceedings for the election under that Ordinance, as may be appropriate;”.

71. Section 24 amended (order in no canvassing zone and no staying zone)

Section 24(3A), English text—

Repeal

“polling day”

Substitute

“the polling date”.

Explanatory Memorandum

This Bill introduces amendments to various pieces of electoral legislation and the Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B) for the purposes set out in the long title of the Bill. The Bill comprises 9 Parts.

2. Part 1 sets out the short title.
3. Part 2 contains amendments to the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) concerning the period for lodging election returns. Currently, under section 37 of that Ordinance, an election return must be lodged before the expiry of a 30-day period or 60-day period (depending on the type of the election in question) after the date on which any of the following events occurs—
 - (a) the result of the election is published;
 - (b) the election proceedings are declared to have been terminated;
 - (c) the election is declared to have failed.

Part 2 amends that Ordinance to allow a longer period for lodging election returns in some circumstances. The general rule is if an election is held (or elections that are to be held on the same date are held) for 2 or more constituencies, vacancies or offices, the 30-day or 60-day period will only start to run after the latest date on which any of the abovementioned events occurs in relation to any of those constituencies, vacancies or offices.

4. Part 3 updates the lists of persons comprising certain functional constituencies of the Legislative Council and the higher education subsector of the Election Committee.
5. Part 4 contains technical amendments that deal with the effect of an inclement weather warning (defined to include a tropical cyclone warning and a rainstorm warning) on dates and periods prescribed in several pieces of electoral legislation. The general rule is if a working day is prescribed or is otherwise fixed as a deadline for an act and an inclement weather warning is in force at any time during the ordinary business hours on that day (*inclement weather warning day*), the deadline is to be postponed to the next working day which is not an inclement weather warning day. If a prescribed period ends on an inclement weather warning day, the period is to be extended to end on the next working day which is not an inclement weather warning day.
6. Part 5 contains technical amendments concerning the documents for the appointment of election agents, election expense agents, polling agents and counting agents and for revocation of the appointment, mainly relating to the mode of delivery of the documents (including allowing delivery by electronic mail). It also contains amendments to allow delivery of other documents by electronic mail.
7. Part 6 introduces technical amendments to clarify that an election, poll or counting of votes can be postponed or adjourned if there is an occurrence which endangers public health or safety. It also contains amendments concerning the date on which the postponed or adjourned election, poll or counting of votes is to be held.

8. Part 7 introduces technical amendments to clarify that an election agent appointed by a candidate under a Regulation only has the authority to act on behalf of the candidate under the Regulation.
9. Part 8 introduces technical amendments relating to notices designating polling stations and counting stations, etc.
10. Part 9 contains several minor or technical amendments that do not affect the substance of the electoral systems.