

立法會
Legislative Council

Ref : CB2/SS/5/16

LC Paper No. CB(2)548/17-18
(These minutes have been seen
by the Administration)

**Subcommittee on Amendments to Five Regulations
under the Electoral Affairs Commission Ordinance**

**Minutes of the third meeting
held on Friday, 20 October 2017, at 8:30 am
in Conference Room 3 of the Legislative Council Complex**

- Members present** :
- Hon MA Fung-kwok, SBS, JP (Chairman)
 - Hon Jeffrey LAM Kin-fung, GBS, JP
 - Hon Starry LEE Wai-king, SBS, JP
 - Hon Frankie YICK Chi-ming, SBS, JP
 - Hon YIU Si-wing, BBS
 - Hon Charles Peter MOK, JP
 - Hon CHAN Han-pan, JP
 - Dr Hon Helena WONG Pik-wan
 - Hon Holden CHOW Ho-ding
 - Hon YUNG Hoi-yan
 - Hon LUK Chung-hung
- Members absent** :
- Hon Paul TSE Wai-chun, JP
 - Hon Alice MAK Mei-kuen, BBS, JP
 - Hon Alvin YEUNG
 - Dr Hon Junius HO Kwan-yiu, JP
 - Hon LAM Cheuk-ting
- Public Officers attending** :
- Mr Andy CHAN Shui-fu
Under Secretary for Constitutional and Mainland Affairs

 - Miss Helen CHUNG Chi-ching
Principal Assistant Secretary for Constitutional and
Mainland Affairs

 - Mr WONG See-man
Chief Electoral Officer
Registration and Electoral Office

Miss Candy MA Siu-hung
Principal Electoral Officer
Registration and Electoral Office

Mr Henry CHAN Ngai-him
Senior Government Counsel
Department of Justice

Clerk in attendance : Ms Joanne MAK
Chief Council Secretary (2) 3

Staff in attendance : Mr Alvin CHUI
Assistant Legal Adviser 3

Ms Wendy LO
Senior Council Secretary (2) 2

Mrs Fanny TSANG
Legislative Assistant (2) 3

Action

I. Meeting with the Administration

[LC Paper Nos. CB(2)82/17-18(01), LS86/16-17, CB(2)2143/16-17(01) to (05) and REO 14-32/7(Con)]

The Subcommittee deliberated (index of proceedings attached at **Annex**).

2. The Subcommittee completed scrutiny of the five Amendment Regulations and discussed the latest amendments proposed by the Administration at the meeting. The Administration informed members that as the scrutiny period of the five Amendment Regulations had expired at the Council meeting of 18 October 2017, it was unable to move a motion to amend the five Amendment Regulations. Nevertheless, the Administration noted that members in general were supportive of its latest proposed amendments. The Administration undertook that it would invite the Electoral Affairs Commission to consider introducing as early as possible another set of subsidiary legislation incorporating those proposed amendments for scrutiny by the Legislative Council through the negative vetting procedure. Members agreed to the proposed arrangements.

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3. The Chairman informed members that he would submit a written report on the deliberations of the Subcommittee to the House Committee on 27 October 2017.

Action

II. Any other business

4. There being no other business, the meeting ended at 9:32 am.

Council Business Division 2
Legislative Council Secretariat
15 December 2017

**Proceedings of the third meeting of the
Subcommittee on Amendments to Five Regulations
under the Electoral Affairs Commission Ordinance
on Friday, 20 October 2017, at 8:30 am
in Conference Room 3 of the Legislative Council Complex**

Time Marker	Speaker(s)	Subject(s)	Action required
000639 - 002026	Chairman Mr Holden CHOW Administration	<p>Opening remarks</p> <p>Briefing by the Administration on its response to the issues raised at the last meeting, including its latest proposed amendments to the five regulations under the Electoral Affairs Commission Ordinance (Cap. 541) as detailed in the Annex to LC Paper No. CB(2)82/17-18(01).</p> <p>The Administration informed members that as the scrutiny period of the five Amendment Regulations had expired at the Council meeting of 18 October 2017, it was unable to move a motion to amend the five Amendment Regulations. The five Amendment Regulations would come into operation on 1 December 2017. If the Administration's latest proposed amendments were supported by members, the Administration would invite the Electoral Affairs Commission ("EAC") to consider introducing as early as possible another set of subsidiary legislation incorporating those proposed amendments for scrutiny by the Legislative Council ("LegCo") through the negative vetting procedure.</p>	
002027 - 003326	Chairman Mr Holden CHOW Mr Jeffrey LAM Ms Starry LEE Mr YIU Si-wing Administration	Mr Jeffrey LAM enquired about the alternative measures to cater for a situation where an elector could not produce the original of his/her Hong Kong Permanent Identity Card ("HKID") due to loss of it on or before the polling day. The Administration advised that the elector could produce the original of his/her valid Hong Kong Special Administrative Region ("HKSAR") Passport, or other documents issued by the Immigration Department bearing the holder's name, photograph and HKID number as specified in the relevant provisions to apply for ballot paper(s). Besides, according to the	

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		<p>Administration's latest proposed amendments, the Presiding Officer ("PRO") might still issue ballot paper(s) to an elector if PRO was satisfied of the elector's identity upon inspecting a document on reporting to a police officer the loss or destruction of the person's HKID (commonly referred to as "a memo of lost property") and a valid passport or similar travel document (e.g. a passport (other than HKSAR Passport) or the Home Return Permit). Members were generally in support of this latest proposed amendment.</p>	
003327 - 003800	<p>Chairman Mr Charles MOK Administration</p>	<p>Mr Charles MOK suggested that the Administration should explore the use of information technology for streamlining the voting process. In response, the Administration agreed that computerization of the electoral process should be the way forward. However, technical difficulties that might be encountered in actual operation, such as the availability of proper IT infrastructure and network coverage of the polling stations, the risks involved in setting up IT facilities and computer network systems in a large number of polling stations within a short time period, IT security issues, etc. must be properly addressed.</p>	
003801 - 005111	<p>Chairman Ms Starry LEE Mr Holden CHOW Administration</p>	<p>Mr Holden CHOW expressed support for the Administration's latest proposed amendments to the definition of "identity document" under the five Amendment Regulations.</p> <p>Ms Starry LEE supplemented that the Administration should address other electoral issues which had aroused wide public concerns, such as complaints that some electors had inadvertently given up their voting right in the District Council (second) functional constituency ("DC (second) FC") when filling in the voter registration form, the voting eligibility of Hong Kong permanent residents residing in the Mainland, and the "abandonment of election" announced by a few candidates after the close of the nomination period during the 2016 LegCo General Election. The Administration briefed members that the voter registration forms had already been revised such that when registering as an elector, the applicant would also become</p>	

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		<p>an elector in the DC (second) FC unless he/she expressly indicated otherwise. REO would also send letters to invite those eligible electors who had not registered as electors in the DC (second) FC to so register timely, in due course. As regards the voting arrangements for Hong Kong permanent residents residing in the Mainland, the Administration would look into the matter in detail and consider the complex issues involved. On the so-called "abandonment of election", the Administration noted that the concern was more about election expenses arrangement than the "abandonment of election" per se, which was difficult to define. Precisely, candidates who publicly declared "abandonment of election" were still required to observe all the requirements under the electoral legislation, including the provisions regarding election expenses. Nonetheless, the Administration would examine whether and how best to address the issue.</p>	
005112 - 005525	<p>Chairman Assistant Legal Adviser Administration</p>	<p><u>Examination of the provisions of the five Amendment Regulations</u></p> <p>Quoting section 50(1A) of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D) as an example, Legal Adviser to the Subcommittee enquired about the reasons for including the word "valid" before a HKSAR Passport and an identity book for a seaman in the proposed new sections of the five regulations, but not for other identity documents (e.g. HKID) referred to in the same new sections. The Administration advised that as no expiry date was shown on other identity documents, it was not necessary to include the word "valid" before those identity documents in the proposed new sections of the five regulations.</p> <p>Referring to the Administration's latest proposed amendments to Cap. 541D, Legal Adviser to the Subcommittee enquired about the justifications for amending paragraph (f)(i) of the new section 50(1A) to include an acknowledgement of application for HKID. He noted that similar amendments were proposed to the other four regulations under the Electoral Affairs Commission Ordinance (Cap. 541).</p>	

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		<p>The Administration replied that having considered members' suggestions, the Administration agreed that the reference to "identity document" in the provisions concerned could be changed to specific references to the identity documents that could be accepted by PROs in issuing ballot paper(s) to electors. As such, the Administration proposed to accordingly amend provisions in respect of LegCo, DC, Election Committee Subsector and Chief Executive Elections to specify clearly that the document evidencing a report to a police officer of the loss or destruction of an elector's "identity document" should be in respect of the loss or destruction of his/her (i) HKID, (ii) Certificate of Exemption or (iii) an acknowledgement of application for HKID (a person who had lost the acknowledgement of application for HKID would similarly be unable to produce his/her HKID in applying for ballot paper(s)). For the same reason, the Administration recommended to amend the relevant provision in respect of the Rural Representative Elections to include reference to the acknowledgement of application for HKID as well.</p>	
005526 - 010258	<p>Chairman Dr Helena WONG Administration</p>	<p>Dr Helena WONG suggested that the Administration should take measures to help prisoners register as electors, such as setting up voter registration counters in prisons. The Chairman suggested that relevant issues could be further discussed by the Panel on Constitutional Affairs.</p>	
010259 - 010613	<p>Chairman Administration Dr Helena WONG</p>	<p>Members noted the submission provided by Dynamic Island.</p> <p>Closing remarks</p>	