

立法會

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

Background brief prepared by the Legislative Council Secretariat

Purpose

This paper provides background information on the proposed amendments to five regulations under the Electoral Affairs Commission Ordinance (Cap. 541) ("EACO"). It also gives a brief account of previous discussion of the Panel on Constitutional Affairs ("the Panel") on the subject.

Background

2. At present, section 50(1) of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D) stipulates that the Presiding Officer ("PRO") in a Legislative Council ("LegCo") election must not give a ballot paper to a person unless PRO is satisfied, after inspection of the person's identity document¹ or any other document showing that person's name and photograph², that he/she is the person registered in the Final Register ("FR") as claimed.

¹ Section 2 of Cap. 541D stipulates that "identity document" has the meaning assigned to it by section 3(1) of the Legislative Council Ordinance (Cap. 542) ("LCO"); and section 3(1) of LCO stipulates that "identity document" means:

- (a) an identity card issued to a person under the Registration of Persons Ordinance (Cap. 177); or
- (b) a document issued to a person under regulations in force under that Ordinance certifying that the person is exempt from being required to register under that Ordinance; or
- (c) any other document issued to a person that is acceptable to the Electoral Registration Officer as proof of the person's identity.

² According to the relevant LegCo Brief, the existing legislation does not specify precisely the specific forms or types of documents that PRO may accept for the purpose of being satisfied as to whether a person is the elector registered in FR as claimed. The Administration considers that different practices among different PROs as to what "any other document showing that person's name and photograph" is considered acceptable would create inconsistency and lead to possible disputes.

3. In the 2016 LegCo General Election, there were media reports that a candidate and an elector were able to collect ballot papers by only producing photocopies of their Hong Kong Identity Cards ("HKIDs") on the polling day. The Electoral Affairs Commission ("EAC") issued a press release in the afternoon of the polling day clarifying that under the existing legislation, an elector is required to produce a proper identity document in applying for ballot paper(s), but that document is not restricted to an HKID only. However, a ballot paper will not be issued to an elector who can only produce a photocopy of an HKID. According to the Administration, the Registration and Electoral Office ("REO") also reminded all polling staff of the same at the same time.

4. In January 2017, EAC published the Report on the 2016 LegCo General Election ("EAC Report"). EAC Report contains a review of relevant electoral arrangements and improvement measures for future elections. One of the recommendations of the EAC Report is that the relevant authority should consider amending the legislation to set out expressly that an elector must produce the original copy of his/her HKID before a ballot paper can be issued.

The five Amendment Regulations (L.N. 129 to L.N. 133 of 2017)

5. On 19 June 2017, EAC made five Amendment Regulations to amend five regulations under EACO. The amendments aim to implement the aforementioned EAC's recommendation that an elector must produce the original of his/her HKID before ballot paper(s) can be issued to him/her, and to provide for alternative measures in case such an original cannot be produced and arrangements for dedicated polling stations situated in prisons. Details of the Administration's proposals are set out in paragraphs 7 to 12 of the LegCo Brief (File Ref. REO 14-32/7 (Con)).

6. Subject to negative vetting by LegCo, the five Amendment Regulations will come into operation on 1 December 2017.

Discussion of the Panel on Constitutional Affairs

7. The Administration reported to the Panel on 25 January 2017 on the major findings and recommendations in the EAC Report, including EAC's recommendation to amend the legislation to set out expressly that an elector must produce the original copy of his/her HKID before a ballot paper could be issued. The concerns raised by members are set out in ensuing paragraphs.

8. Hon CHAN Chi-chuen expressed concern about the media reports that a candidate and an elector were able to collect ballot papers by only producing

photocopies of their HKIDs on the polling day. He asked whether similar cases had occurred in the past and whether relevant workflow had been reviewed to prevent recurrence of similar incidents. REO advised that this had not occurred before and it was believed that the incident was an isolated case. REO explained that under the existing legislation, an elector was required to produce a proper identity document when obtaining ballot paper(s), but that document was not restricted to HKID. If an elector produced HKID or the Hong Kong Special Administrative Region Passport, ballot papers should be issued to him/her. However, if an elector could only produce other government documents carrying his/her name and photograph (e.g. Senior Citizen Card), that person must also produce a copy of his/her HKID at the same time.

9. Dr Hon CHENG Chung-tai asked that apart from Senior Citizen Cards, whether student cards or personalized Octopus cards would also be accepted. He also asked whether the Administration would consider introducing legislative amendments to stipulate that a ballot paper would be issued to an elector only when he/she produced his/her HKID. The Administration advised that it was open to any view of members and the public and was willing to consider any suggestion in this regard.

Relevant documents

10. A list of the relevant papers available on the LegCo website is in the **Appendix**.

Appendix

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

Committee	Date of meeting	Paper
Panel on Constitutional Affairs	25.1.2017 (Item IV)	Agenda Minutes Electoral Affairs Commission Report on the 2016 Legislative Council General Election

Council Business Division 2
Legislative Council Secretariat
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