

Electoral Legislation (Miscellaneous Amendments) Bill 2018

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A BILL

To

Amend certain electoral legislation to increase the maximum penalties for certain offences relating to registration of electors or voters; to streamline the mechanism for appeals, claims and objections relating to registration of electors or voters; to introduce an exemption from criminal liability for incurring election expenses for publishing election advertisements on the Internet; to replace the stamping requirement for certain ballot papers; to improve the counting process; to clarify who may instruct the Director of Accounting Services to return or forfeit election deposits; to broaden the eligibility criteria of Revising Officers; 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 and commencement

- (1) This Ordinance may be cited as the Electoral Legislation (Miscellaneous Amendments) Ordinance 2018.

- (2) Subject to subsection (3), this Ordinance comes into operation on the day on which it is published in the Gazette.
- (3) The provisions specified in subsection (4) come into operation on—
 - (a) 1 February 2019; or
 - (b) if the day on which this Ordinance is published in the Gazette is later than 1 February 2019—the day on which this Ordinance is published in the Gazette.
- (4) The provisions are—
 - (a) Division 4 of Part 2;
 - (b) Division 2 of Part 3;
 - (c) Division 4 of Part 5;
 - (d) Division 3 of Part 8;
 - (e) Subdivision 4 of Division 1 of Part 9;
 - (f) Subdivision 2 of Division 2 of Part 9;
 - (g) Subdivision 2 of Division 3 of Part 9; and
 - (h) Subdivision 3 of Division 4 of Part 9.

2. Enactments amended

The enactments specified in Parts 2 to 9 are amended as set out in those Parts.

Part 2

Increasing Maximum Penalties for Certain Offences Relating to Registration of Electors or Voters

Division 1—Electoral Affairs Commission Ordinance (Cap. 541)

3. Section 7 amended (regulations)

Section 7(5)—

Repeal

“level 2 and imprisonment not exceeding 6 months”

Substitute

“level 3 and imprisonment not exceeding 2 years”.

Division 2—Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541 sub. leg. A)

4. Section 22 amended (offences and penalties)

Section 22(1) and (2)—

Repeal

“level 2 and to imprisonment for 6 months”

Substitute

“level 3 and to imprisonment for 2 years”.

**Division 3—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)**

5. Section 42 amended (offences and penalties)

(1) Section 42(1) and (2)—

Repeal

“level 2 and to imprisonment for 6 months”

Substitute

“level 3 and to imprisonment for 2 years”.

(2) Section 42(7) and (8)—

Repeal

everything after “that other person”

Substitute

“also commits the offence.”.

**Division 4—Electoral Affairs Commission (Registration of
Electors) (Rural Representative Election) Regulation (Cap.
541 sub. leg. K)**

6. Section 32 amended (offences and penalties)

Section 32(1) and (2)—

Repeal

“level 2 and to imprisonment for 6 months”

Substitute

“level 3 and to imprisonment for 2 years”.

Part 3

Streamlining Mechanism for Appeals, Claims and Objections Relating to Registration of Electors or Voters

Division 1—Registers for Geographical Constituencies, Functional Constituencies and Election Committee Subsectors

Subdivision 1—Legislative Council Ordinance (Cap. 542)

7. **Section 34 amended (right of appeal to Revising Officer against decisions of Electoral Registration Officer)**

After section 34(2)—

Add

“(2A) A Revising Officer may determine an appeal without a hearing on the basis of written submissions only.

(2B) Subsections (3) and (4) apply if a hearing is held for an appeal.”.

Subdivision 2—Chief Executive Election Ordinance (Cap. 569)

8. **Schedule, section 48 amended (right of appeal to Revising Officer against decisions of Electoral Registration Officer)**

The Schedule, after section 48(2)—

Add

“(2A) A Revising Officer may determine an appeal without a hearing on the basis of written submissions only.

- (2B) Subsections (3) and (4) apply if a hearing is held for an appeal.”.

Subdivision 3—Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541 sub. leg. A)

9. Section 16 amended (Electoral Registration Officer to deliver copies of notices of objection and notices of claim to Revising Officer)

- (1) Section 16(3)(a)—

Repeal

“2 September”

Substitute

“29 August”.

- (2) Section 16(3)(b)—

Repeal

“2 July”

Substitute

“29 June”.

- (3) After section 16(3)—

Add

- “(4) The Electoral Registration Officer, when delivering to the Revising Officer a copy of a notice of objection, must, in relation to the notice—

- (a) inform the Revising Officer whether one or more of the conditions specified in subsection (6) are met; and

- (b) if one or more of the conditions specified in subsection (6) are met—request the Revising Officer to determine the objection without a hearing on the basis of written submissions only.
- (5) The Electoral Registration Officer, when delivering to the Revising Officer a copy of a notice of claim, must, in relation to the notice—
 - (a) inform the Revising Officer whether one or more of the conditions specified in subsection (7) are met; and
 - (b) if one or more of the conditions specified in subsection (7) are met—request the Revising Officer to determine the claim without a hearing on the basis of written submissions only.
- (6) For the purposes of subsection (4), the conditions are—
 - (a) the notice of objection does not state any ground on which the objection is made;
 - (b) the notice of objection does not state a ground on which the objection is made that concerns the eligibility of a registered person (within the meaning of section 14) to be registered—
 - (i) in a provisional register; or
 - (ii) in a particular section or subsection of a provisional register;
 - (c) the subject matter of the objection involves only a clerical error made in compiling or printing a provisional register.
- (7) For the purposes of subsection (5), the conditions are—

- (a) the notice of claim does not state any ground on which the claim is made;
- (b) the notice of claim does not state a ground on which the claim is made that concerns—
 - (i) the eligibility of the person lodging the notice of claim (*claimant*) to be registered—
 - (A) in a provisional register; or
 - (B) in a particular section or subsection of a provisional register; or
 - (ii) an entry relating to the claimant in a provisional register;
- (c) the subject matter of the claim involves only a clerical error made in compiling or printing a provisional register.”.

**Subdivision 4—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)**

10. **Section 32 amended (Electoral Registration Officer to deliver copies of notices of objection, notices of claim and notices of appeal to Revising Officer)**
- (1) Section 32(2)(ab)(i)—
 - Repeal**
 - “2 September”
 - Substitute**
 - “29 August”.
 - (2) Section 32(2)(ab)(ii)—

Repeal

“2 July”

Substitute

“29 June”.

- (3) Section 32(3)(b)(i)—

Repeal

“2 September” (wherever appearing)

Substitute

“29 August”.

- (4) Section 32(3)(b)(ii)—

Repeal

“2 July”

Substitute

“29 June”.

- (5) After section 32(3)—

Add

- “(4) The Electoral Registration Officer, when delivering to the Revising Officer a copy of a notice of objection, must, in relation to the notice—
- (a) inform the Revising Officer whether one or more of the conditions specified in subsection (6) are met; and
 - (b) if one or more of the conditions specified in subsection (6) are met—request the Revising Officer to determine the objection without a hearing on the basis of written submissions only.

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- (5) The Electoral Registration Officer, when delivering to the Revising Officer a copy of a notice of claim, must, in relation to the notice—
- (a) inform the Revising Officer whether one or more of the conditions specified in subsection (7) are met; and
 - (b) if one or more of the conditions specified in subsection (7) are met—request the Revising Officer to determine the claim without a hearing on the basis of written submissions only.
- (6) For the purposes of subsection (4), the conditions are—
- (a) the notice of objection does not state any ground on which the objection is made;
 - (b) the notice of objection does not state a ground on which the objection is made that concerns the eligibility of a registered person (within the meaning of section 30) to be registered—
 - (i) in a functional constituencies provisional register or a subsector provisional register; or
 - (ii) in a particular part or section of a functional constituencies provisional register or a subsector provisional register;
 - (c) the subject matter of the objection involves only a clerical error made in compiling or printing a functional constituencies provisional register or a subsector provisional register.
- (7) For the purposes of subsection (5), the conditions are—

- (a) the notice of claim does not state any ground on which the claim is made;
- (b) the notice of claim does not state a ground on which the claim is made that concerns—
 - (i) the eligibility of the person lodging the notice of claim (*claimant*) to be registered—
 - (A) in a functional constituencies provisional register or a subsector provisional register; or
 - (B) in a particular part or section of a functional constituencies provisional register or a subsector provisional register; or
 - (ii) an entry relating to the claimant in a functional constituencies provisional register or a subsector provisional register;
- (c) the subject matter of the claim involves only a clerical error made in compiling or printing a functional constituencies provisional register or a subsector provisional register.”.

Subdivision 5—Registration of Electors (Appeals) Regulation (Cap. 542 sub. leg. B)

11. Section 1 amended (interpretation)

- (1) Section 1, English text, definition of *objection*—
Repeal the full stop
Substitute a semicolon.
- (2) Section 1, Chinese text, definition of 團體選民—
Repeal the full stop

Substitute a semicolon.

(3) Section 1—

Add in alphabetical order

“***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 of the office of a Revising Officer;

provisional register (臨時選民登記冊) means—

- (a) a provisional register of geographical constituencies compiled under section 32(1)(a)(i) or (1A)(a)(i) of the Legislative Council Ordinance (Cap. 542); or
- (b) a provisional register of functional constituencies compiled under section 32(1)(a)(ii) or (1A)(a)(ii) of that Ordinance;

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 day that is not—

- (a) a general holiday; or
- (b) a Saturday.”.

12. Section 1A amended (effect of inclement weather warning on date and period)

(1) Section 1A—

Repeal subsection (1).

(2) Section 1A(4), Table 1, column 2—

Repeal

“4(a)”

Substitute

“4(3)(a)(ii)”.

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

Repeal

“4(b)”

Substitute

“4(3)(a)(i)”.

- (4) Section 1A(8), Table 3—

Repeal

“11 September	sections 4(a) and 6(2)(a)
11 July	sections 4(b) and 6(2)(b)”

Substitute

“11 July	sections 4(3)(a)(i) and 6(2)(b) and (2AA)(a)(ii)
11 September	sections 4(3)(a)(ii) and 6(2)(a) and (2AA)(b)(ii)
7 July	section 6(2AA)(a)
7 September	section 6(2AA)(b)”.

13. Section 2 amended (fixing of hearing and notifying the appellant thereof)

- (1) Before section 2(1)—

Add

“(1A) This section does not apply to a claim or an objection if the Revising Officer directs under section 2A(2) that the claim or objection be determined without a hearing on the basis of written submissions only.”.

(2) Section 2(1)(b)—

Repeal

“registered”.

(3) Section 2(2)(c)(iii)—

Repeal

“; and”

Substitute a semicolon.

(4) Section 2(2)(d)—

Repeal

“stand.”

Substitute

“stand; and”.

(5) After section 2(2)(d)—

Add

“(e) also in the case of a notice sent to an appellant, state that if the appellant—

(i) does not appear at the hearing; and

(ii) is not represented at the hearing by a legal practitioner or any other person (authorized in writing by the appellant),

the Revising Officer may make a ruling dismissing the appeal, claim or objection, whether or not the appellant has made representations in writing regarding the appeal, claim or objection.”.

- (6) Section 2(3)(a)—

Repeal

“2014 and ending on 2 September 2015”

Substitute

“2018 and ending on 29 August 2019”.

- (7) Section 2(3)(a)—

Repeal

“2015 and 11 September 2015”

Substitute

“2019 and 11 September 2019”.

- (8) Section 2(3)(b)—

Repeal

“3 September in any year subsequent to 2014”

Substitute

“30 August in any year subsequent to 2018”.

- (9) Section 2(3)(b)—

Repeal

“2 July”

Substitute

“29 June”.

- (10) Section 2(3)(c)—

Repeal

“3 July in any year subsequent to 2014”

Substitute

“30 June in any year subsequent to 2018”.

- (11) Section 2(3)(c)(i)—

Repeal

“2 September”

Substitute

“29 August”.

- (12) Section 2(3)(c)(ii)—

Repeal

“2 July”

Substitute

“29 June”.

- (13) After section 2(5)—

Add

“(5A) Without limiting subsection (5), if the appellant—

- (a) does not appear at the hearing; and
- (b) is not represented at the hearing by a legal practitioner or any other person (authorized in writing by the appellant),

the Revising Officer may make a ruling dismissing the appeal, claim or objection, whether or not the appellant has made representations in writing regarding the appeal, claim or objection.”.

- (14) Section 2—

Repeal subsection (6).

14. Sections 2A and 2B added

After section 2—

Add

“2A. Revising Officer to determine certain claims or objections based on written submissions

- (1) This section applies if—
 - (a) the Revising Officer receives a copy of a notice of claim or a notice of objection from the Electoral Registration Officer; and
 - (b) the Electoral Registration Officer requests under a specified provision that the claim or objection be determined without a hearing on the basis of written submissions only.
- (2) The Revising Officer must direct that the claim or objection be determined without a hearing on the basis of written submissions only.
- (3) The Revising Officer must send by post a notice specified in subsection (4) to the party to whom the claim or objection relates—
 - (a) if the provisional register concerned is compiled for a year that is not a District Council election year—not later than 29 June in that year; or
 - (b) if the provisional register concerned is compiled for a District Council election year—not later than 29 August in that year.
- (4) The notice must state that—
 - (a) the claim or objection is to be determined by the Revising Officer without a hearing on the basis of written submissions only;
 - (b) the party may make written representations regarding the claim or objection and submit them by post or by hand at the address, and by the date, specified in the notice; and

- (c) after the claim or objection is determined, the party will be notified of the ruling of the Revising Officer by the date specified in section 3.
- (5) The Revising Officer must make a ruling either allowing or dismissing the claim or objection.
- (6) In this section—
party (一方) means—
 - (a) in relation to a claim—the person who made the claim; or
 - (b) in relation to an objection—
 - (i) the person who made the objection; or
 - (ii) the person in respect of whom the objection is made;

specified provision (指明條文) means—

- (a) section 16(4) or (5) of the GC Registration Regulation; or
- (b) section 32(4) or (5) of the FC Registration Regulation.

2B. Appellant to provide sufficient information

- (1) An appellant must provide sufficient information about the appeal, claim or objection concerned to inform the following persons of the grounds of the appeal, claim or objection—
 - (a) the Revising Officer;
 - (b) the Electoral Registration Officer;
 - (c) in relation to an objection—the person in respect of whom the objection is made.
- (2) The information may be provided—

- (a) in the notice of appeal, notice of claim or notice of objection (as appropriate);
- (b) if a hearing is held for the appeal, claim or objection—in the representations referred to in section 2(2)(c); or
- (c) if the claim or objection is determined without a hearing on the basis of written submissions only—in the written representations referred to in section 2A(4)(b).”.

15. Sections 3 and 4 substituted

Sections 3 and 4—

Repeal the sections

Substitute

“3. Appellant and person in respect of whom objection is made to be notified of rulings etc.

- (1) If a decision of the Electoral Registration Officer stands under section 2(5)(a), the Revising Officer must notify the party concerned of that fact.
- (2) If the Revising Officer makes a ruling under section 2(5)(b) or (5A) or section 2A(5), the Revising Officer must notify the party concerned of the ruling.
- (3) A notification under subsection (1) or (2) must be sent to the party by post.
- (4) A notification in relation to a ruling made under section 2A(5) must be sent—
 - (a) if the provisional register concerned is compiled for a year that is not a District Council election year—not later than 7 July in that year; or

- (b) if the provisional register concerned is compiled for a District Council election year—not later than 7 September in that year.

(5) In this section—

party (一方) means—

- (a) in relation to an appeal—the corporate elector who made the appeal;
- (b) in relation to a claim—the person who made the claim; or
- (c) in relation to an objection—
 - (i) the person who made the objection; or
 - (ii) the person in respect of whom the objection is made.

4. Electoral Registration Officer to be notified of rulings made under section 2(5) and (5A) etc.

- (1) If a hearing is held under section 2 for an appeal, a claim or an objection, the Revising Officer must, in accordance with subsection (3), give the Electoral Registration Officer written notice—
 - (a) that the decision of the Electoral Registration Officer in respect of the appeal, claim or objection is to stand under section 2(5)(a); or
 - (b) of the ruling of the Revising Officer made under section 2(5)(b) or (5A) in respect of the appeal, claim or objection.
- (2) If a hearing is held for—
 - (a) a review under section 6(1)(a) of a ruling in respect of an appeal, a claim or an objection; or

- (b) a review under section 6(1)(b) of a ruling in respect of a claim or an objection,
the Revising Officer must, in accordance with subsection (3), give the Electoral Registration Officer written notice of the result of the review.
- (3) The Revising Officer must give the notice to the Electoral Registration Officer—
 - (a) after a hearing in connection with a claim or an objection is concluded—
 - (i) during the period beginning on 1 June in a year that is not a District Council election year and ending on 11 July in that year—not later than 17 July in that year; or
 - (ii) during the period beginning on 1 August in a District Council election year and ending on 11 September in that year—not later than 17 September in that year; or
 - (b) after a hearing in connection with an appeal is concluded—
 - (i) during the period referred to in section 2(4)(a)—on a date at least 3 working days before the polling date mentioned in that section;
 - (ii) during the period referred to in section 2(4)(b)(ii), (iii) or (iv)(B)—not later than 17 July in the relevant year; or
 - (iii) during the period referred to in section 2(4)(b)(i) or (iv)(A)—not later than 17 September in the relevant year.”.

16. Section 4A added

Before section 5—

Add

“4A. Electoral Registration Officer to be notified of rulings made under section 2A(5)

If a ruling is made under section 2A(5), the Revising Officer must notify the Electoral Registration Officer of the ruling—

- (a) if the provisional register concerned is compiled for a year that is not a District Council election year—not later than 7 July in that year; or
- (b) if the provisional register concerned is compiled for a District Council election year—not later than 7 September in that year.”.

17. Section 6 amended (review of rulings by Revising Officer)

(1) Section 6(1)—

Repeal

everything after “objection”

Substitute

“is made—

- (a) review a ruling made under section 2(5)(b) or (5A), and for that purpose, rehear the matter wholly or in part and reverse or confirm the ruling; or
- (b) review a ruling made under section 2A(5), and for that purpose, hold a hearing and reverse or confirm the ruling.”.

(2) Section 6(2), after “2(5)(b)”—

Add

“or (5A)”.

- (3) After section 6(2)—

Add

“(2AA) A ruling under section 2A(5)—

- (a) if made during the period beginning on 1 June in a year that is not a District Council election year and ending on 7 July in that year—may only be reviewed during the period—
 - (i) beginning on 1 June in that year; and
 - (ii) ending on 11 July in that year; or
 - (b) if made during the period beginning on 1 August in a District Council election year and ending on 7 September in that year—may only be reviewed during the period—
 - (i) beginning on 1 August in that year; and
 - (ii) ending on 11 September in that year.”.
- (4) Section 6(3), after “2(5)(b)” —

Add

“or (5A) or section 2A(5)”.

- (5) Section 6—

Repeal subsection (4).

Subdivision 6—Election Committee (Registration) (Voters for Subsectors) (Members of Election Committee) (Appeals) Regulation (Cap. 569 sub. leg. B)

18. Section 2 amended (interpretation)

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

Repeal the full stop

Substitute a semicolon.

- (2) Section 2—

Add in alphabetical order

“***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 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);

working day (工作日) means a day that is not—

- (a) a general holiday; or
- (b) a Saturday.”.

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

- (1) Section 2A—

Repeal subsection (1).

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

Repeal

“5(1)(aa) and 7(2)(aa)”

Substitute

“5(3)(a)(ii) and 7(2)(aa) and (2AA)(b)(ii)”.

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

Repeal

“5(1)(ab) and 7(2)(ab)”

Substitute

“5(3)(a)(i) and 7(2)(ab) and (2AA)(a)(ii)”.

- (4) Section 2A(8), Table 3—

Repeal

“11 September	sections 5(1)(aa) and 7(2)(aa)
11 July	sections 5(1)(ab) and 7(2)(ab)”

Substitute

“11 July	sections 5(3)(a)(i) and 7(2)(ab) and (2AA)(a)(ii)
11 September	sections 5(3)(a)(ii) and 7(2)(aa) and (2AA)(b)(ii)
7 July	section 7(2AA)(a)
7 September	section 7(2AA)(b)”.

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

- (1) Before section 3(1)—

Add

“(1A) This section does not apply to a claim or an objection if the Revising Officer directs under section 3A(2) that the claim or objection be determined without a hearing on the basis of written submissions only.”.

- (2) Section 3(1)(b)—

Repeal

“registered”.

- (3) Section 3(2)(c)(iii)—

Repeal

“; and”

Substitute a semicolon.

- (4) Section 3(2)(d)—

Repeal

“stand.”

Substitute

“stand; and”.

- (5) After section 3(2)(d)—

Add

“(e) also in the case of a notice sent to an appellant, state that if the appellant—

- (i) does not appear at the hearing; and
- (ii) is not represented at the hearing by a legal practitioner or any other person (authorized in writing by the appellant),

the Revising Officer may make a ruling dismissing the appeal, claim or objection, whether or not the appellant has made representations in writing regarding the appeal, claim or objection.”.

- (6) Section 3(4)(ab)—

Repeal

“2014 and ending on 2 September 2015”

Substitute

“2018 and ending on 29 August 2019”.

- (7) Section 3(4)(ab)—

Repeal

“2015 and 11 September 2015”

Substitute

“2019 and 11 September 2019”.

- (8) Section 3(4)(b)—

Repeal

“3 September in any year subsequent to 2014”

Substitute

“30 August in any year subsequent to 2018”.

- (9) Section 3(4)(b)—

Repeal

“2 July”

Substitute

“29 June”.

- (10) Section 3(4)(c)—

Repeal

“3 July in any year subsequent to 2014”

Substitute

“30 June in any year subsequent to 2018”.

- (11) Section 3(4)(c)(i)—

Repeal

“2 September”

Substitute

“29 August”.

- (12) Section 3(4)(c)(ii)—

Repeal

“2 July”

Substitute

“29 June”.

(13) After section 3(6)—

Add

“(6A) Without limiting subsection (6), if the appellant—

(a) does not appear at the hearing; and

(b) is not represented at the hearing by a legal practitioner or any other person (authorized in writing by the appellant),

the Revising Officer may make a ruling dismissing the appeal, claim or objection, whether or not the appellant has made representations in writing regarding the appeal, claim or objection.”.

(14) Section 3—

Repeal subsection (7).

21. Sections 3A and 3B added

After section 3—

Add

“3A. Revising Officer to determine certain claims or objections based on written submissions

(1) This section applies if—

(a) the Revising Officer receives a copy of a notice of claim or a notice of objection from the Electoral Registration Officer;

- (b) the claim or objection is made in respect of a subsector provisional register; and
 - (c) the Electoral Registration Officer requests under a specified provision that the claim or objection be determined without a hearing on the basis of written submissions only.
- (2) The Revising Officer must direct that the claim or objection be determined without a hearing on the basis of written submissions only.
- (3) The Revising Officer must send by post a notice specified in subsection (4) to the party to whom the claim or objection relates—
 - (a) if the subsector provisional register concerned is compiled for a year that is not a District Council election year—not later than 29 June in that year; or
 - (b) if the subsector provisional register concerned is compiled for a District Council election year—not later than 29 August in that year.
- (4) The notice must state that—
 - (a) the claim or objection is to be determined by the Revising Officer without a hearing on the basis of written submissions only;
 - (b) the party may make written representations regarding the claim or objection and submit them by post or by hand at the address, and by the date, specified in the notice; and
 - (c) after the claim or objection is determined, the party will be notified of the ruling of the Revising Officer by the date specified in section 4.

(5) The Revising Officer must make a ruling either allowing or dismissing the claim or objection.

(6) In this section—

party (一方) means—

- (a) in relation to a claim—the person who made the claim; or
- (b) in relation to an objection—
 - (i) the person who made the objection; or
 - (ii) the person in respect of whom the objection is made;

specified provision (指明條文) means section 32(4) or (5) of the Regulation.

3B. Appellant to provide sufficient information

(1) An appellant must provide sufficient information about the appeal, claim or objection concerned to inform the following persons of the grounds of the appeal, claim or objection—

- (a) the Revising Officer;
- (b) the Electoral Registration Officer;
- (c) in relation to an objection—the person in respect of whom the objection is made.

(2) The information may be provided—

- (a) in the notice of appeal, notice of claim or notice of objection (as appropriate);
- (b) if a hearing is held for the appeal, claim or objection—in the representations referred to in section 3(2)(c); or

- (c) if the claim or objection is determined without a hearing on the basis of written submissions only—in the written representations referred to in section 3A(4)(b).”.

22. Sections 4 and 5 substituted

Sections 4 and 5—

Repeal the sections

Substitute

“4. Appellant and person in respect of whom objection is made to be notified of rulings etc.

- (1) If a decision of the Electoral Registration Officer stands under section 3(6)(a), the Revising Officer must notify the party concerned of that fact.
- (2) If the Revising Officer makes a ruling under section 3(6)(b) or (6A) or section 3A(5), the Revising Officer must notify the party concerned of the ruling.
- (3) A notification under subsection (1) or (2) must be sent to the party by post.
- (4) A notification in relation to a ruling made under section 3A(5) must be sent—
 - (a) if the subsector provisional register concerned is compiled for a year that is not a District Council election year—not later than 7 July in that year; or
 - (b) if the subsector provisional register concerned is compiled for a District Council election year—not later than 7 September in that year.

- (5) In this section—

party (一方) means—

- (a) in relation to an appeal—the corporate voter who made the appeal;
- (b) in relation to a claim—the person who made the claim; or
- (c) in relation to an objection—
 - (i) the person who made the objection; or
 - (ii) the person in respect of whom the objection is made.

5. Electoral Registration Officer to be notified of rulings made under section 3(6) and (6A) etc.

- (1) If a hearing is held under section 3 for an appeal, a claim or an objection, the Revising Officer must, in accordance with subsection (3), give the Electoral Registration Officer written notice—
 - (a) that the decision of the Electoral Registration Officer in respect of the appeal, claim or objection is to stand under section 3(6)(a); or
 - (b) of the ruling of the Revising Officer made under section 3(6)(b) or (6A) in respect of the appeal, claim or objection.
- (2) If a hearing is held for—
 - (a) a review under section 7(1)(a) of a ruling in respect of an appeal, a claim or an objection; or
 - (b) a review under section 7(1)(b) of a ruling in respect of a claim or an objection,the Revising Officer must, in accordance with subsection (3), give the Electoral Registration Officer written notice of the result of the review.

- (3) The Revising Officer must give the notice to the Electoral Registration Officer—
 - (a) after a hearing in connection with a claim or an objection in respect of a subsector provisional register is concluded—
 - (i) during the period beginning on 1 June in a year that is not a District Council election year and ending on 11 July in that year—not later than 17 July in that year; or
 - (ii) during the period beginning on 1 August in a District Council election year and ending on 11 September in that year—not later than 17 September in that year;
 - (b) after a hearing in connection with an appeal is concluded—
 - (i) during the period referred to in section 3(3)(a)—on a date at least 3 working days before the polling date mentioned in that section;
 - (ii) during the period referred to in section 3(3)(b)(ii), (iii) or (iv)(B)—not later than 17 July in the relevant year; or
 - (iii) during the period referred to in section 3(3)(b)(i) or (iv)(A)—not later than 17 September in the relevant year; or
 - (c) after a hearing in connection with a claim or an objection in respect of an Election Committee provisional register is concluded not later than the twentieth day after the date of publication mentioned in section 3(5)—not later than the twenty-first day after the date of publication.

- (4) Despite subsection (3)(c), if a hearing is postponed under section 2A or 3(5A) and concluded later than the twentieth day after the date of publication, the Revising Officer may give the notice to the Electoral Registration Officer on or before the next working day (which is not an inclement weather warning day) following the date on which the hearing is concluded.”.

23. Section 5A added

Before section 6—

Add

“5A. Electoral Registration Officer to be notified of rulings made under section 3A(5)

If a ruling is made under section 3A(5), the Revising Officer must notify the Electoral Registration Officer of the ruling—

- (a) if the subsector provisional register concerned is compiled for a year that is not a District Council election year—not later than 7 July in that year; or
- (b) if the subsector provisional register concerned is compiled for a District Council election year—not later than 7 September in that year.”.

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

- (1) Section 7(1)—

Repeal

everything after “objection”

Substitute

“is made—

- (a) review a ruling made under section 3(6)(b) or (6A), and for that purpose, rehear the matter wholly or in part and reverse or confirm the ruling; or
- (b) review a ruling made under section 3A(5), and for that purpose, hold a hearing and reverse or confirm the ruling.”.

(2) Section 7(2), after “3(6)(b)”—

Add

“or (6A)”.

(3) After section 7(2)—

Add

“(2AA) A ruling under section 3A(5)—

- (a) if made during the period beginning on 1 June in a year that is not a District Council election year and ending on 7 July in that year—may only be reviewed during the period—
 - (i) beginning on 1 June in that year; and
 - (ii) ending on 11 July in that year; or
- (b) if made during the period beginning on 1 August in a District Council election year and ending on 7 September in that year—may only be reviewed during the period—
 - (i) beginning on 1 August in that year; and
 - (ii) ending on 11 September in that year.”.

(4) Section 7(3), after “3(6)(b)”—

Add

“or (6A) or section 3A(5)”.

(5) Section 7—

Repeal subsection (4).

**Division 2—Amendments to Rural Representative Election
(Registration of Electors) (Appeals) Regulation (Cap. 576
sub. leg. A) in Relation to Registers for Existing Villages,
Indigenous Villages and Composite Indigenous Villages and
Market Towns**

25. Section 2 amended (fixing a hearing date and notifying the appellant)

After section 2(3)—

Add

“(3A) Without limiting subsections (2) and (3), a notice of hearing sent to an appellant must state that if the appellant—

(a) does not appear at the hearing; and

(b) is not represented at the hearing by a legal practitioner or an authorized representative,

the Revising Officer may make a ruling dismissing the claim or objection, whether or not the appellant has made representations in writing regarding the claim or objection.”.

26. Section 2A added

After section 2—

Add

“2A. Appellant to provide sufficient information

- (1) An appellant must provide sufficient information about the claim or objection concerned to inform the following persons of the grounds of the claim or objection—
 - (a) the Revising Officer;
 - (b) the Electoral Registration Officer;
 - (c) in relation to an objection—the person in respect of whom the objection is made.
- (2) The information may be provided—
 - (a) in the notice of claim or notice of objection (as appropriate); or
 - (b) in the representations referred to in section 2(2)(c).”.

27. Section 3 amended (disposal of appeal)

After section 3(2)—

Add

- “(3) Without limiting subsections (1) and (2), if the appellant—
- (a) does not appear at the hearing; and
 - (b) is not represented at the hearing by a legal practitioner or an authorized representative,
- the Revising Officer may make a ruling dismissing the claim or objection, whether or not the appellant has made representations in writing regarding the claim or objection.”.

28. Section 4 amended (Revising Officers notify parties of outcome of appeal)

Section 4(2) and (4), after “3(2)”—

Add

“or (3)”.

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

Section 7(1) and (2), after “3(2)”—

Add

“or (3)”.

Part 4

Amendment to Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) Relating to Persons other than Candidates and Election Expense Agents Incurring Election Expenses for Publishing Election Advertisements on Internet

30. **Section 23 amended (illegal conduct for persons other than candidates and election expense agents to incur election expenses)**

After section 23(1)—

Add

“(1A) However, subsection (1) does not apply if—

- (a) the person publishes an election advertisement on the Internet; and
- (b) the only election expenses incurred by the person for the purpose of publishing the advertisement are either or both of the following charges—
 - (i) electricity charges;
 - (ii) charges necessary for accessing the Internet.”.

Part 5

Replacing Stamping Requirement for Certain Ballot Papers

Division 1—Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541 sub. leg. D)

31. Section 37 amended (Chief Electoral Officer to carry out other duties relating to polling stations)

Section 37(2)—

Repeal

everything after “crossed out”

Substitute a full stop.

32. Section 37A added

After section 37—

Add

- “37A. Presiding Officer to display notice relating to deceased or disqualified candidates**

(1) This section applies if—

- (a) the name of, and other information relating to, a candidate (*applicable candidate*) on a ballot paper are crossed out under section 37(2); and
- (b) the ballot paper is used for polling at a polling station.

- (2) The Presiding Officer of the polling station must ensure that a notice specified in subsection (3) is displayed in a prominent place—
 - (a) if the polling station is not a dedicated polling station—outside the polling station; or
 - (b) if the polling station is a dedicated polling station—inside the polling station.
- (3) The notice must state that—
 - (a) the applicable candidate is—
 - (i) a deceased candidate regarding whom a declaration referred to in section 22A(3) has been made; or
 - (ii) a disqualified candidate regarding whom a declaration referred to in section 22B(3) has been made; and
 - (b) the name of, and other information relating to, the applicable candidate on the ballot paper are crossed out under section 37(2).”.

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

Section 49(13A)(b)—

Repeal

“in accordance with”

Substitute

“under”.

34. Section 80 amended (votes recorded on invalid ballot papers not to be counted)

Section 80(3)—

Repeal

everything after “solely”

Substitute

“because the name of, and other information relating to, a candidate on the ballot paper are crossed out under section 37(2).”.

Division 2—Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap. 541 sub. leg. F)

35. Section 40 amended (Chief Electoral Officer to carry out other duties relating to polling stations)

Section 40(2)—

Repeal

everything after “crossed out”

Substitute a full stop.

36. Section 40A added

After section 40—

Add

“40A. Presiding Officer to display notice relating to deceased or disqualified candidates

(1) This section applies if—

- (a) the name of, and other information relating to, a candidate (*applicable candidate*) on a ballot paper are crossed out under section 40(2); and
 - (b) the ballot paper is used for polling at a polling station.
- (2) The Presiding Officer of the polling station must ensure that a notice specified in subsection (3) is displayed in a prominent place—
 - (a) if the polling station is not a dedicated polling station—outside the polling station; or
 - (b) if the polling station is a dedicated polling station—inside the polling station.
- (3) The notice must state that—
 - (a) the applicable candidate is—
 - (i) a deceased candidate regarding whom a declaration referred to in section 24(3) has been made; or
 - (ii) a disqualified candidate regarding whom a declaration referred to in section 25(3) has been made; and
 - (b) the name of, and other information relating to, the applicable candidate on the ballot paper are crossed out under section 40(2).”.

37. Section 52 amended (form of ballot paper and order of appearance of names of candidates on ballot papers)

Section 52(8)(b)—

Repeal

“in accordance with”

Substitute

“under”.

38. Section 78 amended (votes recorded on invalid ballot papers not to be counted)

Section 78(3)—

Repeal

everything after “solely”

Substitute

“because the name of, and other information relating to, a candidate on the ballot paper are crossed out under section 40(2).”.

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

39. Section 37 amended (Chief Electoral Officer to carry out other duties relating to polling stations)

Section 37(2)—

Repeal

everything after “crossed out”

Substitute a full stop.

40. Section 37A added

After section 37—

Add

“37A. Presiding Officer to display notice relating to deceased or disqualified candidates

- (1) This section applies if—
 - (a) the name of, and other information relating to, a candidate (*applicable candidate*) on a ballot paper are crossed out under section 37(2); and
 - (b) the ballot paper is used for polling at a polling station.
- (2) The Presiding Officer of the polling station must ensure that a notice specified in subsection (3) is displayed in a prominent place—
 - (a) if the polling station is not a dedicated polling station—outside the polling station; or
 - (b) if the polling station is a dedicated polling station—inside the polling station.
- (3) The notice must state that—
 - (a) the applicable candidate is—
 - (i) a deceased candidate regarding whom a declaration referred to in section 20(3) has been made; or
 - (ii) a disqualified candidate regarding whom a declaration referred to in section 21(3) has been made; and
 - (b) the name of, and other information relating to, the applicable candidate on the ballot paper are crossed out under section 37(2).”.

41. Section 49 amended (form of ballot papers and order of appearance of names of candidates on ballot papers)

Section 49(8)(b)—

Repeal

“in accordance with”

Substitute

“under”.

42. Section 77 amended (votes recorded on invalid ballot papers not to be counted)

Section 77(3)—

Repeal

everything after “solely”

Substitute

“because the name of, and other information relating to, a candidate on the ballot paper are crossed out under section 37(2).”.

Division 4—Electoral Procedure (Rural Representative Election) Regulation (Cap. 541 sub. leg. L)

43. Section 33 amended (miscellaneous arrangements relating to voting)

(1) Section 33(3)—

Repeal

everything after “crossed out”

Substitute a full stop.

(2) After section 33(3)—

Add

- “(3A) If the name of, and other information relating to, a candidate (*applicable candidate*) on a ballot paper are crossed out under subsection (3), the Presiding Officer of the polling station at which the ballot paper is used for polling must ensure that a notice specified in subsection (3B) is displayed in a prominent place—
- (a) if the polling station is not a dedicated polling station—outside the polling station; or
 - (b) if the polling station is a dedicated polling station—inside the polling station.
- (3B) The notice must state that—
- (a) the applicable candidate is—
 - (i) a deceased candidate regarding whom a declaration referred to in section 17(3) has been made; or
 - (ii) a disqualified candidate regarding whom a declaration referred to in section 18(3) has been made; and
 - (b) the name of, and other information relating to, the applicable candidate on the ballot paper are crossed out under subsection (3).”.

44. Section 63 amended (determination of validity of questionable ballot papers)

Section 63(9)—

Repeal

everything after “solely”

Substitute

“because the name of, and other information relating to, a candidate on the ballot paper are crossed out under section 33(3).”.

Part 6

Improving Counting Process

Division 1—Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541 sub. leg. D)

45. Section 75 amended (counting of votes for geographical constituencies)

Section 75(7)(b)—

Repeal

“and (i)”

Substitute

“, (i) and (ia)”.

46. Section 76 amended (counting of votes for special functional constituencies)

(1) Section 76(6)(a)(ii)—

Repeal

“56(2)”

Substitute

“56(2A)”.

(2) Section 76(6)(b), after “(f)” —

Add

“, (ga)”.

47. Section 77A amended (counting of votes for District Council (second) functional constituency)

Section 77A(4)(b)—

Repeal

“and (i)”

Substitute

“, (i) and (ia)”.

48. Section 80 amended (votes recorded on invalid ballot papers not to be counted)

(1) After section 80(1)(g)—

Add

“(ga) an FC ballot paper for a special functional constituency which is not marked in accordance with section 56(2);”.

(2) Section 80(1)(h)—

Repeal

“56(2)”

Substitute

“56(2A)”.

(3) Section 80(1)(i)—

Repeal

“and”.

(4) After section 80(1)(i)—

Add

“(ia) a GC ballot paper or an FC ballot paper for the District Council (second) functional constituency—

- (i) on which the vote recorded is for a single candidate list and the name of, and other information relating to, the candidate on the list are crossed out under section 37(2); or
- (ii) on which the vote recorded is for a multiple candidates list and the names of, and other information relating to, all the candidates on the list are crossed out under section 37(2);”.

- (5) Section 80(2)—

Repeal

“56(2)”

Substitute

“56(2A)”.

- (6) Section 80(3)—

Repeal

“For the avoidance of doubt”

Substitute

“Subject to subsection (1)(ia)”.

- (7) Section 80(4)(a)—

Repeal

“(ha), (hb), (hc) or (i)”

Substitute

“(ga), (ha), (hb), (hc), (i) or (ia)”.

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

- (1) Section 81(2)(b)(ii)—

Repeal

“56(2)”

Substitute

“56(2A)”.

- (2) Section 81(3)—

Repeal

“56(2)” (wherever appearing)

Substitute

“56(2A)”.

- (3) Section 81(6)(h)—

Repeal

“and”.

- (4) Section 81(6)—

Repeal paragraph (i)

Substitute

- “(i) for a GC ballot paper or an FC ballot paper for the District Council (second) functional constituency—a ballot paper on which votes for more than one list of candidates are recorded;
- (j) for a GC ballot paper or an FC ballot paper for the District Council (second) functional constituency, a ballot paper on which—
 - (i) a vote for a single candidate list is recorded and the name of, and other information relating to, the candidate on the list are crossed out under section 37(2); or
 - (ii) a vote for a multiple candidates list is recorded and the names of, and other information relating to, all the candidates on the list are crossed out under section 37(2).”.

Division 2—Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap. 541 sub. leg. F)

50. Section 76 amended (counting of votes)

Section 76(5)(b)—

Repeal

“and (i)”

Substitute

“, (ha) and (i)”.

51. Section 78 amended (votes recorded on invalid ballot papers not to be counted)

(1) Section 78(1)(h)—

Repeal

“and”.

(2) After section 78(1)(h)—

Add

“(ha) on which a vote for a candidate is recorded and the name of, and other information relating to, the candidate are crossed out under section 40(2);”.

(3) Section 78(2)(a)—

Repeal

“or (i)”

Substitute

“, (ha) or (i)”.

(4) Section 78(3)—

Repeal

“For the avoidance of doubt”

Substitute

“Subject to subsection (1)(ha),”.

52. Section 79 amended (Presiding Officer to make decisions on questionable ballot papers)

(1) Section 79(6)(h)—

Repeal

“and”.

(2) After section 79(6)(h)—

Add

“(ha) a ballot paper on which a vote for a candidate is recorded and the name of, and other information relating to, the candidate are crossed out under section 40(2);”.

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

53. Section 56 amended (how ballot papers are to be marked)

Section 56(1)—

Repeal

“shading”

Substitute

“filling in black”.

54. Section 74A amended (invalid and questionable ballot papers)

(1) Section 74A(a)(ii)—

Repeal

“section 56”

Substitute

“section 56(1) or (2)”.

- (2) Section 74A(b)—

Repeal

“and (f)”

Substitute

“, (f) and (ga)”.

55. Section 77 amended (votes recorded on invalid ballot papers not to be counted)

- (1) Section 77(1)(g)—

Repeal

“56; and”

Substitute

“56(1) or (2);”.

- (2) After section 77(1)(g)—

Add

“(ga) on which votes are recorded for a number of candidates exceeding—

- (i) for a subsector ordinary election—the number of EC members allocated to the subsector concerned; or
- (ii) for a subsector by-election—the number of EC members to be returned at the by-election;”.

- (3) Section 77(4)(a)—

Repeal

“or (f)”

Substitute

“, (f) or (ga)”.

56. Section 78 amended (Returning Officer to make decisions on questionable ballot papers)

(1) Section 78(7)(g)—

Repeal

“56; and”

Substitute

“56(1) or (2);”.

(2) After section 78(7)(g)—

Add

“(ga) on which votes are recorded for a number of candidates exceeding—

(i) for a subsector ordinary election—the number of EC members allocated to the subsector concerned; or

(ii) for a subsector by-election—the number of EC members to be returned at the by-election;”.

57. Schedule 2 amended (form of ballot paper and form of notice of result of subsector election)

Schedule 2, Form 1—

Repeal

“shade”

Substitute

“fill”.

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

58. Section 2 amended (interpretation)

Section 2(1), definition of *verification statement*, after “section”—

Add

“49(1A)(a)(iii) or”.

59. Section 49 amended (counting of votes)

(1) Section 49—

Repeal subsection (1A)

Substitute

“(1A) After opening all ballot boxes in accordance with section 48, the Returning Officer must—

(a) in the counting zone—

- (i) count and record the number of ballot papers in the ballot box or boxes received from a dedicated polling station (***DPS ballot papers***);
- (ii) verify the ballot paper account of the dedicated polling station by comparing it with the number of DPS ballot papers recorded under subparagraph (i); and
- (iii) prepare a written statement about the result of the verification; and

- (b) after preparing the statement under paragraph (a)(iii) but before the counting of votes under subsection (1), mix the DPS ballot papers with the ballot papers in at least one of the ballot boxes from the main polling station.”.

- (2) Section 49(1)—

Repeal

“Ballot papers shall”

Substitute

“All ballot papers must”.

- (3) Section 49(2)(b)—

Repeal

“or (f)”

Substitute

“, (f) or (ga)”.

60. Section 50 amended (some ballot papers invalid)

- (1) After section 50(1)(g)—

Add

“(ga) on which—

- (i) for a contested election—votes for more than one candidate are recorded; or
- (ii) for an uncontested election—both “SUPPORT” and “NOT SUPPORT” votes are recorded;”.

- (2) Section 50(2)(a)—

Repeal

“or (f)”

Substitute

“, (f) or (ga)”.

61. Section 51 amended (determination of validity of questionable ballot papers)

(1) Section 51(7)(g)—

Repeal

“and”.

(2) After section 51(7)(g)—

Add

“(ga) on which—

- (i) for a contested election—votes for more than one candidate are recorded; or
- (ii) for an uncontested election—both “SUPPORT” and “NOT SUPPORT” votes are recorded;”.

62. Section 52 amended (verification of ballot paper account)

(1) Section 52(1)—

Repeal

“shall”

Substitute

“must, after the counting of votes in accordance with section 49”.

(2) Section 52(1)(c)—

Repeal

“accounts by comparing them”

Substitute

“account of the main polling station by comparing it”.

(3) Section 52(2)—

Repeal

“shall, in preparing the verification statement, compare the ballot paper accounts”

Substitute

“must, in preparing a verification statement under section 49(1A)(a)(iii) or subsection (1)(d), compare the ballot paper account of the polling station concerned”.

- (4) Section 52(3), English text—

Repeal paragraphs (a) and (b)

Substitute

- “(a) a ballot paper account; or
(b) a verification statement.”.
-

Part 7

Clarifying who may Instruct Director of Accounting Services to Return or Forfeit Election Deposits

Division 1—Legislative Council (Subscribers and Election Deposit for Nomination) Regulation (Cap. 542 sub. leg. C)

63. Section 1 amended (interpretation)

After section 1(2)—

Add

“(3) For the purposes of sections 3(3), 4(4) and (6) and 5(1), a reference to the Returning Officer, in relation to a geographical constituency or functional constituency, includes—

- (a) an Assistant Returning Officer for the geographical constituency or functional constituency; and
- (b) the Chief Electoral Officer appointed under section 9 of the Electoral Affairs Commission Ordinance (Cap. 541).”.

Division 2—District Councils (Subscribers and Election Deposit for Nomination) Regulation (Cap. 547 sub. leg. A)

64. Section 1 amended (interpretation)

After section 1(2)—

Add

- “(3) For the purposes of sections 3(2), 4(3) and (5) and 5(1), a reference to the Returning Officer, in relation to a constituency, includes—
- (a) an Assistant Returning Officer for the constituency; and
 - (b) the Chief Electoral Officer appointed under section 9 of the Electoral Affairs Commission Ordinance (Cap. 541).”.

Division 3—Election Committee (Subscribers and Election Deposit for Nomination) Regulation (Cap. 569 sub. leg. C)

65. Section 2 amended (interpretation)

- (1) Section 2—

ReNUMBER the section as section 2(1).

- (2) After section 2(1)—

Add

- “(2) For the purposes of sections 4(2), 5(3) and (5) and 6(1), a reference to the Returning Officer, in relation to a subsector or sub-subsector, includes—
- (a) an Assistant Returning Officer for the subsector or sub-subsector; and
 - (b) the Chief Electoral Officer.”.
-

Part 8

Broadening Eligibility Criteria of Revising Officers

Division 1—Legislative Council Ordinance (Cap. 542)

66. Section 77 amended (appointment of Revising Officer)

(1) Section 77(1)—

Repeal

“any magistrate, or any legal officer within the meaning of the Legal Officers Ordinance (Cap. 87),”

Substitute

“an eligible person”.

(2) After section 77(4)—

Add

“(5) In subsection (1)—

eligible person (合資格人士) means—

- (a) a magistrate;
- (b) a former magistrate;
- (c) a retired magistrate; or
- (d) a legal officer as defined by section 2 of the Legal Officers Ordinance (Cap. 87).”.

Division 2—Chief Executive Election Ordinance (Cap. 569)

67. Schedule, section 46 amended (appointment of Revising Officer)

(1) The Schedule, section 46(1)—

Repeal

“any magistrate, or any legal officer within the meaning of the Legal Officers Ordinance (Cap. 87),”

Substitute

“an eligible person”.

- (2) The Schedule, after section 46(4)—

Add

“(5) In subsection (1)—

eligible person (合資格人士) means—

- (a) a magistrate;
- (b) a former magistrate;
- (c) a retired magistrate; or
- (d) a legal officer as defined by section 2 of the Legal Officers Ordinance (Cap. 87).”.

Division 3—Rural Representative Election Ordinance (Cap. 576)

68. Section 53 amended (appointment of Revising Officer)

- (1) Section 53(1)—

Repeal

“any magistrate”

Substitute

“an eligible person”.

- (2) After section 53(4)—

Add

“(5) In subsection (1)—

eligible person (合資格人士) means—

- (a) a magistrate;

- (b) a former magistrate; or
 - (c) a retired magistrate.”.
-

Part 9

Minor Amendments

Division 1—Definitions of *identity document* and *identity card*

Subdivision 1—Legislative Council Ordinance (Cap. 542)

69. Section 3 amended (interpretation)

Section 3(1), definition of *identity document*—

Repeal paragraph (b)

Substitute

“(b) a document issued by the Commissioner (within the meaning of section 1A(1) of the Registration of Persons Ordinance (Cap. 177)) to a person certifying that the person is exempt, under regulation 25 of the Registration of Persons Regulations (Cap. 177 sub. leg. A), from being required to register under that Ordinance; or”.

Subdivision 2—District Councils Ordinance (Cap. 547)

70. Section 2 amended (interpretation)

Section 2, definition of *identity document*—

Repeal paragraph (b)

Substitute

“(b) a document issued by the Commissioner (within the meaning of section 1A(1) of the Registration of Persons Ordinance (Cap. 177)) to a person certifying that the person is exempt, under regulation 25 of the

Registration of Persons Regulations (Cap. 177 sub. leg. A), from being required to register under that Ordinance; or”.

Subdivision 3—Chief Executive Election Ordinance (Cap. 569)

71. Schedule, section 32 amended (misnomer or inaccuracy not to affect operation of election document)

The Schedule, section 32(3), definition of *identity document*—

Repeal paragraph (b)

Substitute

“(b) a document issued by the Commissioner (within the meaning of section 1A(1) of the Registration of Persons Ordinance (Cap. 177)) to a person certifying that the person is exempt, under regulation 25 of the Registration of Persons Regulations (Cap. 177 sub. leg. A), from being required to register under that Ordinance; or”.

Subdivision 4—Rural Representative Election Ordinance (Cap. 576)

72. Section 2 amended (interpretation)

Section 2(1), definition of *identity card*—

Repeal paragraph (b)

Substitute

“(b) a document issued by the Commissioner (within the meaning of section 1A(1) of the Registration of Persons Ordinance (Cap. 177)) to a person certifying that the person is exempt, under regulation 25 of the Registration of Persons Regulations (Cap. 177 sub.

leg. A), from being required to register under that Ordinance;”.

**Subdivision 5—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)**

73. Section 2 amended (interpretation)

Section 2(1), definition of *identity document*—

Repeal paragraph (b)

Substitute

“(b) a document issued by the Commissioner (within the meaning of section 1A(1) of the Registration of Persons Ordinance (Cap. 177)) to a person certifying that the person is exempt, under regulation 25 of the Registration of Persons Regulations (Cap. 177 sub. leg. A), from being required to register under that Ordinance; or”.

**Subdivision 6—Electoral Affairs Commission (Electoral
Procedure) (Election Committee) Regulation (Cap. 541 sub.
leg. I)**

74. Section 1 amended (interpretation)

Section 1(1), definition of *identity document*—

Repeal paragraph (b)

Substitute

“(b) a document issued by the Commissioner (within the meaning of section 1A(1) of the Registration of Persons Ordinance (Cap. 177)) to a person certifying

that the person is exempt, under regulation 25 of the Registration of Persons Regulations (Cap. 177 sub. leg. A), from being required to register under that Ordinance; or”.

**Subdivision 7—Electoral Procedure (Chief Executive Election)
Regulation (Cap. 541 sub. leg. J)**

75. Section 2 amended (interpretation)

Section 2(1), definition of *identity document*—

Repeal paragraph (b)

Substitute

“(b) a document issued by the Commissioner (within the meaning of section 1A(1) of the Registration of Persons Ordinance (Cap. 177)) to a person certifying that the person is exempt, under regulation 25 of the Registration of Persons Regulations (Cap. 177 sub. leg. A), from being required to register under that Ordinance; or”.

**Subdivision 8—Election Committee (Appeals) Regulation (Cap.
569 sub. leg. A)**

76. Section 2 amended (interpretation)

Section 2(1), definition of *identity document*—

Repeal paragraph (b)

Substitute

“(b) a document issued by the Commissioner (within the meaning of section 1A(1) of the Registration of Persons Ordinance (Cap. 177)) to a person certifying that the person is exempt, under regulation 25 of the

Registration of Persons Regulations (Cap. 177 sub. leg. A), from being required to register under that Ordinance; or”.

Division 2—Treating Unmarked Ballot Papers as Unused Ballot Papers

Subdivision 1—Electoral Procedure (Chief Executive Election) Regulation (Cap. 541 sub. leg. J)

77. Section 39 substituted

Section 39—

Repeal the section

Substitute

“39. Marking “UNUSED” on ballot paper

The Presiding Officer must, as far as reasonably practicable, endorse the words “UNUSED” and “未用” on a ballot paper that—

- (a) has been issued; but
- (b) has not been put into a ballot box.”.

Subdivision 2—Electoral Procedure (Rural Representative Election) Regulation (Cap. 541 sub. leg. L)

78. Section 51 substituted

Section 51—

Repeal the section

Substitute

“51. Marking “UNUSED” on ballot paper

The Presiding Officer must, as far as reasonably practicable, endorse the words “UNUSED” and “未用” on a ballot paper that—

- (a) has been issued; but
- (b) has not been put into a ballot box.”.

Division 3—Providing Identity Document Numbers of Election Expense Agents

Subdivision 1—Electoral Procedure (Chief Executive Election) Regulation (Cap. 541 sub. leg. J)

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

Section 14(3)—

Repeal paragraph (d)

Substitute

“(d) state—

- (i) for an election agent—the identity card number of the agent; and
- (ii) for an election expense agent—the identity document number of the agent; and”.

Subdivision 2—Electoral Procedure (Rural Representative Election) Regulation (Cap. 541 sub. leg. L)

80. Section 24 amended (provisions applicable to appointment of agents)

Section 24(3)—

Repeal paragraph (d)

Substitute

“(d) state—

- (i) for an election agent—the identity card number of the agent; and
- (ii) for an election expense agent—the identity document number of the agent; and”.

Division 4—Other Technical Amendments

Subdivision 1—Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541 sub. leg. D)

81. Section 75 amended (counting of votes for geographical constituencies)

Section 75(7)(a)—

Repeal

“Presiding Officer”

Substitute

“Returning Officer or the Presiding Officer (as appropriate)”.

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

Section 81(1), before “76(6)(a)”—

Add

“75(7)(a),”.

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

- 83. Section 53 amended (Presiding Officer to issue ballot papers to voter or authorized representative)**

After section 53(3)—

Add

“(3A) If a person is entitled to be issued with 2 ballot papers, the ballot papers must be handed over to the person at the same time.”.

Subdivision 3—Electoral Affairs Commission (Registration of Electors) (Rural Representative Election) Regulation (Cap. 541 sub. leg. K)

- 84. Section 32 amended (offences and penalties)**

Section 32(1)(a), after “application”—

Add

“made under section 9(1) or 19A(1)”.

Explanatory Memorandum

This Bill amends various pieces of electoral legislation for the purposes set out in the long title of the Bill.

2. The Bill is divided into 9 Parts.

Part 1 of the Bill

3. Part 1 sets out the short title and provides for commencement.

Part 2 of the Bill

4. Currently, the offence of making a false statement in registration of an elector or a voter is punishable on conviction on indictment by the maximum penalty of a fine of \$5,000 and imprisonment for 6 months. Part 2 amends the Electoral Affairs Commission Ordinance (Cap. 541) (*EACO*) and various registration regulations made under EACO to increase the maximum penalties for the offence and a related offence to a fine of \$10,000 and imprisonment for 2 years.

Part 3 of the Bill

5. Part 3 contains amendments to streamline the mechanism for an appeal, a claim or an objection relating to registration of an elector or a voter.
6. In particular, Division 1 of Part 3 amends the Registration of Electors (Appeals) Regulation (Cap. 542 sub. leg. B) and Election Committee (Registration) (Voters for Subsectors) (Members of Election Committee) (Appeals) Regulation (Cap. 569 sub. leg. B) to—

- (a) require the person making an appeal, a claim or an objection (*appellant*) to provide sufficient information to inform the Revising Officer and the Electoral Registration Officer of the grounds of the appeal, claim or objection;
- (b) empower the Revising Officer to dismiss an appeal, a claim or an objection if the appellant or their representative does not appear at the hearing;
- (c) provide that the Revising Officer must direct that a claim or an objection be determined on the basis of written submissions if one or more of the following conditions are met—
 - (i) the person making the claim or objection does not state any ground on which the claim or objection is made;
 - (ii) the ground on which the claim or objection is made does not relate to the eligibility of a person to be registered in a register;
 - (iii) the subject matter of the claim or objection involves only a clerical error made in compiling or printing a register;
- (d) advance the statutory deadlines for forwarding notices of claim and notices of objection to the Revising Officer to allow more time for the Revising Officer to process the cases; and
- (e) simplify the service requirement so that notices issued by the Revising Officer may be sent by surface mail instead of registered post.

7. Division 2 of Part 3 introduces amendments to the Rural Representative Election (Registration of Electors) (Appeals) Regulation (Cap. 576 sub. leg. A) similar to those set out in paragraph 6(a) and (b).

Part 4 of the Bill

8. Part 4 contains amendments to the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) (**ECICO**). Currently, under section 23(1) of ECICO, a person commits an offence if the person is not a candidate or a candidate's election expense agent but incurs election expenses at or in connection with an election.
9. Part 4 adds a new section 23(1A) to ECICO so that a person is exempted from criminal liability under section 23(1) of ECICO if the person publishes an election advertisement on the Internet and the only election expenses incurred for the purpose of publishing the advertisement are electricity charges and charges necessary for accessing the Internet.

Part 5 of the Bill

10. If the name of a deceased or disqualified candidate appears on a ballot paper, the current electoral procedure regulations made under EACO for a Legislative Council (**LegCo**) election, District Councils (**DC**) election, Election Committee Subsectors (**ECSS**) election and Rural Representative (**RR**) election require that the name of, and other information relating to, the deceased or disqualified candidate be crossed out by stamping on the ballot paper the words “已故” and “DECEASED” or “喪失資格” and “DISQUALIFIED”.

11. Part 5 amends those regulations to replace the stamping requirement by simply requiring that the name of, and other information relating to, the deceased or disqualified candidate be crossed out. The officer in charge of a polling station is required to display a notice on the polling day to explain to the electors and voters the simplified requirement.

Part 6 of the Bill

12. Part 6 improves the counting process in a Chief Executive (**CE**) election, ECSS election, LegCo election and DC election.
13. Under the current electoral procedure regulations, an invalid ballot paper is not to be counted, and unlike a questionable ballot paper, a determination of the Returning Officer or Presiding Officer is not required. To speed up the counting process, Part 6 provides that all of the following ballot papers are invalid and not to be counted—
 - (a) an overmarked ballot paper in a CE election or ECSS election;
 - (b) a ballot paper for a geographical constituency or the District Council (second) functional constituency in a LegCo election on which the vote recorded is for a list and the candidate on the list (or for a multiple candidates list, all the candidates on the list) is a deceased or disqualified candidate;
 - (c) a ballot paper in a DC election on which the vote recorded is for a deceased or disqualified candidate;
 - (d) a ballot paper for a special functional constituency in a LegCo election that is not marked with Arabic numerals.

14. Division 3 of Part 6 also clarifies the way in which a ballot paper in an ECSS election must be marked.
15. Division 4 of Part 6 also refines certain counting procedures in a CE election to bring them in line with those in a LegCo election, DC election and RR election. After the amendments, the number of ballot papers and the ballot paper account of a dedicated polling station (**DPS**) are to be counted and verified first. The ballot papers of a DPS are then to be mixed with the ballot papers in at least one of the ballot boxes from the main polling station (**MPS**) before counting the votes. The number of ballot papers of the MPS is to be recorded and the ballot paper account is to be verified after counting the votes.

Part 7 of the Bill

16. Part 7 contains amendments to regulations made under the Legislative Council Ordinance (Cap. 542) (**LCO**), District Councils Ordinance (Cap. 547) and Chief Executive Election Ordinance (Cap. 569) (**CEEEO**) relating to subscribers and election deposits for nomination. Currently, only a Returning Officer may instruct the Director of Accounting Services to return or forfeit an election deposit in a LegCo election, DC election and ECSS election. Part 7 amends those regulations to also empower the Assistant Returning Officer for the constituency or subsector concerned and the Chief Electoral Officer to process the return or forfeiture of an election deposit.

Part 8 of the Bill

17. Under the current LCO, CEEEO and Rural Representative Election Ordinance (Cap. 576) (**RREO**), the Chief Justice may appoint a serving magistrate to be a Revising Officer in a LegCo election, CE election or RR election. Part 8 amends

LCO, CEEO and RREO to broaden the pool of eligible candidates by empowering the Chief Justice to appoint a former or retired magistrate to be a Revising Officer.

Part 9 of the Bill

18. Part 9 contains other minor or technical amendments that do not affect the substance of the electoral systems.
19. Division 1 of Part 9 amends the definitions of *identity document* and *identity card* in various electoral legislation to provide a more accurate reference to certain certificate of exemption issued by the Commissioner of Registration.
20. Divisions 2, 3 and 4 of Part 9 make minor or technical amendments to various provisions to achieve procedural consistency or certainty.