

**立法會**  
**Legislative Council**

LC Paper No. LS87/17-18

**Legal Service Division Report on  
Subsidiary Legislation Gazetted on 10 August 2018**

**Tabling in LegCo** : Council meeting of 10 October 2018

**Amendment to be made by** : Council meeting of 7 November 2018 (or that of 28 November 2018 if extended by resolution)

**Electoral Affairs Commission (Electoral Procedure)  
(Legislative Council) (Amendment) Regulation 2018** (L.N. 148)

**Electoral Affairs Commission (Electoral Procedure)  
(District Councils) (Amendment) Regulation 2018** (L.N. 149)

**Electoral Affairs Commission (Electoral Procedure)  
(Election Committee) (Amendment) Regulation 2018** (L.N. 150)

**Electoral Procedure (Chief Executive Election)  
(Amendment) Regulation 2018** (L.N. 151)

**Electoral Procedure (Rural Representative Election)  
(Amendment) Regulation 2018** (L.N. 152)

L.N. 148 to L.N. 152 are made by the Electoral Affairs Commission ("EAC") under section 7 of the Electoral Affairs Commission Ordinance (Cap. 541) mainly to amend the list of identity papers stated in the five principal Regulations under Cap. 541 to be inspected by the relevant election officer before the elector is issued a ballot paper. The amendments are summarized below.

2. L.N. 148 to L.N. 151 amend the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541D), the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap. 541F), the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541I) and the Electoral Procedure (Chief Executive Election) Regulation (Cap. 541J) respectively to:

- (a) relax the proof of identity document requirement, so that ballot papers may be issued to an elector who has lost his or her identity card etc. if the relevant election officer is satisfied with the elector's identity upon inspecting a memo of lost property and the person's valid passport or similar travel document showing his or her name and photograph. A copy of his or her identity document in paper form showing his or her name, photograph and identity document number would no longer be required;
- (b) set out specific references to the identity papers, e.g. the elector's "identity card" which has the same meaning as in the Registration of Persons Ordinance (Cap. 177), that could be accepted by the relevant election officer in issuing ballot papers to the elector, instead of relying on references to the definitions of "identity document" under the relevant Ordinances, e.g. the Legislative Council Ordinance (Cap. 542); and
- (c) provide for other relevant and textual amendments.

3. L.N. 152 amends the Electoral Procedure (Rural Representative Election) Regulation (Cap. 541L) to:

- (a) similarly relax the proof of identity document requirement as stated in paragraph 2(a) above. The only difference is that reference would continue to be made to "identity document" in Cap. 541L instead of the specific references to the relevant identity papers in Cap. 541D, Cap. 541F, Cap. 541I and Cap. 541J as stated in paragraph 2(b) above.<sup>1</sup> In response to the Legal Service Division's enquiry on the reason for the above difference, the Administration explained that Cap. 541L, as amended by L.N. 152, would continue to reflect the fact that the electors of Indigenous Inhabitant Representative elections in Rural Representative elections may not have Hong Kong identity cards ("HKID"), and the Electoral Registration Officer would accept passport or identity document issued by the relevant authority of other country/territory for the purpose of voter registration, and the electors must produce their HKID or that identity document for collection of ballot papers;<sup>2</sup> and
- (b) provide for other relevant and textual amendments.

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<sup>1</sup> "Identity document" is defined in section 2(1) of the Rural Representative Election Ordinance (Cap. 576) to mean an "identity card" or "any other document issued to a person that is acceptable to the Electoral Registration Officer as proof of the person's identity", whereas an "identity card" means, among others, an identity card issued to a person under Cap. 177.

<sup>2</sup> Please refer to footnote 1 of the Legislative Council Brief (Ref: REO 14-37/5 (Con)) issued by the Registration and Electoral Office in August 2018 for more information.

4. L.N. 148 to L.N. 152 come into operation on 10 December 2018.

5. According to the Legislative Council ("LegCo") Brief (Ref: REO 14-37/5 (Con)) issued by the Registration and Electoral Office in August 2018, L.N. 148 to L.N. 152 are made to introduce the amendments which the Administration has proposed to make in October 2017 ("Administration's Proposed Amendments") to the five amendment regulations (L.N. 129 to L.N. 133 of 2017) made under Cap. 541 concerning proof of an elector's identity before the elector is issued a ballot paper ("the 2017 Regulations") after taking into account the views and suggestions of the subcommittee formed to study the 2017 Regulations ("Subcommittee"). However, the Administration was unable to move a motion to amend the 2017 Regulations as the motion to extend the scrutiny period of the 2017 Regulations could not be dealt with before the expiry of the scrutiny period at the Council meeting of 18 October 2017. According to paragraph 19 of the Report of the Subcommittee (LC Paper No. CB(2)135/17-18), the Administration undertook at the last meeting of the Subcommittee held on 20 October 2017 that it would invite EAC to consider introducing as early as possible another set of subsidiary legislation incorporating the Administration's Proposed Amendments for scrutiny by LegCo as soon as possible. We have compared the Administration's Proposed Amendments with the amendments in L.N. 148 to L.N. 152 and found that they are substantively the same.

6. As advised by the Clerk to the Subcommittee, at the request of the Subcommittee, the Administration undertook to consider proposing amendments to revise one of the alternative measures such that a copy of the elector's Hong Kong identity card in paper form would no longer be required, and to change the reference to "identity document" in the relevant provisions to specific references to the identity papers that could be accepted by the relevant election officer before issuing ballot papers to electors. Members of the Subcommittee generally expressed support for the Administration's Proposed Amendments. However, the Administration was unable to propose the amendments as the scrutiny period of the 2017 Regulations could not be extended.

### **Concluding remarks**

7. No difficulties have been identified in relation to the legal and drafting aspects of L.N. 148 to L.N. 152.

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7 September 2018