中華人民共和國香港特別行政區
Hong Kong Special Administrative Region of the People's Republic of China

立法會秘書處 法律事務部
LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

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31 October 2017

Mr CHIU Pit-ming, Ryan
Prin AS (Constitutional & Mainland Affairs)3
Constitutional and Mainland Affairs Bureau
12/F, East Wing
Central Government Offices
2 Tim Mei Avenue
Tamar, Hong Kong

Dear Mr CHIU,

Amendments to Three Regulations under
the Electoral Affairs Commission Ordinance (Cap. 541)
(L.N. 172 to L.N. 174 of 2017)

We are scrutinizing the abovementioned three regulations ("Amendment Regulations") and shall be grateful if you would let us have your response to the following questions.

The Amendment Regulations, among other things, empower the ERO to require electors/voters to submit documentary evidence in support of their applications for the change of principal residential address in the relevant voter register ("change application") and provides for the procedures for the ERO to process the applications by adding new sections 10A, 26A and 19A respectively to:

(a)   the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap. 541A);

(b)　the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap. 541B); and

(c)　the Electoral Affairs Commission (Registration of Electors) (Rural Representative Election) Regulation (Cap. 541K).

Question 1

Under the new section 10A(1) of Cap. 541A, a person whose principal residential address are recorded in the existing final register may apply to the Electoral Registration Officer ("ERO") for change of the principal address ("change application"). New section 10A(3) of Cap. 541A requires that the applicant must submit together with the change application documentary evidence that proves the address stated in the application is the principal residential address ("new address"). Under the new section 10A(8), ERO must refuse the change application if that is no satisfactory evidence that proves the principal residential address. Please give examples of documents that may be accepted by the ERO as "satisfactory evidence" for the purposes of the new section 10A(3) and (8) of Cap. 541A.

Question 2

Under the new section 10A(4) of Cap. 541A, the ERO in processing a change application may further require the applicant to provide documentary evidence that proves that the entry relating to the applicant in the existing final register ("existing address") is incorrect. For an applicant who has already submitted with his/her application documentary evidence to prove the new address as required by section 10A(3) of Cap. 541A, please give examples of circumstances under which the applicant would be further required to prove the existing address is incorrect?

Question 3

Under the new section 10A(6) of Cap. 541A, the ERO must approve a change application if the ERO is satisfied that (a) the entry relating to the applicant's existing address is incorrect; and (b) the entry should be amended in accordance with the information provided by the applicant. It may be difficult for the applicant to prove the existing address is "incorrect" under certain circumstances, e.g. the applicant is moving to new residence but the previous residence is still under his/her ownership. Please let members know the reason(s) for grounding the incorrectness of the existing address as one of the conditions necessary for the approval of the change application.

The above observations also apply to section 26A of Cap. 541B and section 19A of Cap. 541K.

I would be grateful if you would let us have your response in bilingual form at your earliest convenience.

Yours sincerely,

(Clara TAM)
Assistant Legal Adviser

cc. DoJ (Attn: Miss Emma WONG (By Fax: 3918 4613))
    Clerk to Subcommittee