

L.N. 173 of 2017

**Electoral Affairs Commission (Registration) (Electors for
Legislative Council Functional Constituencies) (Voters
for Election Committee Subsectors) (Members of
Election Committee) (Amendment) Regulation 2017**

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Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) (Amendment) Regulation 2017

(Made by the Electoral Affairs Commission under section 7 of the
Electoral Affairs Commission Ordinance (Cap. 541))

1. Commencement

This Regulation comes into operation on 1 February 2018.

2. Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation amended

The 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) is amended as set
out in sections 3 to 16.

3. Section 2 amended (interpretation)

Section 2(1)—

Add in alphabetical order

“*vacancy declaration* (空缺宣布) means a declaration
under section 5 of the Chief Executive Election
Ordinance (Cap. 569);”.

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

Section 2A(4), Table 1—

Repeal

“section 19(1)(a)(i)	sections 19(4)(b) and 26(5)(b)(ii)(A)
section 19(1)(a)(ii)	sections 19(4)(c) and 26(5)(b)(i) and (ii)(B)”

Substitute

“section 19(1)(a)(i)	section 19(4)(b)
section 19(1)(a)(ii)	section 19(4)(c)
section 26(4A)(a)	section 26(4A)(b)(i)
section 26(4A)(b)(ii)	section 26(4A)(c)(i)(A)
section 26(4A)(c)(i)(B)	section 26(4A)(c)(ii)(A)
section 26(4A)(c)(ii)(B)	section 26(4A)(c)(ii)(A)
section 26A(12)(a)	section 26A(12)(b)(i)
section 26A(12)(b)(ii)	section 26A(12)(c)(i)(A)
section 26A(12)(c)(i)(B)	section 26A(12)(c)(ii)(A)
section 26A(12)(c)(ii)(B)	section 26A(12)(c)(ii)(A)”.

5. Section 19 amended (how to apply for registration in functional constituencies provisional register and subsector provisional register)

(1) After section 19(1A)—

Add

- “(1B) Subsection (1C) applies to a natural person—
- (a) who—
 - (i) is registered in the existing geographical constituencies final register but is not registered in the existing functional constituencies final register or the existing subsector final register, and makes an application for registration in either or both of the following—
 - (A) a functional constituencies provisional register;
 - (B) a subsector provisional register;
 - (ii) is registered as an elector for the District Council (second) functional constituency and makes an application for registration as a voter for an optional subsector; or
 - (iii) is registered as a voter for an optional subsector and makes an application for registration as an elector for a functional constituency; and
 - (b) whose name or principal residential address stated in the application referred to in paragraph (a)(i), (ii) or (iii) (as applicable) is different from that shown in the record kept by the Electoral Registration Officer.
- (1C) The person is regarded as also having made an application for change of the person’s name or principal residential address (as applicable) in the entry relating to the person (***change application***), and section 26A(3), (4), (5), (6), (7), (8), (9), (10), (11) and (12) applies to the change application as if for the words “in the existing final register” in section

26A(4)(b), (6)(a), (7)(a) and (9)(a), there were substituted the words “in the record kept by the Electoral Registration Officer”.”.

- (2) Section 19(2) and (3)—

Repeal

“(within the meaning of section 11)”.

- (3) At the end of section 19—

Add

“(7) In this section—

corresponding subsector (對等界別分組) has the meaning given by section 11(1);

optional subsector (可選擇的界別分組) has the meaning given by section 11(1).”.

6. Section 21 amended (Electoral Registration Officer to determine whether or not applicant is eligible for registration and may ask for additional information)

After section 21(7A)—

Add

“(7B) If—

- (a) an application is regarded also as an application for change of the applicant’s name or principal residential address (*change application*) under section 19(1C); but
- (b) the Electoral Registration Officer refuses the change application or decides not to process the change application further,

the Officer must proceed to make a determination under subsection (1) as if the personal particulars of the applicant shown in the record kept by the Officer are the personal particulars of the applicant stated in the application.

- (7C) If the Electoral Registration Officer determines under subsection (1)(a) that an applicant referred to in subsection (7B) is eligible to be registered, the Officer must, in accordance with subsection (7)(b), record under the relevant functional constituency or subsector the applicant's personal particulars shown in the record kept by the Officer, instead of those stated in the application.”.

7. Section 24 amended (Electoral Registration Officer to prepare an omissions list)

Section 24(3A)—

Repeal

“within the meaning of section 4(7) of the Schedule to the Chief Executive Election Ordinance (Cap. 569)”.

8. Section 26 amended (Electoral Registration Officer to correct entries in existing final register in compiling provisional register)

(1) Section 26, heading—

Repeal

“Electoral Registration Officer to correct entries in existing final register in compiling provisional register”

Substitute

“Request for change of certain particulars in existing final register and correction of entries in it”.

- (2) Section 26(1)—

Repeal

“alter”

Substitute

“amend”.

- (3) Section 26(1), English text—

Repeal

“altered”

Substitute

“amended”.

- (4) After section 26(1)—

Add

“(1A) Subsection (1) does not apply to a natural person who seeks to change the person’s name or principal residential address in the entry relating to the person.

(1B) A person described in subsection (1A) must apply for change of the person’s name or principal residential address under section 26A.”.

- (5) Section 26(2)(a)—

Repeal

“relevant period specified in subsection (5)”

Substitute

“period specified in subsection (4A)”.

- (6) Section 26(2)(b)—

Repeal

“is incorrect and”.

- (7) Section 26(2)—

Repeal

everything after “is correct”

Substitute

“or should not be corrected, that Officer must not amend it.”.

- (8) Section 26(3)—

Repeal

“relevant”.

- (9) Section 26(4)—

Repeal

“alter”

Substitute

“amend”.

- (10) After section 26(4)—

Add

“(4A) For the purposes of subsection (2), the period is, in relation to the compilation of—

- (a) the functional constituencies provisional register or the subsector provisional register for 2018—after 2 May 2017 but not later than 2 April 2018;
- (b) any functional constituencies provisional register or subsector provisional register for a year subsequent to 2018 that is a District Council election year—
 - (i) after 2 April in the preceding year; but
 - (ii) not later than 2 June in the current year;

- (c) any functional constituencies provisional register or subsector provisional register for a year subsequent to 2018 that is not a District Council election year—
 - (i) if the preceding year is a District Council election year—
 - (A) after 2 June in the preceding year; but
 - (B) not later than 2 April in the current year; or
 - (ii) if the preceding year is not a District Council election year—
 - (A) after 2 April in the preceding year; but
 - (B) not later than 2 April in the current year; or
- (d) an Election Committee provisional register—
 - (i) if another Election Committee provisional register has been published during the term of office of the Election Committee—
 - (A) after the seventh day after the date on which that other register was last published; but
 - (B) not later than the date on which a specified declaration was made; or
 - (ii) if no Election Committee provisional register has been published during the term of office of the Election Committee—not later than the date on which a specified declaration was made.”.

(11) Section 26(5)—

Repeal

“subsections (2) and (3), the relevant”

Substitute

“subsection (3), the”.

(12) Section 26(5)—

Repeal paragraph (ab)

Substitute

“(ab) the functional constituencies provisional register or the subsector provisional register for 2018—after 2 May 2017 but not later than 2 May 2018;”.

(13) Section 26(5)—

Repeal paragraph (e)

Substitute

“(e) an Election Committee provisional register—

(i) if another Election Committee provisional register has been published during the term of office of the Election Committee—

(A) after the seventh day after the date on which that other register was last published; but

(B) not later than the date on which a specified declaration was made; or

(ii) if no Election Committee provisional register has been published during the term of office of the Election Committee—not later than the date on which a specified declaration was made.”.

(14) Section 26(8)—

Add in alphabetical order

“*specified declaration* (指明宣布), in relation to the compilation of an Election Committee provisional register, means the vacancy declaration consequential on which the register is to be compiled;”.

9. Section 26A added

After section 26—

Add

“26A. Application for change of personal particulars in existing final register

- (1) A natural person whose personal particulars are recorded in the existing final register (*applicant*) may apply to the Electoral Registration Officer for change of name or principal residential address in the entry relating to the applicant.
- (2) An application made under subsection (1) (*application*) must be—
 - (a) made on the specified form;
 - (b) completed in English or Chinese; and
 - (c) signed by the applicant.
- (3) For an application for change of principal residential address, the Electoral Registration Officer may, in the application, require the applicant to submit together with the application documentary evidence that proves that the address stated in the application is the principal residential address of the applicant.

- (4) In processing an application, the Electoral Registration Officer may, in writing, require the applicant to provide either or both of the following within the period specified in subsection (5)—
 - (a) further written particulars relating to the application as specified by the Officer;
 - (b) documentary evidence that proves that the entry relating to the applicant in the existing final register is incorrect.
- (5) The period is—
 - (a) if the first 11 July that follows the making of the requirement falls in a District Council election year—a period specified by the Electoral Registration Officer ending on or before that day; or
 - (b) in any other case—a period specified by the Officer ending on or before the first 11 May that follows the making of the requirement.
- (6) The Electoral Registration Officer must approve an application if the Officer is satisfied that—
 - (a) the entry relating to the applicant in the existing final register is incorrect; and
 - (b) the entry should be amended in accordance with the information provided by the applicant.
- (7) The Electoral Registration Officer must refuse an application if the Officer is satisfied that—
 - (a) the entry relating to the applicant in the existing final register is incorrect; but
 - (b) the entry should not be amended in accordance with the information provided by the applicant.

- (8) The Electoral Registration Officer must refuse an application for change of principal residential address if there is no satisfactory evidence available to the Officer that proves that the address stated in the application is the principal residential address of the applicant.
- (9) The Electoral Registration Officer may decide not to process an application further—
 - (a) if the Officer is satisfied that the entry relating to the applicant in the existing final register is correct; or
 - (b) where the Officer requires the applicant to provide particulars or evidence under subsection (4)—
 - (i) if the applicant does not comply with the requirement; or
 - (ii) if the applicant does not provide particulars or evidence to the satisfaction of the Officer.
- (10) The Electoral Registration Officer must notify the applicant, by post, of a decision made under subsection (6), (7), (8) or (9).
- (11) If the Electoral Registration Officer—
 - (a) receives an application during the period specified in subsection (12); and
 - (b) approves the application,the Officer must, when compiling the first functional constituencies provisional register, subsector provisional register or Election Committee provisional register (as applicable) after that period,

record in the appropriate place in the register the name or principal residential address changed.

- (12) The period is, in relation to the compilation of—
- (a) the functional constituencies provisional register or the subsector provisional register for 2018—after 2 May 2017 but not later than 2 April 2018;
 - (b) any functional constituencies provisional register or subsector provisional register for a year subsequent to 2018 that is a District Council election year—
 - (i) after 2 April in the preceding year; but
 - (ii) not later than 2 June in the current year;
 - (c) any functional constituencies provisional register or subsector provisional register for a year subsequent to 2018 that is not a District Council election year—
 - (i) if the preceding year is a District Council election year—
 - (A) after 2 June in the preceding year; but
 - (B) not later than 2 April in the current year; or
 - (ii) if the preceding year is not a District Council election year—
 - (A) after 2 April in the preceding year; but
 - (B) not later than 2 April in the current year; or

- (d) an Election Committee provisional register—
 - (i) if another Election Committee provisional register has been published during the term of office of the Election Committee—
 - (A) after the seventh day after the date on which that other register was last published; but
 - (B) not later than the date on which a specified declaration was made; or
 - (ii) if no Election Committee provisional register has been published during the term of office of the Election Committee—not later than the date on which a specified declaration was made.

(13) In subsection (12)(d)—

specified declaration (指明宣布), in relation to the compilation of an Election Committee provisional register, means the vacancy declaration consequential on which the register is to be compiled.”.

10. Section 27 amended (what is to be contained in a functional constituencies provisional register)

Section 27(1)(a)—

Repeal

“and 26”

Substitute

“, 26 and 26A”.

11. Section 28 amended (what is to be contained in a subsector provisional register)

Section 28(1)(aa)—

Repeal

“and 26”

Substitute

“, 26 and 26A”.

12. Section 28A amended (what is to be contained in an Election Committee provisional register)

Section 28A—

Repeal

“and 26”

Substitute

“, 26 and 26A”.

13. Section 31 amended (who may lodge a notice of claim)

(1) Section 31(5), English text—

Repeal

“alter”

Substitute

“change”.

(2) Section 31(5) and (6), English text—

Repeal

“altered”

Substitute

“changed”.

- (3) Section 31(6), English text—

Repeal

“alteration”

Substitute

“change”.

- (4) After section 31(6)—

Add

“(6AA) Subsection (6AAB) applies to a natural person whose application under section 26A(1) for change of a particular—

- (a) has been refused by the Electoral Registration Officer under section 26A(7) or (8); or
- (b) has been decided by the Electoral Registration Officer not to process further under section 26A(9).

(6AAB) The person may make a claim to have the particular changed in accordance with the information provided in the application.”.

- (5) Section 31—

Repeal subsection (9)

Substitute

“(9) If the Electoral Registration Officer receives a claim referred to in subsection (5) or (6) after the deadline referred to in subsection (8)(a)(i) or (ii), the Officer may, having regard to the nature of the claim, treat it—

- (a) as a request for change of registered particulars relating to a person for the purpose of the compilation of the next functional constituencies provisional register or the next subsector provisional register (as applicable); or
 - (b) as a claim for the purpose of the compilation of the functional constituencies final register or the subsector final register (as applicable) for the year following that in which the claim is submitted.
- (9A) If the Electoral Registration Officer receives a claim referred to in subsection (6AAB) after the deadline referred to in subsection (8)(a)(i) or (ii), the Officer may, having regard to the nature of the claim, treat it as a claim for the purpose of the compilation of the functional constituencies final register or the subsector final register (as applicable) for the year following that in which the claim is submitted.”.
- (6) Section 31(10), after “(9)(b)”—
Add
“or (9A)”.
- (7) Section 31(13), after “(9)”—
Add
“or (9A)”.
- 14. **Section 33 amended (Electoral Registration Officer to correct entries in provisional register in compiling Election Committee final register)**
 - (1) Section 33(1), English text—
Repeal
“an alteration”

Substitute

“a change”.

- (2) Section 33(1), English text—

Repeal

“requested alteration”

Substitute

“requested change”.

- (3) After section 33(1)—

Add

“(1A) If a request made under subsection (1) is for change of the principal residential address recorded or to be recorded for a person, the person must submit together with the request documentary evidence that proves that the address stated in the request to be the principal residential address of the person is the principal residential address of the person.”.

- (4) Section 33(2)(b), English text—

Repeal

“an alteration”

Substitute

“a change”.

- (5) Section 33(2)—

Repeal

everything after “supplied.”.

- (6) After section 33(2)—

Add

“(2A) The Electoral Registration Officer must not make any change if—

- (a) the Officer is satisfied that the change is not necessary; or
 - (b) for a written request for change of the principal residential address recorded or to be recorded for a natural person—there is no satisfactory evidence available to the Officer that proves that the address stated in the request to be the principal residential address of the person is the principal residential address of the person.”.
- (7) Section 33(5), English text—
- Repeal**
“an alteration”
- Substitute**
“a change”.
- (8) Section 33(7)(b)—
- Repeal**
“within the meaning of section 4(7) of the Schedule to the Chief Executive Election Ordinance (Cap. 569)”.
- (9) Section 33(8), English text—
- Repeal**
“an alteration”
- Substitute**
“a change”.
- (10) Section 33(8), English text—
- Repeal**
“the alteration”
- Substitute**
“the change”.

(11) Section 33(10)(a)(ii)—

Repeal

“within the meaning of section 4(7) of the Schedule to the
Chief Executive Election Ordinance (Cap. 569)”.

15. Section 42 amended (offences and penalties)

Section 42(1)(b), after “19”—

Add

“or 26A”.

**16. Section 43 amended (Electoral Registration Officer to make
specified forms available)**

Section 43(1), after “and (7),”—

Add

“26A(2),”.

Made this 16th day of October 2017.

The Hon. Mr. Justice
Barnabas Wah FUNG
Chairman,
Electoral Affairs Commission

Arthur Yee-shun LUK
Member,
Electoral Affairs Commission

Fanny M. C. CHEUNG
Member,
Electoral Affairs Commission

Explanatory Note

This Regulation amends the 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) (*principal Regulation*).

2. The main purposes of the amendments are—
- (a) to provide that a natural person described in the new section 19(1B) of the principal Regulation is regarded as also having applied for change of the person's name or principal residential address when applying for registration in a functional constituencies provisional register or a subsector provisional register;
 - (b) to provide that a natural person seeking to change the person's name or principal residential address in the existing functional constituencies final register or subsector final register must apply to the Electoral Registration Officer (*ERO*) for the change;
 - (c) to empower the ERO to require a person referred to in subparagraph (a) or (b) to submit together with the application for change of principal residential address documentary evidence to prove that the address stated in the application is the principal residential address of the person;

- (d) to provide that a natural person seeking to change the person's principal residential address recorded or to be recorded in an Election Committee provisional register must submit together with the request for the change documentary evidence to prove that the address stated in the request to be the principal residential address of the person is the principal residential address of the person; and
- (e) to specify that, in relation to the compilation of the functional constituencies provisional register or the subsector provisional register for a year, the deadline for an application or a request for change of the entry relating to a person falls on—
 - (i) if that year is a District Council election year—2 June in that year; or
 - (ii) if that year is not a District Council election year—2 April in that year.