

## **LEGISLATIVE COUNCIL BRIEF**

Veterinary Surgeons Registration Ordinance  
(Chapter 529)

### **VETERINARY SURGEONS BOARD (ELECTION OF MEMBERS) REGULATION**

#### **INTRODUCTION**

The Secretary for Food and Health (“SFH”) has made the Veterinary Surgeons Board (Election of Members) Regulation (“the Election Regulation”) at **Annex A** under section 28(1A) of the Veterinary Surgeons Registration Ordinance (“the Ordinance”) (Cap. 529), which was amended by the Veterinary Surgeons Registration (Amendment) Ordinance 2015 (“the Amendment Ordinance”)<sup>1</sup>.

#### **JUSTIFICATIONS**

2. To enhance the representativeness of the Veterinary Surgeons Board (“VSB”) and encourage greater involvement of the veterinary profession in managing its own regulatory body, the Ordinance was amended by the Amendment Ordinance to, among others, expand VSB’s membership from appointed members only to a composition comprising appointed members and members elected from among registered veterinary surgeons. Pursuant to section 3A of the Ordinance, VSB shall comprise a Chairperson and 12 members to be appointed by SFH, as well as six elected members after commencement of the Amendment Ordinance.

3. Empowered under section 28(1A) of the Ordinance, SFH has made the Election Regulation to provide for matters concerning the election of members to VSB, having regard to views of the veterinary profession as well as the election arrangements of other professional regulatory bodies including

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<sup>1</sup> The Amendment Ordinance has not yet come into operation.

those for the Medical Council<sup>2</sup>.

4. Upon commencement of the Election Regulation, VSB will hold the first election to elect six members from among registered veterinary surgeons in accordance with the procedures set out therein. The first election is expected to be completed around Q3 2020 for the newly constituted VSB to come into operation.

5. All registered veterinary surgeons holding a valid practising certificate on the 30<sup>th</sup> day before the date of the notice of election are the electors for an election. Each elector may nominate at most two candidates<sup>3</sup> for an election and may vote for one or more candidates up to the number of vacancies in that election. For the first election that will elect members to fill six vacancies, the top six candidates with most votes will be elected. Pursuant to section 3E(1) of the Ordinance, the elected members shall hold office for three years from the first day of the month after gazettal of the election result.

## **ELECTION REGULATION**

6. The Election Regulation and key election arrangements are set out respectively at **Annexes A and B**.

## **LEGISLATIVE TIMETABLE**

7. The legislative timetable is as follows –

Publication in the Gazette	8 November 2019
Tabling at the Legislative Council	13 November 2019

8. The Election Regulation will come into operation on the day section 28(1A) of the Ordinance comes into operation.

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<sup>2</sup> As provided in Medical Practitioners (Electoral Provisions) (Procedure) Regulation (Cap. 161B) and Medical Council (Election and Appointment of Lay Members) Regulation (Cap. 161F).

<sup>3</sup> Each elector in an election may, in the capacity of a proposer or a seconder, subscribe to one registered veterinary surgeon who is eligible to be nominated as a candidate where there is only one vacancy in that election; or up to two registered veterinary surgeons if there are two or more vacancies in that election.

## **IMPLICATIONS OF THE PROPOSAL**

9. The proposal will provide for the election of registered veterinary surgeons to VSB. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. The proposal has no economic, productivity, environmental, sustainability, family or gender implications. The proposal does not affect the binding effect of the Ordinance.

10. The Government has provided additional resources to the VSB Secretariat for conducting the election.

## **PUBLIC CONSULTATIONS**

11. The framework of the Election Regulation was discussed in detail during the Legislative Council's scrutiny of the Veterinary Surgeons Registration (Amendment) Bill 2014 and subsequently by the Legislative Council Panel on Food Safety and Environmental Hygiene in 2015 and 2016. Since 2015, the Government has consulted relevant veterinary organisations including VSB, the Hong Kong Veterinary Association and the China (Hong Kong) Veterinary Association on the framework and salient features of the Election Regulation. Amongst others, two rounds of consultation were conducted in May and December 2015 respectively to seek opinions from the veterinary profession on the election arrangements. VSB was further consulted on the election arrangements in October 2017 and February 2019. A briefing session was also given to the profession recently in October 2019 to keep them posted of the arrangements. The profession in general supported the proposal.

## **PUBLICITY**

12. A spokesperson from the Food and Health Bureau will be available to address press enquiries. We will also organise briefing sessions for the profession in collaboration with VSB before the first election takes place.

## **ENQUIRY**

13. For any enquiries, please contact Miss Yandy Chan, Assistant Secretary for Food and Health, at 3509 8700.

**Food and Health Bureau**  
**6 November 2019**

**Veterinary Surgeons Board (Election of Members)  
Regulation**

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## Veterinary Surgeons Board (Election of Members) Regulation

(Made by the Secretary for Food and Health under section 28(1A) of the  
Veterinary Surgeons Registration Ordinance (Cap. 529))

### Part 1

#### Preliminary

##### 1. Commencement

This Regulation comes into operation on the day on which section 13(2) of the Veterinary Surgeons Registration (Amendment) Ordinance 2015 (6 of 2015) comes into operation.

##### 2. Interpretation

(1) In this Regulation—

*assistant returning officer* (助理選舉主任), in relation to an election, means an assistant returning officer appointed under section 68(1) for the election;

*ballot paper* (選票) means a specified form by means of which an elector for an election is to cast the elector's vote in the election;

*by-election* (補選)—see section 4;

*Cap. 554* (第 554 章) means the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554);

*election* (選舉) means—

- (a) an ordinary election; or
- (b) a by-election;

*election petition* (選舉呈請) means an election petition presented under section 56(1);

*elector* (選舉人)—see section 5;

*nomination form* (提名表格) means a specified form for nominating a person as a candidate for an election;

*nomination period* (提名期)—see section 6;

*notice of election* (選舉通知) means a notice issued under section 9(1);

*ordinary election* (一般選舉)—see section 3;

*polling period* (遞交選票期)—see section 7;

*practising certificate* (執業證明書) means a practising certificate that is issued under section 12 of the Ordinance and is in force;

*returning officer* (選舉主任), in relation to an election, means the returning officer appointed under section 67(2) for the election;

*rules* (《規則》) means the rules made under section 6(c) of the Ordinance;

*specified end date* (指明終結日期)—see section 8;

*specified form* (指明表格) means a form specified under section 66;

*specified officer* (指明人員), in relation to an election, means the returning officer for the election or an assistant returning officer for the election;

*vacancy* (空缺) means a vacancy in the office of an elected member, and includes a vacancy that is to arise on the expiry of the term of office of such a member;

*working day* (工作日) means any Monday, Tuesday, Wednesday, Thursday or Friday (other than a general holiday).



## (2) In this Regulation—

- (a) a reference to a period beginning on a day is a reference to a period beginning at 0000 hours on that day; and
- (b) a reference to a period ending on a day is a reference to a period ending at 2400 hours on that day.

**3. Ordinary election**

- (1) The first election to elect all the members under section 3A(1)(c) of the Ordinance (*relevant section*) is an ordinary election.
- (2) Any other election (other than a by-election) is also an ordinary election if it is held, or to be held, to elect persons to fill the vacancies in the offices of all the members under the relevant section.

**4. By-election**

A by-election is an election that is held, or to be held—

- (a) for the purposes of section 3E(2) of the Ordinance;
- (b) under section 62; or
- (c) to elect, in any other case, one or more persons to fill the vacancy or vacancies in the office or offices of one or more (but not all) elected members.

**5. Elector**

A person is an elector for an election if, on the 30th day before the date of the notice of election—

- (a) the person's name is on the register; and
- (b) the person holds a practising certificate.

**6. Nomination period**

The nomination period for an election is a period of not less than 28 days—

- (a) beginning on the date of the notice of election; and
- (b) subject to section 73(1), ending on a date specified by the Board.

**7. Polling period**

Subject to section 73(1), the polling period for an election is a period of not less than 45 days as specified by the Board.

**8. Specified end date**

- (1) The specified end date is the last day of the term of office of the member or members elected in the last ordinary election.
- (2) In subsection (1)—  
*term of office* (任期) means the term of office mentioned in section 3E(1) of the Ordinance.

## Part 2

### Notice of Election

#### 9. Notice of election

- (1) For an election, the returning officer must issue a notice of election to every elector.
- (2) The notice of election must contain the following information—
  - (a) the number of vacancies to be filled in the election;
  - (b) the reason for the election;
  - (c) the nomination period for the election;
  - (d) the polling period for the election; and
  - (e) any other information that the Board considers appropriate.

## Part 3

### Nominations for Election

#### Division 1—Preliminary

#### 10. Interpretation of Part 3

In this Part—

*date of nomination* (提名日期), in relation to a nomination of a person, means the date stated in the nomination form as the date on which the nomination is made;

*notice of nomination result* (提名結果通知) means a notice issued under section 18.

#### Division 2—Nomination of Candidates

#### 11. How to nominate

- (1) The nomination of a person as a candidate for an election must be made by means of a nomination form.
- (2) The nomination form must satisfy the following conditions—
  - (a) it is signed by an elector as the proposer and another elector as the seconder;
  - (b) it is completed, and submitted, in accordance with the rules; and
  - (c) it is received by the returning officer before the time on the last day of the nomination period, as specified by the Board.
- (3) The person being nominated under subsection (1) (*nominee*)—

- (a) must indicate the nominee's consent to the nomination by signing the nomination form; and
  - (b) must make, in the nomination form, a declaration in relation to the nominee's eligibility for nomination.
- (4) The nominee must not be the proposer or the seconder of the nomination.

**12. Who may nominate**

- (1) An elector may nominate a person as a candidate for an election only if, on the date of nomination—
- (a) the elector's name is on the register; and
  - (b) the elector holds a practising certificate.
- (2) An elector has nominated a person as a candidate for an election if—
- (a) the elector has signed, as the proposer or the seconder, a nomination form for the nomination; and
  - (b) the nomination form has been submitted to the returning officer.
- (3) Subject to subsections (4) and (5), an elector (*relevant elector*)—
- (a) if there is 1 vacancy in the election—may nominate only 1 person; and
  - (b) if there are 2 or more vacancies in the election—may nominate not more than 2 persons.
- (4) If the nomination of a person (*original nominee*) by means of a nomination form signed by the relevant elector is determined under section 15(3)(a) to be invalid, the relevant elector may—
- (a) nominate another person as a candidate for the election; or

- (b) nominate again the original nominee as a candidate for the election.
- (5) If there is any of the following circumstances in relation to the original nominee, the relevant elector may nominate another person as a candidate for the election—
- (a) the original nominee withdraws candidature under section 14;
  - (b) the nomination of the original nominee by means of a nomination form signed by the relevant elector is rejected under section 15(7);
  - (c) the nomination of the original nominee by means of a nomination form signed by the relevant elector is determined under section 15(3)(b) or 16 to be invalid.

**13. Who may be nominated**

- (1) A person may be nominated as a candidate for an election if—
- (a) the person's name is on the register—
    - (i) on 31 December of the second year before the year in which the notice of election is issued (*election year*);
    - (ii) on 31 December of the year before the election year;
    - (iii) on the 30th day before the date of the notice of election; and
    - (iv) on the date of nomination;
  - (b) the person holds a practising certificate on all those days; and
  - (c) at any time within the 3-year period ending on the date of nomination, the person has practised veterinary surgery or provided a veterinary service in Hong Kong.

- (2) However, a person may not be nominated as a candidate for an election if—
  - (a) the person is an undischarged bankrupt on the date of nomination;
  - (b) there is in force on the date of nomination a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap. 6) between the person and the person's creditors;
  - (c) on the date of nomination, there is on the register a record of a removal order made under section 19(a) or (b) of the Ordinance in respect of the person, and the date on which the person's name was removed under the order is within the 3-year period ending on the date of nomination;
  - (d) on the date of nomination, there is on the register a record of a reprimand made under section 19(c) of the Ordinance in respect of the person, and the date of the reprimand is within the 3-year period ending on the date of nomination;
  - (e) an order under section 19(d) of the Ordinance has been made in respect of the person within the 3-year period ending on the date of nomination, and the order has not been reversed by a court;
  - (f) the person has been sentenced, within the 5-year period ending on the date of nomination, to imprisonment for a term exceeding 3 months;
  - (g) the person has been convicted, within the 5-year period ending on the date of nomination, of an offence of having engaged in corrupt conduct or illegal conduct in contravention of Cap. 554; or
  - (h) for a by-election—the person is a member of the Board.

- (3) For the purposes of subsection (2)(f), it does not matter—
  - (a) whether the person is sentenced in Hong Kong or in any other place;
  - (b) whether the sentence is suspended or not; and
  - (c) what the imprisonment is called.

#### 14. Withdrawal of candidature

- (1) A person who is nominated as a candidate for an election may withdraw candidature by giving a written notice to any of the specified officers.
- (2) The notice must satisfy the following conditions—
  - (a) it is in the specified form;
  - (b) it is completed, and given, in accordance with the rules;
  - (c) it is signed by the person in the presence of any specified officer; and
  - (d) it is received by any specified officer before the time on the day following the last day of the nomination period, as specified by the Board.

#### 15. Determination as to validity of nomination

- (1) On receiving a nomination form submitted for an election, the returning officer must determine whether the person nominated by means of the form (*relevant person*) is validly nominated as a candidate for the election.
- (2) The returning officer may make any inquiry that the returning officer considers necessary for determining whether the relevant person is validly nominated.
- (3) The returning officer must determine under subsection (1) that the relevant person is not validly nominated if—

- (a) section 11 or 12 is not complied with in relation to the nomination; or
- (b) it is proved to the satisfaction of the returning officer that—
  - (i) the relevant person has died;
  - (ii) the relevant person is, under section 13, not eligible for nomination; or
  - (iii) at any time after the nomination of the relevant person, there is any of the circumstances specified in section 75 in relation to the person.
- (4) If the returning officer makes a determination under subsection (1), the returning officer must issue a written notice to the relevant person notifying the person of the determination.
- (5) If the returning officer determines that the relevant person is not validly nominated, the notice must state the ground of the determination.
- (6) Subsections (4) and (5) do not apply if the relevant person has died.
- (7) If the returning officer determines under subsection (1) that the nomination of the relevant person is valid, the returning officer must reject any other nomination form by means of which the person is nominated for the election.

**16. Revocation of determination under section 15(1)**

- (1) This section applies if—
  - (a) the returning officer for an election has determined under section 15(1) that a person is validly nominated as a candidate for the election; and
  - (b) before the issue of the notice of nomination result, it is proved to the satisfaction of the returning officer that—

- (i) the person has died;
- (ii) the person is, under section 13, not eligible for nomination; or
- (iii) at any time after the nomination of the person, there is any of the circumstances specified in section 75 in relation to the person.
- (2) The returning officer must—
  - (a) revoke the determination and determine that the person is not validly nominated as a candidate for the election;
  - (b) issue a written notice to the person notifying the person of the revocation and the invalidity of the person's nomination; and
  - (c) state in the notice the ground of the revocation.
- (3) Subsection (2)(b) and (c) does not apply if the person has died.

**Division 3—Nomination Result**

**17. Meaning of *candidate* in Division 3 of Part 3**

In this Division—

*candidate* (候選人), in relation to an election, means a person who satisfies the following conditions—

- (a) the person is determined to be validly nominated under section 15(1) for the election;
- (b) the determination is not revoked under section 16; and
- (c) the person has not withdrawn candidature under section 14.

**18. Notice of nomination result**

The returning officer must, within 14 days after the nomination period, issue a notice of the result of the nominations to every elector.

**19. Poll to be conducted in contested election**

- (1) A poll is to be conducted under Part 4 for an election if the number of candidates exceeds the number of vacancies in the election.
- (2) However, a poll is not required to be conducted under Part 4 for an election if—
  - (a) the nomination result is varied under Division 4; and
  - (b) as a result of the variation, the number of remaining candidates no longer exceeds the number of vacancies.
- (3) In subsection (2)—  
*remaining candidate* (剩餘候選人), in relation to an election, means a candidate for the election in respect of whom the determination under section 15(1) is not revoked under section 24.

**20. If number of candidates equals number of vacancies**

- (1) This section applies if the number of candidates equals the number of vacancies in an election.
- (2) On the date of the notice of nomination result, the returning officer must, by written notice—
  - (a) declare the result of the election and that the candidates are elected as elected members; and
  - (b) declare that the election is concluded.
- (3) The notice of the declarations under subsection (2) must state the name of each of the elected members.

- (4) The returning officer must also send a copy of the notice of the declarations under subsection (2) to every elector.

**21. If vacancies outnumber candidates**

- (1) This section applies if—
  - (a) there is one or more candidates for an election; and
  - (b) the number of vacancies exceeds the number of the candidates.
- (2) On the date of the notice of nomination result, the returning officer must, by written notice—
  - (a) declare the result of the election (including the number of remaining vacancies) and that the candidates are elected as elected members; and
  - (b) declare that the election is concluded.
- (3) The notice of the declarations under subsection (2) must state the name of each of the elected members.
- (4) The returning officer must send a copy of the notice of the declarations under subsection (2) to every elector.
- (5) The returning officer must also notify the Board in writing of the number of remaining vacancies.
- (6) If the election is an ordinary election, a by-election is to be held by the Board to fill the remaining vacancies.
- (7) If the election is a by-election, subject to subsection (8), a further round of by-election is to be held by the Board to fill the remaining vacancies.
- (8) A by-election may be held under subsection (7) only if the period beginning on the date of the notice of nomination result and ending on the specified end date is not less than 9 months.

**22. If there is no candidate**

- (1) This section applies if there is no candidate for an election.
- (2) On the date of the notice of nomination result, the returning officer must, by written notice, declare that the election is countermanded because there is no candidate for the election.
- (3) The returning officer must send a copy of the notice of the declaration under subsection (2) to every elector.
- (4) The returning officer must also notify the Board in writing that the election is countermanded.
- (5) If the election is an ordinary election, a further round of ordinary election is to be held by the Board to fill the vacancies.
- (6) If the election is a by-election, subject to subsection (7), a further round of by-election is to be held by the Board to fill the vacancies.
- (7) A by-election may be held under subsection (6) only if the period beginning on the date of the notice of nomination result and ending on the specified end date is not less than 9 months.

**Division 4—Variation of Nomination Result**

**23. Interpretation of Division 4 of Part 3**

In this Division—

*notice of variation of nomination result* (更改提名結果通知) means a notice issued under section 24(4);

*remaining candidate* (剩餘候選人) has the meaning given by section 19(3).

**24. Variation of nomination result**

- (1) This section applies if—

- (a) the notice of nomination result for an election has been issued;
  - (b) before the polling period, it is proved to the satisfaction of the returning officer that—
    - (i) a relevant candidate has died;
    - (ii) a relevant candidate is, under section 13, not eligible for nomination; or
    - (iii) at any time after the nomination of a relevant candidate, there is any of the circumstances specified in section 75 in relation to the candidate; and
  - (c) the election has not been—
    - (i) declared under section 20(2) or 21(2) to be concluded; or
    - (ii) declared under section 22(2) to be countermanded.
- (2) The returning officer must—
    - (a) revoke the determination under section 15(1) in respect of the relevant candidate and determine that the relevant candidate is not validly nominated as a candidate for the election;
    - (b) issue a written notice to the relevant candidate notifying the candidate of the revocation and the invalidity of the candidate's nomination; and
    - (c) state in the notice the ground of the revocation.
  - (3) Subsection (2)(b) and (c) does not apply if the relevant candidate has died.
  - (4) The returning officer must also issue to every elector a notice of variation of the nomination result notifying the elector of the revocation.

(5) The notice of variation of nomination result must state the name of the relevant candidate.

(6) In this section—

*relevant candidate* (有關候選人) means a person who satisfies the conditions described in the definition of *candidate* in section 17.

**25. If number of candidates equals number of vacancies after variation**

(1) This section applies if, as a result of a variation under section 24, the number of remaining candidates equals the number of vacancies in an election.

(2) On the date of the notice of variation of nomination result, the returning officer must, by written notice—

(a) declare the result of the election and that the candidates are elected as elected members; and

(b) declare that the election is concluded.

(3) The notice of the declarations under subsection (2) must state the name of each of the elected members.

(4) The returning officer must also send a copy of the notice of the declarations under subsection (2) to every elector.

**26. If vacancies outnumber candidates after variation**

(1) This section applies if—

(a) as a result of a variation under section 24, there is one or more remaining candidates for an election; and

(b) the number of vacancies exceeds the number of the remaining candidates.

(2) On the date of the notice of variation of nomination result, the returning officer must, by written notice—

(a) declare the result of the election (including the number of remaining vacancies) and that the candidates are elected as elected members; and

(b) declare that the election is concluded.

(3) The notice of the declarations under subsection (2) must state the name of each of the elected members.

(4) The returning officer must send a copy of the notice of the declarations under subsection (2) to every elector.

(5) The returning officer must also notify the Board in writing of the number of remaining vacancies.

(6) If the election is an ordinary election, a by-election is to be held by the Board to fill the remaining vacancies.

(7) If the election is a by-election, subject to subsection (8), a further round of by-election is to be held by the Board to fill the remaining vacancies.

(8) A by-election may be held under subsection (7) only if the period beginning on the date of the notice of variation of nomination result and ending on the specified end date is not less than 9 months.

**27. If there is no candidate after variation**

(1) This section applies if, as a result of a variation under section 24, there is no remaining candidate for an election.

(2) On the date of the notice of variation of nomination result, the returning officer must, by written notice, declare that the election is countermanded because there is no remaining candidate for the election.

(3) The returning officer must send a copy of the notice of the declaration under subsection (2) to every elector.

(4) The returning officer must also notify the Board in writing that the election is countermanded.



- (5) If the election is an ordinary election, a further round of ordinary election is to be held by the Board to fill the vacancies.
- (6) If the election is a by-election, subject to subsection (7), a further round of by-election is to be held by the Board to fill the vacancies.
- (7) A by-election may be held under subsection (6) only if the period beginning on the date of the notice of variation of nomination result and ending on the specified end date is not less than 9 months.

## Part 4

### Polling

#### Division 1—Preliminary

#### 28. Interpretation of Part 4

In this Part—

*ballot items* (投票物品) means—

- (a) a ballot paper;
- (b) a declaration form;
- (c) an inner envelope; and
- (d) an outer envelope;

*candidate* (候選人) has the meaning given to the definition of *remaining candidate* by section 19(3);

*declaration form* (聲明書) means a specified form by means of which an elector is to declare that any vote recorded on the ballot paper submitted by the elector is cast by the elector;

*inner envelope* (內信封) means an envelope for enclosing a ballot paper for submission to the returning officer;

*outer envelope* (外信封) means an envelope for enclosing a declaration form, an inner envelope and a ballot paper, for submission to the returning officer;

*service address* (送達地址) means the address provided to the Board by a registered veterinary surgeon for receiving a document from the Board.

**29. Application of Part 4**

This Part applies if a poll is required to be conducted for an election.

**Division 2—Issue of Ballot Items etc. and Replacement**

**30. Issue of ballot items etc.**

- (1) Within the first 3 working days of the polling period, the returning officer must issue to every elector—
  - (a) a set of ballot items; and
  - (b) a notice of the poll (*polling notice*).
- (2) The polling notice must contain the following information—
  - (a) the polling period;
  - (b) instructions on casting votes; and
  - (c) any other information that the Board considers appropriate.
- (3) The set of ballot items and a copy of the polling notice—
  - (a) must be sent to an elector by registered post addressed to the elector's service address; and
  - (b) are taken to be sent immediately after they are dispatched by registered post.

**31. If ballot item is spoilt etc.**

An elector may make, in accordance with the rules, to a specified officer a request for another set of ballot items if the elector has inadvertently marked, mutilated, or otherwise spoilt, any of the ballot items that are issued to the elector.

**32. Power to entertain request made under section 31**

- (1) A specified officer may entertain a request made under section 31 only if all the ballot items that are issued to the elector have been returned to any specified officer in accordance with the rules.
- (2) If the specified officer entertains the request, the officer may issue to the elector another set of ballot items (*replacement set*).
- (3) The replacement set may either—
  - (a) be collected in person by the elector or a person acting on the elector's behalf at the address specified in the rules for the purpose; or
  - (b) be sent to the elector by registered post addressed to the elector's service address.
- (4) The issue of the replacement set invalidates the set of ballot items previously issued to the elector.

**33. If ballot item is lost or not received**

An elector may make, in accordance with the rules, to a specified officer a request for another set of ballot items if—

- (a) any of the ballot items that are issued to the elector is lost; or
- (b) the elector does not receive any of the ballot items that are issued to the elector.

**34. Power to entertain request made under section 33**

- (1) A specified officer may entertain a request made under section 33 only if—
  - (a) the elector makes, in the presence of the officer, the following declaration in the specified form—

- (i) for section 33(a)—that one or more of the ballot items that are issued to the elector are lost; or
  - (ii) for section 33(b)—that one or more of the ballot items that are issued to the elector are not received by the elector; and
- (b) the elector gives to the officer an undertaking in the specified form that the elector will only submit 1 ballot paper for casting vote in the election.
- (2) If the specified officer entertains the request, the officer may issue to the elector another set of ballot items (*new set*).
  - (3) The elector may then collect in person the new set at the address specified in the rules for the purpose.
  - (4) The issue of the new set invalidates the set of ballot items previously issued to the elector.
  - (5) The new set is invalidated if the declaration made by the elector under subsection (1)(a) is found by any specified officer to be false.

### Division 3—Voting

#### 35. Elector may vote for one or more candidates

- (1) An elector may vote for one or more candidates.
- (2) Despite subsection (1), the number of candidates that the elector votes for must not exceed the number of vacancies in the election.

#### 36. How to vote

- (1) An elector may cast a vote by submitting a ballot paper to the returning officer.
- (2) The ballot paper must satisfy the following conditions—

- (a) it is completed, and submitted, in accordance with the rules;
  - (b) it is accompanied by a declaration form signed by the elector; and
  - (c) it is received by the returning officer before the time on the last day of the polling period, as specified by the Board.
- (3) Each elector may only submit 1 ballot paper for casting vote in an election.
  - (4) If, in an election, the returning officer receives from an elector 2 or more ballot papers for casting vote in the election, all those ballot papers are invalid.

### Division 4—Death or Disqualification of Candidate During or After Polling Period

#### 37. Death or disqualification during polling period

- (1) This section applies if, during the polling period, it is proved to the satisfaction of the returning officer that—
  - (a) a candidate has died;
  - (b) a candidate is, under section 13, not eligible for nomination; or
  - (c) at any time after the nomination of a candidate, there is any of the circumstances specified in section 75 in relation to the candidate.
- (2) The returning officer must—
  - (a) by written notice, declare that the election is countermanded;
  - (b) state in the notice the ground of the declaration; and
  - (c) send a copy of the notice to every elector.

- (3) The returning officer must also notify the Board in writing that the election is countermanded.
- (4) If the election is an ordinary election, a further round of ordinary election is to be held by the Board to fill the vacancies.
- (5) If the election is a by-election, subject to subsection (6), a further round of by-election is to be held by the Board to fill the vacancies.
- (6) A by-election may be held under subsection (5) only if the period beginning on the date of the declaration under subsection (2) and ending on the specified end date is not less than 9 months.

**38. Death or disqualification after polling period**

- (1) This section applies if, after the polling period, it is proved to the satisfaction of the returning officer that—
  - (a) a candidate has died;
  - (b) a candidate is, under section 13, not eligible for nomination; or
  - (c) at any time after the nomination of a candidate, there is any of the circumstances specified in section 75 in relation to the candidate.
- (2) The proceedings for the election are not to be terminated only because any of the circumstances mentioned in subsection (1)(a), (b) and (c) is proved to the satisfaction of the returning officer.
- (3) If the counting of votes has not begun or has not been completed, the counting is to begin or continue.
- (4) If, after the counting of votes has been completed, the votes cast for the candidate would have been sufficient for returning

- (5) The returning officer must—
  - (a) by written notice, declare that the election is countermanded;
  - (b) state in the notice the ground of the declaration; and
  - (c) send a copy of the notice to every elector.
- (6) The returning officer must also notify the Board in writing that the election is countermanded.
- (7) If the election is an ordinary election, a further round of ordinary election is to be held by the Board to fill the vacancies.
- (8) If the election is a by-election, subject to subsection (9), a further round of by-election is to be held by the Board to fill the vacancies.
- (9) A by-election may be held under subsection (8) only if the period beginning on the date of the declaration under subsection (5) and ending on the specified end date is not less than 9 months.

**Division 5—Counting of Votes**

**39. Place and time of counting of votes**

- (1) Within 30 days after the polling period, the returning officer must verify, record and count the number of votes cast for each candidate.
- (2) Subject to section 70, any of the following persons may be present at the counting of votes—
  - (a) a candidate;

- (b) any other person that the returning officer considers appropriate.
- (3) The returning officer must notify every candidate in writing—
  - (a) of the place, date and time of the counting of votes; and
  - (b) that, subject to section 70, the candidate may be present at the counting of votes.
- (4) The presence or absence of any person at the counting of votes does not affect the validity of the result.

#### 40. Rejecting ballot papers

- (1) The returning officer must reject a ballot paper if—
  - (a) the name of the elector to whom the ballot paper has been issued (*relevant elector*) is not on the register on the last day of the polling period;
  - (b) the relevant elector does not hold a practising certificate on the last day of the polling period;
  - (c) any of the ballot items is invalid under section 32(4) or 34(4) or (5);
  - (d) any of the conditions specified in section 36(2) is not satisfied in relation to the ballot paper;
  - (e) the ballot paper is invalid under section 36(4);
  - (f) any of the ballot items is substantially mutilated;
  - (g) any of the ballot items has been altered;
  - (h) the inner envelope or the ballot paper has any writing or mark by which, in the opinion of the returning officer, the elector can possibly be identified;
  - (i) the number of candidates chosen in the ballot paper exceeds the number of vacancies in the election;
  - (j) the ballot paper is unmarked or not clearly marked; or

- (k) the returning officer determines that any vote recorded on the ballot paper is void for uncertainty.
- (2) In determining whether to reject a ballot paper under subsection (1), the returning officer must act in conformity with the rules.
- (3) A vote recorded on a ballot paper that is rejected under subsection (1) must not be counted.
- (4) Only votes recorded on a ballot paper that satisfies the following conditions may be counted—
  - (a) it is issued under section 30, 32 or 34 (as the case requires) (*relevant section*); and
  - (b) it is accompanied by a declaration form, an inner envelope and an outer envelope that are issued under the relevant section.

#### 41. Recounting of votes

- (1) Before a declaration is made under section 38, 47 or 48, a candidate may request the returning officer to count again the votes already counted.
- (2) The returning officer must entertain a request made under subsection (1) unless the returning officer considers it unreasonable.
- (3) Section 39(2) and (4) applies to the counting of votes under this section.

### Division 6—Ascertaining Result of Election

#### 42. How to ascertain result of election

The returning officer must, after a poll for an election is conducted, ascertain the result of the election in accordance with sections 43, 44, 45 and 46.

**43. More votes, higher priority**

A candidate who has obtained more votes at a poll has a higher priority of being declared to be elected as an elected member.

**44. If candidates with highest number of votes do not outnumber vacancies**

If—

- (a) 2 or more candidates have obtained the highest number of votes at a poll; and
- (b) the number of vacancies in the election exceeds or is the same as the number of those candidates,

all those candidates must be declared to be elected as elected members.

**45. If candidates obtain same number of votes in other case**

(1) This section applies if—

- (a) 2 or more candidates have obtained the same number of votes at a poll; and
- (b) because of section 43, the returning officer cannot declare any of them to be elected as an elected member.

(2) The returning officer must determine which of the candidates under subsection (1)(a) (*relevant candidates*) is or are to be elected by drawing lots.

(3) A relevant candidate on whom the lot falls is to be declared to be elected as an elected member.

(4) The drawing of lots must be conducted—

- (a) if the Chairperson is not a registered veterinary surgeon—in the presence of the Chairperson; or

(b) if the Chairperson is a registered veterinary surgeon—in the presence of any other member of the Board who is not a registered veterinary surgeon.

(5) Subject to section 70, any of the following persons may be present at the drawing of lots—

- (a) a relevant candidate;
- (b) any other person that the returning officer considers appropriate.

(6) The returning officer must notify each of the relevant candidates—

- (a) of the place, date and time of the drawing of lots; and
- (b) that, subject to section 70, the candidate may be present at the drawing of lots.

(7) The presence or absence of any person, other than the person required to be present under subsection (4), at the drawing of lots does not affect the validity of the result.

**46. Candidate obtaining zero vote not to be declared elected**

A candidate who has obtained zero vote at a poll must not be declared to be elected as an elected member.

**47. Result of election**

(1) This section applies if—

- (a) at least one candidate obtains one or more votes at a poll; and
- (b) the result of the election is ascertained under section 42.

(2) The returning officer must—

- (a) by written notice, declare—
  - (i) the number of votes (including zero vote) recorded for every candidate;

- (ii) which candidate is elected as an elected member;
  - (iii) the result of the election (including the number of remaining vacancies, if any); and
  - (iv) that the election is concluded; and
- (b) send a copy of the notice to every elector.
- (3) The returning officer must also notify the Board in writing of the number of remaining vacancies, if any.
  - (4) If the election is an ordinary election, and there is one or more remaining vacancies, a by-election is to be held by the Board to fill the remaining vacancies.
  - (5) If the election is a by-election, and there is one or more remaining vacancies, subject to subsection (6), a further round of by-election is to be held by the Board to fill the remaining vacancies.
  - (6) A by-election may be held under subsection (5) only if the period beginning on the date on which the result of the election is declared under subsection (2) and ending on the specified end date is not less than 9 months.

**48. Election countermanded if no candidate obtains any vote**

- (1) This section applies if no candidate obtains any vote at a poll.
- (2) The returning officer must—
  - (a) by written notice, declare that the election is countermanded because no candidate obtains any vote at the poll; and
  - (b) send a copy of the notice to every elector.
- (3) The returning officer must also notify the Board in writing that the election is countermanded.

- (4) If the election is an ordinary election, a further round of ordinary election is to be held by the Board to fill the vacancies.
- (5) If the election is a by-election, subject to subsection (6), a further round of by-election is to be held by the Board to fill the vacancies.
- (6) A by-election may be held under subsection (5) only if the period beginning on the date of the declaration under subsection (2) and ending on the specified end date is not less than 9 months.

## Part 5

### Review Committee and Election Petition

#### Division 1—Preliminary

##### 49. Interpretation of Part 5

In this Part—

*review committee* (檢討委員會) means a review committee established under section 50(1) or 54(2)(a);

*S for FH* (食衛局局長) means the Secretary for Food and Health.

#### Division 2—Review Committee

##### 50. Establishment and dissolution of review committee

- (1) Before the date of the notice of election for an election, a review committee is to be established to hear any election petition presented in relation to the election.
- (2) A review committee is dissolved if—
  - (a) no election petition was presented in relation to the election before the date and time specified under section 57(1)(d);
  - (b) one or more election petitions were so presented and all of them have been disposed of; or
  - (c) the S for FH approves an application under section 54(1) in relation to the review committee.

##### 51. Membership of review committee

- (1) A review committee is to consist of 5 persons appointed under subsection (2).

- (2) The S for FH may appoint any person (including a member of the Board) who is not a registered veterinary surgeon to be a member of a review committee.
- (3) The S for FH must appoint one of the members of a review committee to be the convenor of the committee.
- (4) The convenor is to preside at the meetings of the review committee.
- (5) On receiving an election petition, the Chairperson must notify every person who signed the petition of the composition of the review committee.

##### 52. Proceedings of review committee

- (1) A matter arising at a meeting of a review committee is to be determined by a majority of votes of the members of the committee present and voting on the matter if—
  - (a) the members fail to reach a consensus on the matter; and
  - (b) any of the members requests a voting.
- (2) The convenor of the review committee has an original vote, and also, if there is an equality of votes for a matter, a casting vote.
- (3) Subject to this Part, the proceedings of a review committee, and other matters (whether or not procedural) concerning a review committee, are to be provided for in the rules.

#### Division 3—Questioning Composition of Review Committee

##### 53. Questioning composition of review committee

- (1) The composition of a review committee may be questioned by a written application for changing the composition of the committee.



- (2) The application may only be made on the ground that the composition of the review committee poses a real risk of partiality or bias as regards the decision of the committee.
- (3) The application may be made either—
  - (a) jointly by the electors who have jointly presented an election petition in relation to the election; or
  - (b) by a person described in section 56(1)(b) or (c) who has presented an election petition in relation to the election.
- (4) The application must satisfy the following conditions—
  - (a) it sets out the ground for the application;
  - (b) it is in the specified form;
  - (c) it is completed, and submitted, in accordance with the rules; and
  - (d) it is received by the S for FH after the date specified under section 57(1)(d) and before the date and time specified by the Board.
- (5) The date specified under subsection (4)(d) must be at least 7 days after the date specified under section 57(1)(d).

#### **54. Consideration of application**

- (1) On receiving an application under section 53 in relation to a review committee, the S for FH—
  - (a) must consider the application and determine whether to approve or reject the application; and
  - (b) must issue a written notice of the determination to every applicant.
- (2) If the S for FH approves the application—
  - (a) the S for FH may make appointments under section 51 to establish another review committee; and

- (b) the Chairperson must notify every person who signed an election petition for the election of the composition of the new review committee.

#### **Division 4—Election Petition**

#### **55. Questioning election by election petition**

- (1) An election may only be questioned by presenting an election petition on the ground that—
  - (a) a person declared under Part 3 or 4 to be elected as an elected member was not duly elected because—
    - (i) the person was, under section 13, not eligible for nomination when the person was nominated;
    - (ii) at any time after the nomination of the person but before the person was declared under Part 3 or 4 to be elected as an elected member, there was any of the circumstances specified in section 75 in relation to the person; or
    - (iii) the person has engaged in corrupt or illegal conduct within the meaning of the Schedule in relation to the election;
  - (b) a person determined under section 15(1), 16 or 24 to be not validly nominated as a candidate for the election should have been determined to be validly nominated;
  - (c) a person (other than the person mentioned in paragraph (a)) has engaged in corrupt or illegal conduct within the meaning of the Schedule in relation to the election; or
  - (d) material irregularity occurred in relation to the election.
- (2) No election petition may be presented in relation to an election that is declared under Part 3 or 4 to be countermanded.

**56. Who may present election petition**

- (1) An election petition may be presented—
  - (a) jointly by 10 or more electors for the election;
  - (b) by a remaining candidate for the election; or
  - (c) by a person who is determined under section 15(1), 16 or 24 to be not validly nominated as a candidate for the election.
- (2) In subsection (1)(b)—  
*remaining candidate* (剩餘候選人) has the meaning given by section 19(3).

**57. How to present election petition**

- (1) An election petition must satisfy the following conditions—
  - (a) it is in the specified form;
  - (b) it is signed by—
    - (i) if it is presented jointly by electors—each of the electors; or
    - (ii) if it is presented by a person described in section 56(1)(b) or (c)—the person;
  - (c) it is completed, and presented, in accordance with the rules; and
  - (d) it is received by the Chairperson after the notification date for the election and before the date and time specified by the Board.
- (2) The date specified under subsection (1)(d) must be at least 30 days after the notification date for the election.
- (3) In this section—

*notification date* (公布日期) means the date on which notification is given under section 3B(2) of the Ordinance in respect of all persons elected as elected members in an election.

**58. Disposal of election petition**

- (1) On receiving an election petition in relation to an election, the Chairperson must determine whether or not to reject the petition.
- (2) The election petition must be rejected by the Chairperson if section 56 or 57 is not complied with in relation to the petition.
- (3) The Chairperson is to forward the election petition to the review committee if the Chairperson is satisfied that sections 56 and 57 are complied with in relation to the petition.
- (4) An election petition in relation to an election is to be heard by the review committee in accordance with the rules.
- (5) Subject to this Part, the procedural matters concerning an election petition, and matters concerning the hearing of an election petition, are to be provided for in the rules.

**59. Withdrawal of election petition**

- (1) At any time before the hearing of an election petition by a review committee begins, the petition may be withdrawn by giving the Chairperson a written notice of withdrawal that is signed by—
  - (a) if the petition is presented jointly by electors—each of the electors; or
  - (b) if the petition is presented by a person described in section 56(1)(b) or (c)—the person.
- (2) A notice of withdrawal must be—
  - (a) in the specified form; and

(b) completed, and given, in accordance with the rules.

**60. Hearing may only begin after certain dates**

The hearing of an election petition may only begin—

- (a) after the date specified under section 53(4)(d); and
- (b) if one or more applications have been made under section 53 in relation to the review committee—after the S for FH has determined all the applications.

**61. Determination by review committee**

- (1) As soon as practicable after hearing an election petition, the review committee must determine—
  - (a) whether the ground for presenting the petition has been proved; and
  - (b) whether a person declared under Part 3 or 4 to be elected as an elected member was duly elected.
- (2) If the review committee determines that a person who was declared under Part 4 to be elected was not duly elected, it must further determine whether another person who was not declared under Part 4 to be elected was duly elected.
- (3) In determining under subsection (2) whether another person was duly elected, the review committee must act in conformity with the rules.
- (4) The review committee may also make in relation to the election petition any other determination that it considers appropriate.
- (5) The review committee must notify the Board and the Secretary in writing of the committee's determination under this section.
- (6) A determination made under this section is final.

**62. Supplementary provisions to section 61**

- (1) If the review committee determines under section 61(1)(b) that a person declared under Part 3 or 4 to be elected was not duly elected, the person ceases to hold the office of an elected member on the date of the determination.
- (2) If the review committee determines under section 61(1)(b) that a person declared under Part 3 to be elected was not duly elected, or determines under section 61(2) that no other person was duly elected, a by-election is to be held by the Board to fill the vacancy.
- (3) Despite subsection (2), a by-election may be held under that subsection only if the period beginning on the date of the determination under section 61(1)(b) and ending on the specified end date is not less than 9 months.

**63. Publishing review committee's determination in Gazette**

The Secretary must publish the following matters in the Gazette—

- (a) if the review committee determines under section 61(1)(b) that a person was not duly elected—the person ceases to hold the office of an elected member on the date of the determination;
- (b) if the review committee determines under section 61(2) that another person was duly elected—the other person was duly elected and the name of that other person;
- (c) if a by-election is to be held under section 62—a by-election is to be held to fill the vacancy; and
- (d) if a by-election is not to be held under section 62—a by-election is not to be held to fill the vacancy.

**64. Successful election petition does not invalidate previous acts**

A determination under section 61(1)(b) by a review committee that a person declared under Part 3 or 4 to be elected was not duly elected does not invalidate any act done by the person in the capacity of an elected member before the determination.

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**Part 6**

**General and Miscellaneous Matters**

**Division 1—Functions of Board and Appointment of  
Returning Officers etc.**

**65. Board to conduct and supervise election**

- (1) The Board is responsible for the conduct and supervision of an election.
- (2) However, if a member of the Board is nominated as a candidate for an election, the member must not participate in the business of the Board relating to the conduct and supervision of the election.

**66. Board to specify forms**

The Board may specify any form for the purposes of this Regulation in the rules.

**67. Appointment of returning officer**

- (1) There is to be 1 returning officer for every election.
- (2) The returning officer is to be appointed by the Board.
- (3) The following person may not be appointed under subsection (2)—
  - (a) a member of the Board; or
  - (b) a registered veterinary surgeon.

**68. Appointment of assistant returning officer**

- (1) The Board may appoint one or more assistant returning officers for an election.

- (2) The following person may not be appointed under subsection (1)—
  - (a) a member of the Board; or
  - (b) a registered veterinary surgeon.
- (3) An assistant returning officer for an election may, with the authority of the returning officer, perform the functions of the returning officer under this Regulation (except sections 14, 31, 32, 33 and 34).
- (4) In subsection (3)—  
*function* (職能) includes powers and duties.

**69. Determination of specified officer is final**

Subject to Part 5, a determination of a specified officer made under this Regulation is final.

**Division 2—Other Functions of Returning Officer**

**70. Returning officer to keep order at places of election**

- (1) For an election, the returning officer—
  - (a) must keep order at places of election; and
  - (b) may order a person to leave a place of election immediately if, at the place, the person behaves in a disorderly manner.
- (2) In this section—  
*place of election* (選舉地點) means—
  - (a) a place of counting the votes under Part 4;
  - (b) a place of drawing lots under section 45; or
  - (c) a place of sealing a ballot box under section 71.

**71. Returning officer to keep ballot papers etc.**

- (1) The returning officer must keep, in accordance with the rules—
  - (a) every ballot paper received by the officer; and
  - (b) every ballot box used in the election.
- (2) As soon as practicable after the end of the polling period, the returning officer must seal every ballot box in accordance with the rules.
- (3) Subject to section 70, any of the following persons may be present when a ballot box is sealed—
  - (a) a remaining candidate;
  - (b) any other person that the returning officer considers appropriate.
- (4) The returning officer must keep every sealed ballot box under the officer's control until the counting of votes begins.
- (5) In subsection (3)(a)—  
*remaining candidate* (剩餘候選人) has the meaning given by section 19(3).

**72. Disposal of documents**

- (1) The returning officer must—
  - (a) keep in safe custody all documents received by the officer in relation to the election for a period of 3 months beginning on the relevant date; and
  - (b) unless directed by an order of court, destroy those documents after the end of the period.
- (2) In this section—  
*document* (文件) includes an envelope;  
*relevant date* (有關日期) means—

- (a) if the election has been declared under Part 3 or 4 to be countermanded—the date of the declaration;
- (b) if paragraph (a) does not apply and no election petition has been presented in relation to the election before the date and time specified under section 57(1)(d)—the date specified under that section;
- (c) if only 1 election petition has been presented in relation to the election before the date and time specified under section 57(1)(d)—the date on which the petition is withdrawn under section 59 or otherwise disposed of under Part 5; and
- (d) if 2 or more election petitions have been presented in relation to the election before the date and time specified under section 57(1)(d)—the date on which the petitions are withdrawn under section 59 or otherwise disposed of under Part 5 or, if the petitions are so withdrawn or disposed of on different dates, the last of those dates.

### Division 3—Inclement Weather

#### 73. Effect of inclement weather

- (1) If any of the following periods ends on a day that is an inclement weather warning day, that period is extended and is to end on the first following normal working day—
  - (a) the nomination period;
  - (b) the polling period.
- (2) If any of the following dates falls on a day that is an inclement weather warning day, the first following normal working day is taken to be that day—
  - (a) the date specified under section 53(4)(d);
  - (b) the date specified under section 57(1)(d).

- (3) If—
  - (a) an act is required or permitted under this Regulation to be done within or during a particular period; and
  - (b) the period ends on a day that is an inclement weather warning day,  
the period is extended and is to end on the first following normal working day.
- (4) If—
  - (a) an act is required or permitted under this Regulation to be done before a time on a particular date; and
  - (b) the date falls on a day that is an inclement weather warning day,  
the act is required or permitted to be done before the time on the first following normal working day.
- (5) For the purposes of this section—
  - (a) a working day is an inclement weather warning day if at any time on the day there is in force—
    - (i) a gale warning within the meaning of section 2 of the Judicial Proceedings (Adjournment During Gale Warnings) Ordinance (Cap. 62); or
    - (ii) a rainstorm warning within the meaning of that section; and
  - (b) the first following normal working day is, in relation to a period under subsection (1) or (3) or a date under subsection (2) or (4), the first working day after the period or the date that is not an inclement weather warning day.

#### Division 4—Term of Office

**74. Term of office of member elected in by-election or determined elected under section 61(2)**

- (1) The term of office of a member elected in a by-election—
  - (a) begins immediately after the result of the election is declared under Part 3 or 4; and
  - (b) ends on the specified end date.
- (2) The term of office of a person determined to be duly elected under section 61(2)—
  - (a) begins immediately after the determination; and
  - (b) ends on the specified end date.

#### Division 5—Circumstances of Disqualification

**75. Circumstances of disqualification**

- (1) The following circumstances are specified for the purposes of sections 15(3)(b)(iii), 16(1)(b)(iii), 24(1)(b)(iii), 37(1)(c), 38(1)(c) and 55(1)(a)(ii)—
  - (a) the name of the person is not on the register;
  - (b) the person does not hold a practising certificate;
  - (c) the person is an undischarged bankrupt;
  - (d) there is in force a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap. 6) between the person and the person's creditors;
  - (e) the person is reprimanded under section 19(c) of the Ordinance;
  - (f) an order under section 19(d) of the Ordinance is made in respect of the person;

- (g) the person is sentenced to imprisonment for a term exceeding 3 months;
  - (h) the person is convicted of an offence of having engaged in corrupt conduct or illegal conduct in contravention of Cap. 554.
- (2) For the purposes of subsection (1)(g), it does not matter—
- (a) whether the person is sentenced in Hong Kong or in any other place;
  - (b) whether the sentence is suspended or not; and
  - (c) what the imprisonment is called.

## Schedule

[s. 55]

### Corrupt or Illegal Conduct

1. A person engages in corrupt or illegal conduct in relation to an election if, had the election been an election to which Cap. 554 applies, the person would have engaged, or would have been taken to have engaged, in corrupt conduct or illegal conduct under section 7, 8, 9, 10, 11 (excluding subsection (8)), 12, 13(1), (2) or (3), 14, 17(1)(a), (d) or (e), 21 or 25 of Cap. 554.
2. A person also engages in corrupt or illegal conduct in relation to an election if—
  - (a) the person makes a request under section 31 or 33 in the name of another person;
  - (b) the person, having voted at the election, makes a request under section 31 or 33 in the person's own name;
  - (c) the person votes at the election more than once;
  - (d) the person invites or induces another person—
    - (i) to vote at the election knowing that the other person is not entitled to do so; or
    - (ii) to vote at the election more than once; or
  - (e) the person makes or publishes a materially false or misleading statement of fact about a candidate for the purpose of promoting or prejudicing the election of the candidate.

3. A person does not engage in corrupt or illegal conduct under section 2(e) of this Schedule if the person proves that the person had reasonable grounds for believing, and did believe, that the statement was true when the statement was made or published.
4. In section 2(a) of this Schedule, a reference to another person includes—
  - (a) a person who has died; or
  - (b) a fictitious person.
5. In section 2(e) of this Schedule—
  - (a) a candidate is a person who stands nominated as a candidate for an election;
  - (b) a statement of fact about a candidate includes a statement concerning the character, qualifications or previous conduct of the candidate.



Secretary for Food and Health

4 November 2019

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### Explanatory Note

This Regulation provides for the election of certain members of the Veterinary Surgeons Board (*Board*) established under section 3 of the Veterinary Surgeons Registration Ordinance (Cap. 529). These members are those mentioned in section 3A(1)(c) of the Ordinance.

#### Part 1—Preliminary (Sections 1 to 8)

2. Section 1 provides for the commencement of this Regulation, and sections 2 to 8 define terms used in this Regulation. For example, section 5 specifies who is an elector.

#### Part 2—Notice of Election (Section 9)

3. Section 9 requires the person appointed to be the returning officer for an election (*returning officer*) to notify every elector of the election.

#### Part 3—Nominations for Election (Sections 10 to 27)

4. Division 1 of Part 3 defines terms used in that Part.
5. Division 2 of Part 3 (sections 11 to 16) provides for the nomination of candidates for an election.
6. Section 11 explains how to nominate a candidate.
7. Section 12 sets out who may nominate a candidate and how many candidates may be nominated by an elector.
8. Section 13 explains who may be nominated as a candidate.
9. Section 14 deals with withdrawal of candidature.
10. Section 15 deals with returning officer's determination as to the validity of a nomination. In particular, section 15(3) provides for the circumstances under which the returning officer must determine that a person is not validly nominated.

11. Section 16 provides for the revocation of a determination as to the validity of a nomination.
12. Division 3 of Part 3 (sections 17 to 22) deals with the nomination result for an election and what is to be done accordingly.
13. Division 4 of Part 3 (sections 23 to 27) sets out the circumstances under which the nomination result must be varied and what is to be done after the variation.

#### Part 4—Polling (Sections 28 to 48)

14. Division 1 of Part 4 (sections 28 and 29) defines terms used in that Part and provides for the application of that Part.
15. Division 2 of Part 4 (sections 30 to 34) provides for the issue of certain items, including ballot papers, by the returning officer and provides for the replacement of those items in certain situations.
16. Division 3 of Part 4 (sections 35 and 36) deals with voting. Section 35 sets out the number of candidates an elector may vote for in an election. Section 36 explains how to vote in an election.
17. Division 4 of Part 4 (sections 37 and 38) provides for what should be done if, during or after the polling period, a candidate is proved to have died, or to be no longer eligible or qualified for standing for the election.
18. Division 5 of Part 4 (sections 39, 40 and 41) deals with counting of votes in an election. In particular, section 40 sets out the circumstances under which the returning officer must reject a ballot paper.
19. Division 6 of Part 4 (sections 42 to 48) provides for the procedures for ascertaining the result of an election after a poll and what is to be done according to the result.

**Part 5—Review Committee and Election Petition (Sections 49 to 64)**

20. Division 1 of Part 5 (section 49) defines terms used in that Part.
21. Division 2 of Part 5 (sections 50, 51 and 52) contains provisions relating to the establishment, dissolution, membership and proceedings of a review committee.
22. Division 3 of Part 5 (sections 53 and 54) deals with how the composition of a review committee may be questioned.
23. Division 4 of Part 5 (sections 55 to 64) deals with election petitions. For example, it explains how an election petition may be presented and how it is to be disposed of. An election may only be questioned on the grounds specified in section 55. A review committee is to hear and determine election petitions.

**Part 6—General and Miscellaneous Matters (Sections 65 to 75)**

24. Division 1 of Part 6 (sections 65 to 69) deals with the functions of the Board and the appointment of the returning officer and assistant returning officers. It also provides that a determination of the returning officer or an assistant returning officer is final subject to Part 5.
25. Division 2 of Part 6 (sections 70, 71 and 72) provides for the other functions of the returning officer, including keeping order at places of election, keeping ballot papers and ballot boxes, and disposal of documents in relation to an election.
26. Division 3 of Part 6 (section 73) provides for the extension of certain periods, dates or deadlines in case of inclement weather.
27. Division 4 of Part 6 (section 74) provides for the term of office of members of the Board elected in a by-election and the term of office of persons who are determined to be duly elected following an election petition.

28. Division 5 of Part 6 (section 75) sets out certain circumstances under which a person may be disqualified from standing for an election.

**Schedule**

29. The Schedule describes the circumstances under which a person engages in corrupt or illegal conduct in relation to an election.

**Key election arrangements for electing members of  
the Veterinary Surgeons Board (“VSB”)**

**(A) Overview of the election arrangements**

The incumbent VSB is to be charged with the responsibility of conducting and supervising an election and to appoint a person to serve as the returning officer. The returning officer will notify each elector of the election by issuing a notice of election. A review committee comprising five people (who are not registered veterinary surgeons) appointed by the Secretary for Food and Health will be established to hear election petitions related to that election.

**(B) Term of office**

2. The term of office of a member elected in an ordinary election is three years.

**(C) Eligibility of an elector**

3. All registered veterinary surgeons holding a valid practising certificate on the 30<sup>th</sup> day before the date of the notice of election are the electors for that election.

4. Nominations and votes will be invalidated if an elector ceases to be a registered veterinary surgeon holding a valid practising certificate on the date of nomination and the last day of the polling period respectively.

**(D) Eligibility for nomination**

5. A veterinary surgeon with his or her name on the register of registered veterinary surgeons and holding a valid practising certificate on

certain dates<sup>4</sup>, and who has practised veterinary surgery or provided veterinary service in Hong Kong within the 3-year period ending on the date of nomination, may be nominated as a candidate for an election, unless –

- (a) he or she is or has been the subject of a disciplinary order made under section 19 of the Ordinance in the past three years;
- (b) he or she is an undischarged bankrupt;
- (c) he or she has entered into a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap. 6) with his / her creditors which is still in force;
- (d) he or she is or has been sentenced, in Hong Kong or any other place, to imprisonment for a term exceeding 3 months in the past five years; or
- (e) he or she is or has been convicted of an offence of having engaged in corrupt conduct or illegal conduct in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) in the past five years.

#### **(E) Nomination of candidates**

6. A nomination must be supported by two electors as proposer and seconder respectively. In general, each elector may nominate at most two candidates for an election. If there is one vacancy in the election, each elector may nominate only one candidate.

#### **(F) Voting**

7. Each elector may vote for one or more candidates up to the number of vacancies in the election. A candidate who obtains the most votes will be elected.

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<sup>4</sup> These dates are —

- (i) 31 December of the second year before the year in which the notice of election is issued (*election year*);
- (ii) 31 December of the year before the election year;
- (iii) the 30th day before the date of the notice of election; and
- (iv) the date of nomination.

**(G) Electoral office**

8. VSB will hold an election in accordance with the procedures set out in the Election Regulation.

**(H) Conduct of election**

9. An ordinary election will be held to elect registered veterinary surgeons to fill the vacancies in the offices of all six elected members, which usually arise due to the expiry of the members' 3-year term of office.

10. If the office of an elected member becomes vacant and the unexpired term of office at the time when the vacancy arises is not less than nine months, a by-election will be held to elect a registered veterinary surgeon to hold that office for the unexpired term.

**(I) Election petition**

11. A group of at least 10 electors, a candidate, or a person who was determined to be not validly nominated as a candidate may present an election petition questioning the election. An election petition should be presented to the Chairperson of VSB within a period specified by VSB of no less than 30 days after the date on which the election result is published in the Gazette. The review committee will hear the election petitions. The review committee will remain in being until all the election petitions have been disposed of or no election petition is received.