

LEGISLATIVE COUNCIL BRIEF

Legislative Council Ordinance (Chapter 542)

LEGISLATIVE COUNCIL (FORMATION OF ELECTION COMMITTEE) (APPEALS) (AMENDMENT) REGULATION 2000

INTRODUCTION

At the meeting of the Executive Council on 18 January 2000, the Council ADVISED and the Chief Executive ORDERED that the Legislative Council (Formation of Election Committee) (Appeals) (Amendment) Regulation 2000 (“the amending Regulation”) should be made.

BACKGROUND AND ARGUMENT

General Background

2. The Legislative Council (Amendment) Ordinance 1999 (48 of 1999) provides that six members of the second term Legislative Council (“LegCo”) are to be returned by an Election Committee (“EC”). This EC is to be composed of 38 subsectors. The majority of the subsectors are to return their representatives by elections. The exceptions are the National People’s Congress (“NPC”) subsector, the Legislative Council subsector and the Religious subsector. The first two are to be represented on the EC by *ex-officio* members, i.e. persons holding the respective offices, while the Religious subsector is to return its representatives by way of nomination. To ensure the integrity and transparency of our electoral systems, we provide for an appeal channel in relation to the return of these members. The procedures for appeal are set out in the Legislative Council (Formation of Election Committee) (Appeals) Regulation (Cap. 542, sub. leg.) made under section 82 of the Legislative Council Ordinance (Cap. 542).

Appeals in relation to the registration of *ex-officio* members

3. Under the Legislative Council (Amendment) Ordinance 1999, a new mechanism for registering the *ex-officio* membership of the

EC is introduced. This mechanism provides, among other things, that LegCo members and Hong Kong Deputies to the NPC who hold offices on 30 June 2000 will be automatically registered as *ex-officio* members of the EC. Those *ex-officio* members who are also registered electors for functional constituencies (“FCs”) will be allowed to choose to vote either in the relevant FC or the EC. Their choices will be marked in the register of members of the EC to indicate their voting rights.

4. To ensure that the choices of these *ex-officio* members are properly reflected in the register, we propose that such members may lodge an appeal to the Revising Officer if their choices are wrongly marked. The appeals may be lodged within 2 weeks following the publication of the register of members of the EC. The Revising Officer will conduct a hearing not later than 14 days before the LegCo election is held and then make a ruling. The procedures for handling these appeals are broadly the same with those for handling other types of appeals under the existing regulation.

Appeals in relation to the nomination of members from the Religious subsector

5. The Legislative Council (Amendment) Ordinance 1999 also introduces a new arrangement in relation to the process of nomination by the Religious subsector. If a designated religious body in the religious subsector nominates a number of persons that is greater than the number of representatives assigned to it, and the body does not indicate preferences as to which of the nominees should become its representatives on the EC, the Returning Officer may determine which of the nominees should become members of the EC by drawing lots. To ensure that the process of drawing lots is open, fair and honest, we propose that any material irregularity in the process should become a ground for appeal, in addition to the existing ones such as a material irregularity in the process of nomination.

THE AMENDING REGULATION

6. The amending Regulation seeks to give effect to the proposal in relation to appeals on the registration of *ex-officio* members as set out in paragraph 4 above. It also seeks to provide for an additional ground for appeal as proposed in paragraph 5 above. We also take the opportunity to make a number of improvements in the drafting of the Legislative Council (Formation of Election Committee) (Appeals) Regulation where appropriate.

LEGISLATIVE TIMETABLE

7. The amending Regulation will be published in the Gazette on 21 January, and tabled in LegCo for negative vetting on 26 January.

BASIC LAW IMPLICATIONS

8. The Department of Justice advises that the amending Regulation is consistent with the provisions of the Basic Law carrying no human rights implications.

HUMAN RIGHTS IMPLICATIONS

9. The Department of Justice advises that the amending Regulation is consistent with the human rights provisions of the Basic Law.

FINANCIAL AND STAFFING IMPLICATIONS

10. The amending Regulation has no additional financial nor staffing implications.

PUBLIC CONSULTATION

11. Public consultation is considered unnecessary given the technical nature of the proposals.

PUBLICITY

12. A press release will be issued on 20 January.

ENQUIRIES

13. Any enquiries on this brief should be addressed to Mr Bassanio So, Principal Assistant Secretary (Constitutional Affairs) 5, on 2810 2852.

Constitutional Affairs Bureau
20 January 2000

File Ref.: CAB C1/30/5/2
(p0188)