

Information Note

Particulars Relating to Candidates on Ballot Papers (Legislative Council) Regulation

Introduction

This note only outlines the essential features of the Particulars Relating to Candidates on Ballot Papers (Legislative Council) Regulation (“the Regulation”) made by the Electoral Affairs Commission (“EAC”). You should refer to the full texts of the Regulation for reference.

2. The Regulation comes into operation on 6 February 2004 and sets out the procedures for printing the following particulars in respect of a candidate on the ballot papers for use in the Legislative Council (“LegCo”) elections -

- (a) the Chinese name of a prescribed body¹;
- (b) the abbreviation of the Chinese name of a prescribed body;
- (c) the English name of a prescribed body;
- (d) the abbreviation of the English name of a prescribed body;
- (e) the emblem of a prescribed body;
- (f) the emblem of a prescribed person²;
- (g) the words "Independent Candidate 獨立候選人" or the words "Non-affiliated Candidate 無黨派候選人"; and
- (h) a personal photograph of the candidate.

1 A prescribed body means a prescribed political body or a prescribed non-political body.

2 A prescribed person means a person that is registered in a final register of electors for geographical constituencies as compiled and published in accordance with the Legislative Council Ordinance (Cap. 542) and that is not disqualified from being so registered or from voting at an election.

Outline of the Regulation

3. In brief, the Regulation is divided into six parts -

(a) Part 1 (sections 1 to 2)

This part defines the terms used in the Regulation.

(b) Part 2 (sections 3 to 7)

This part provides for the requests made by candidates to have the specified particulars printed on a ballot paper.

(c) Part 3 (sections 8 to 10)

This part provides for applications by prescribed bodies for the registration of their names and emblems, and applications by prescribed persons for the registration of their emblems.

(d) Part 4 (sections 11 to 19)

This part sets out the procedures for the EAC to process the applications, publication of applications made to the EAC, objections to the applications, and hearing of objections by the EAC.

(e) Part 5 (sections 20 to 31)

This part provides for the registration and de-registration of the particulars of prescribed bodies and prescribed persons, applications by prescribed bodies for the replacement of their registered names and emblems, applications by prescribed persons for the replacement of their registered emblems, and applications by prescribed bodies and prescribed persons for the withdrawal of their registered particulars.

(f) Part 6 (sections 32 to 35)

This part provides for offences and other miscellaneous matters.

Part 2 : Request to print particulars relating to candidates on ballot paper

Request by candidate for functional constituency or sole candidate on nomination list (section 3)

4. A candidate may, during the relevant nomination period³, request the EAC to print on a ballot paper his personal photograph and the particulars set out in any one of the following paragraphs, with or without the particulars specified in item 4 of the Schedule **at Appendix** –

- (a) the particulars specified in item 1 or item 2 or both of the Schedule and relating to not more than 3 prescribed bodies;
- (b) the particulars specified in item 3 of the Schedule and relating to the candidate; or
- (c) the particulars specified in item 1 or item 2 or both of the Schedule and relating to not more than 2 prescribed bodies, and the particulars specified in item 3 of the Schedule and relating to the candidate.

5. If the particulars in the request relate to any prescribed body, the request must be accompanied by that body's consent to the particulars being printed on a ballot paper.

³ *Relevant nomination period means the nomination period for nominations for a geographical constituency or a functional constituency as the case may be.*

Request by candidate on nomination list
with more than one candidate (section 4)

6. A candidate may, during the relevant nomination period, request the EAC to print the following particulars on a ballot paper as particulars relating to the candidate and the other candidate or candidates on the nomination list concerned –

- (a) where there are 2 candidates on the list -
 - (i) the particulars described in paragraph 7 below;
 - (ii) a personal photograph of one or both of the candidates on the list; or
- (b) where there are 3 or more candidates on the list -
 - (i) the particulars described in paragraph 8 below;
 - (ii) a personal photograph of any one or more of the candidates on the list.

7. The particulars referred to in paragraph (6)(a)(i) are the particulars set out in any one of the following paragraphs, with or without the particulars specified in item 4 of the Schedule -

- (a) the particulars specified in item 1 or item 2 or both of the Schedule and relating to not more than 3 prescribed bodies;
- (b) the particulars specified in item 3 of the Schedule and relating to one or both of the candidates on the nomination list concerned;
- (c) the particulars specified in item 1 or item 2 or both of the Schedule and relating to one prescribed body, and the particulars specified in item 3 of the Schedule and relating to one or both of the candidates on the nomination list concerned; or
- (d) the particulars specified in item 1 or item 2 or both of the

Schedule and relating to 2 prescribed bodies, and the particulars specified in item 3 of the Schedule and relating to one of the candidates on the nomination list concerned.

8. The particulars referred to in subsection (6)(b)(i) are the particulars set out in any one of the following paragraphs, with or without the particulars specified in item 4 of the Schedule -

- (a) the particulars specified in item 1 or item 2 or both of the Schedule and relating to not more than 3 prescribed bodies;
- (b) the particulars specified in item 3 of the Schedule and relating to not more than 3 candidates on the nomination list concerned;
- (c) the particulars specified in item 1 or item 2 or both of the Schedule and relating to one prescribed body, and the particulars specified in item 3 of the Schedule and relating to not more than 2 candidates on the nomination list concerned; or
- (d) the particulars specified in item 1 or item 2 or both of the Schedule and relating to 2 prescribed bodies, and the particulars specified in item 3 of the Schedule and relating to one of the candidates on the nomination list concerned.

9. If the particulars in the request relate to any prescribed body, the request must be accompanied by that body's consent to the particulars being printed on a ballot paper.

Consent of prescribed body (section 5)

10. The consent referred to in paragraphs 5 and 9 above should be made in the specified form during the relevant nomination period.

11. A prescribed body may, during the relevant nomination period, by notice in writing given to EAC, withdraw a consent given in relation to a request.

Size and position of printing (section 7)

12. The EAC has its absolute discretion to decide upon the size and

position of the particulars concerned as printed on a ballot paper and whether and how to further include any indication on the ballot paper to show the candidate or candidates to whom the particulars relate.

Part 3 : Application for registration of name and emblem

Prescribed body (section 8)

13. A prescribed body may apply at any time to the EAC for the registration of the following particulars if it intends to consent to such particulars being printed on ballot papers in respect of one or more candidates in the LegCo elections -

- (a) the Chinese name of the body;
- (b) an abbreviation of the Chinese name of the body;
- (c) the English name of the body;
- (d) an abbreviation of the English name of the body;
- (e) an emblem of the body.

14. An application must be made in the specified form and signed by the applicant. It must contain a statement that the applicant is a political party or a non-political party and a statement that the applicant intends to allow one or more candidates to have these particulars printed in respect of the candidate(s) on ballot papers. The application must also be accompanied by a copy of the relevant certificate⁴ of the applicant for the purpose of verifying its name.

Prescribed person (section 9)

15. A prescribed person intending to run in a LegCo election may at any time apply to the EAC for the registration of his emblem.

⁴ *Examples of relevant certificate include a certificate of registration issued under the Companies Ordinance (Cap. 32) and a certificate of registration issued under the Societies Ordinance (Cap. 151).*

16. An application must be made in the specified form and signed by the applicant, and must contain a statement that the applicant is registered as a geographical constituency elector.

EAC may refuse to accept application (section 10)

17. The EAC may refuse to accept an application for registration if, for example, the application is not made in the specified form, etc. If necessary, the EAC may also require the applicant to provide additional information for the purpose of considering the application.

Part 4 : Processing of application

Timing (section 11)

18. The EAC will process any application in any annual registration cycle -

- (a) if the application is made on or before the relevant cut-off date⁵ of that annual registration cycle⁶, as soon as practicable after that cut-off date, and in any event within that annual registration cycle; or
- (b) if the application is made after the relevant cut-off date of that annual registration cycle, as soon as practicable after the relevant cut-off date of the next following annual registration cycle, and in any event within the next following annual registration cycle.

Preliminary processing (sections 12 – 13)

19. The EAC may refuse to grant an application made by a prescribed body for the registration of the abbreviation of a name if, for example, the abbreviation -

⁵ *Relevant cut-off date means, in relation to the first annual registration cycle after the commencement of the Regulation, 1 April 2004; or, in relation to any subsequent annual registration cycle, 15 April in that annual registration cycle.*

⁶ *Annual registration cycle means the period that begins on 1 January in any year and ends on 31 December in that year. For the first annual registration cycle, it means the period that begins on 6 February 2004 and ends on 31 December 2004.*

- (a) is identical to the name or abbreviation of the name of another prescribed body; or
- (b) so closely resembles the name or abbreviation of the name of any other person that the relevant abbreviation is likely to be confused with or mistaken for the name or abbreviation of the name of that other person.

20. The EAC may also refuse to grant an application made by a prescribed body or a prescribed person for the registration of an emblem, if, for example, the emblem –

- (a) is identical to the emblem of another prescribed body; or
- (b) so closely resembles the emblem of any other person that the relevant emblem is likely to be confused with or mistaken for the emblem of that other person.

21. If the EAC is of the opinion that it may refuse to grant an application, it will give the applicant notice in writing. The applicant may vary the application or make representation to the EAC on why it should not refuse to grant the application.

Further processing (sections 14 – 17)

22. If the EAC, having considered an application, is of the opinion that it may grant the application, it will publish a notice in respect of the application in the Gazette -

- (a) specifying the name of the applicant and the subject of the application;
- (b) stating that the EAC may grant the application; and
- (c) inviting any person who objects to the granting of the application to make objection to the EAC.

23. Any person may, within 14 days after the publication of the Gazette, by notice in writing given to the EAC, object to the granting of the application. An objection may be made only on the grounds that -

- (a) the abbreviation concerned is identical to the name or abbreviation of the name of the objector, or so closely resembles the name or abbreviation of the name of the

objector that the relevant abbreviation is likely to be confused with or mistaken for that latter name or abbreviation; or

- (b) the emblem concerned is identical to a registered trade mark of which the objector is the owner or a licensee or an emblem in relation to which the objector has an intellectual property right; or
- (c) the emblem so closely resembles a registered trade mark of which the objector is the owner or a licensee or an emblem in relation to which the objector has an intellectual property right that the relevant emblem is likely to be confused with or mistaken for that trade mark or emblem.

24. In the event of an objection, the Commission will conduct a hearing. The EAC will make a decision on whether the application should be granted after hearing the arguments and examining the relevant materials.

Decision of EAC (sections 18 – 19)

25. The EAC will, as soon as practicable after a decision is made to grant an application, notify parties concerned of such decision. It will also publish a notice in respect of the application in the Gazette -

- (a) specifying the name of the applicant and the subject of the application; and
- (b) stating that the EAC has granted the application and registered the subject of application.

Part 5: Registration and de-registration of name and emblem

Register of registered names and emblems (section 20)

26. The EAC must maintain a register of the registered particulars. The register is available for public inspection, free of charge, during ordinary business hours at the Registration and Electoral Office : 10th Floor, Harbour Centre, 25 Harbour Road, Wan Chai, Hong Kong.

De-registration of name and emblem (section 21)

27. The EAC may de-register the relevant registered particulars, for example, on the grounds that -

- (a) no request has been made by a candidate to print the registered name and emblem of a prescribed body on ballot papers in two consecutive general elections or in any by-election held between such general elections; or
- (b) the body ceases to exist.

Objection to continued registration of abbreviation or emblem (sections 22 - 23)

28. Any person may object to the continued registration of –

- (a) an abbreviation of the Chinese name or the English name of a prescribed body ;
- (b) an emblem of a prescribed body or a prescribed person.

The objection must be made in the specified form.

Replacement to registered particulars (sections 24 - 25)

29. A prescribed body or a prescribed person may apply to the EAC to replace the registered particulars. The application must be made in the specified form.

Withdrawal of registration (sections 28 – 31)

30. A prescribed body and a prescribed person may at any time apply to the EAC for the withdrawal of the registered particulars.

Registration and Electoral Office
March 2005

SCHEDULE
PARTICULARS RELATING TO CANDIDATES

Item	Particulars
1.	Either or both of the following – <ol style="list-style-type: none">(a) the registered Chinese name or the registered abbreviation of the Chinese name (but not both) of a prescribed body;(b) the registered English name or the registered abbreviation of the English name (but not both) of a prescribed body.
2.	The registered emblem of a prescribed body.
3.	The registered emblem of a prescribed person.
4.	The words "Independent Candidate 獨立候選人" or the words "Non-affiliated Candidate 無黨派候選人" (but not both).