

L.N. 22 of 2022

Emergency (Date of Election) (Sixth Term Chief Executive) Regulation

(Made by the Chief Executive in Council under section 2 of the Emergency Regulations Ordinance (Cap. 241))

Part 1

Preliminary

1. Commencement

This Regulation comes into operation on 24 February 2022.

2. Interpretation

In this Regulation—

Cap. 541J (《第541J章》) means the Electoral Procedure (Chief Executive Election) Regulation (Cap. 541 sub. leg. J);

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

Cap. 569 (《第569章》) means the Chief Executive Election Ordinance (Cap. 569);

Chief Electoral Officer (總選舉事務主任) has the meaning given by section 2(1) of the Electoral Affairs Commission Ordinance (Cap. 541);

Chief Executive election (行政長官選舉) means an election to return a candidate for appointment by the Central People's Government to fill the vacancy in the office of the Chief Executive arising from the expiry of the fifth term of office of the Chief Executive;

discontinuation date (中止日期) means 24 February 2022;

discontinued election (已中止的選舉) means the Chief Executive election the poll at which is scheduled to be held on the original date;

election expenses (選舉開支)—

- (a) in relation to the discontinued election—has the meaning given by section 2(1) of Cap. 554, as read together with section 7(2); and
- (b) in relation to the postponed election—has the meaning given by section 2(1) of Cap. 554;

electoral law (選舉法)—

- (a) means any law in force providing for an election to return a candidate for appointment by the Central People's Government to fill the vacancy in the office of the Chief Executive; and
- (b) includes any guidelines issued under section 6(1) of the Electoral Affairs Commission Ordinance (Cap. 541);

electoral matter (選舉事宜)—

- (a) means an act that is done, or purportedly done, under the electoral law; and
- (b) includes an election related document (as defined by section 84(6) of Cap. 541J);

function (職能) includes a power and a duty;

original date (原定日期) means 27 March 2022;

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postponed election (經押後的選舉) means the Chief Executive election the poll at which is to be held on 8 May 2022, as required under section 5(1);

Returning Officer (選舉主任) has the meaning given by section 2(1) of Cap. 569.

Part 2

Change of Date of Chief Executive Election

3. Notices in respect of discontinued election revoked

The following notices are revoked—

- (a) the Notice of Polling Date of Chief Executive Election which was published, under section 12 of Cap. 569, in the Gazette on 22 October 2021 as Government Notice 6475 of 2021; and
- (b) the Notice of Nomination for Chief Executive Election which was published, under section 3 of Cap. 541J, in the Gazette on 27 January 2022 as Government Notice (E.) 143 of 2022.

4. Discontinued election ends and related electoral matters cease to have effect

- (1) The discontinued election comes to an end at the beginning of the discontinuation date.
- (2) Except for the purposes of the matters provided in Part 3, all electoral matters in relation to the discontinued election that took place or came into being before the discontinuation date (including the notices referred to in section 3) cease to have effect as from the beginning of that date.
- (3) To avoid doubt, and without limiting subsections (1) and (2)—
 - (a) section 11 of Cap. 569 does not apply to the discontinued election;
 - (b) except for the purposes of the matters provided in Part 3, on and after the discontinuation date, an

electoral officer (as defined by section 2(1) of Cap. 569) and the Candidate Eligibility Review Committee established under section 9A of Cap. 569 are not required to perform any function provided in any electoral law in relation to the discontinued election; and

- (c) the electoral matters referred to in subsection (2) do not have any effect in relation to the postponed election.

5. Date of poll and nomination period at and application of electoral law to postponed election

- (1) Section 10(1) of Cap. 569 does not apply to the postponed election, and the poll at the Chief Executive election is to be held on 8 May 2022 instead of the original date.
- (2) Subject to subsection (1), in applying the provisions of any electoral law to the postponed election, 8 May 2022 is to be taken as the date fixed for the poll at that election under section 10(1) of Cap. 569.
- (3) Section 15(1) of Cap. 569 does not apply to the postponed election, and the nomination period at that election is the period from 3 April 2022 to 16 April 2022 (both dates inclusive).
- (4) Subject to subsection (3)—
 - (a) the Chief Electoral Officer must publish in the Gazette a notice which states the matters referred to in section 3(b), (c) and (d) of Cap. 541J; and

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- (b) in applying the provisions of any electoral law to the postponed election, the period from 3 April 2022 to 16 April 2022 (both dates inclusive) is to be taken as the nomination period fixed under section 15 of Cap. 569.
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Part 3

Matters Related or Consequential to Change of Date of Chief Executive Election

- 6. Matters arising from change of date of Chief Executive election**
- (1) On and after the discontinuation date—
 - (a) the Returning Officer or the Chief Electoral Officer, as the case may be, must continue to perform their functions under sections 14(9) and 87(7) and (8) of Cap. 541J in relation to the discontinued election;
 - (b) the Returning Officer must send any document referred to in section 57(f), (g), (h), (i) or (j) of Cap. 541J in relation to the discontinued election to the Chief Electoral Officer, who must deal with the document in accordance with section 59 of Cap. 541J (as if a reference to the 6-month period in that section were a reference to the 6-month period beginning with the discontinuation date); and
 - (c) a candidate (as defined by section 2(1) of Cap. 541J) must continue to comply with section 87(2)(b) of Cap. 541J in relation to the discontinued election.
 - (2) Any election expenses incurred at or in connection with the discontinued election by or on behalf of a person are not to be regarded as election expenses incurred by or on behalf of the person at or in connection with the postponed election.
 - (3) Anything done by a person before the discontinuation date is not to be regarded as a public declaration by the person of the person's intention to stand as a candidate at the postponed election.

7. Application of Cap. 554 to discontinued election

- (1) For the purposes of section 4(1) of Cap. 554, the discontinued election is an election to which Cap. 554 applies.
- (2) Cap. 554 applies to the discontinued election with the following modifications—
 - (a) in paragraph (b) of the definition of *candidate* in section 2(1) of Cap. 554, the reference to “any time before the close of nominations for an election” is taken to be a reference to “any time before 24 February 2022”;
 - (b) in section 2(1) of Cap. 554, the following definition is taken to be substituted for the definition of *election period*—

“*election period* (選舉期間) means the period beginning with 20 February 2022 and ending with 23 February 2022;”;

and
 - (c) the following provision is taken to be substituted for section 37(1A) of Cap. 554—

“(1A) For the discontinued election (as defined by section 2 of the Emergency (Date of Election) (Sixth Term Chief Executive) Regulation), the candidate must ensure that the election return is lodged before the expiry of the period of 60 days beginning with 24 February 2022.”.

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Wendy LEUNG
Clerk to the Executive Council

COUNCIL CHAMBER

23 February 2022

Explanatory Note

The purposes of this Regulation are to—

- (a) revoke certain notices in respect of the election to elect the sixth term Chief Executive the poll at which is originally scheduled to be held on 27 March 2022 (*discontinued election*);
- (b) provide that the discontinued election comes to an end at the beginning of 24 February 2022, and that acts done, or purportedly done, under the electoral law in relation to the discontinued election cease to have effect accordingly;
- (c) provide that the poll at the election to elect the sixth term Chief Executive is to be held on 8 May 2022 instead, and that the nomination period at that election is the period from 3 April 2022 to 16 April 2022; and
- (d) provide for related or consequential matters.