

CHIEF EXECUTIVE ELECTION ORDINANCE

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HONG KONG SPECIAL ADMINISTRATIVE REGION**ORDINANCE NO. 21 OF 2001**A circular mark containing the letters "L.S." in a serif font, positioned to the left of the signature.

Donald TSANG
Acting Chief Executive
19 July 2001

An Ordinance to provide for the election of the Chief Executive in accordance with Annex I to the Basic Law of the Hong Kong Special Administrative Region; to amend the Electoral Affairs Commission Ordinance to empower the Electoral Affairs Commission to supervise election of the Chief Executive; to amend the Legislative Council Ordinance to remove provisions concerning the constitution of the Election Committee and provide for by-election to return a Member of the Legislative Council by the Election Committee constituted under this Ordinance; to make necessary related amendments to the Elections (Corrupt and Illegal Conduct) Ordinance consequential upon the enactment of this Ordinance and to provide for matters related to or consequential upon such election.

[]

Enacted by the Legislative Council.

PART 1**PRELIMINARY****1. Short title and commencement**

(1) This Ordinance may be cited as the Chief Executive Election Ordinance.

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Constitutional Affairs by notice published in the Gazette.

2. Interpretation

(1) In this Ordinance, unless the context otherwise requires—
“Acting Chief Executive” (署理行政長官) means any public officer assuming the duties of the Chief Executive pursuant to Article 53 of the Basic Law;

- “candidate” (候選人) means a candidate who is determined to be validly nominated under section 17;
- “Chief Electoral Officer” (總選舉事務主任) means the Chief Electoral Officer appointed under section 9 of the Electoral Affairs Commission Ordinance (Cap. 541);
- “Chief Executive” (行政長官) means the Chief Executive of the Hong Kong Special Administrative Region;
- “Court” (原訟法庭) means the Court of First Instance;
- “EAC Regulations” (《選管會規例》) means regulations made under section 7 of the Electoral Affairs Commission Ordinance (Cap. 541);
- “election” (選舉) means an election held under section 6;
- “Election Committee” (選舉委員會) means the Election Committee constituted under section 8;
- “election petition” (選舉呈請、選舉呈請書) means an election petition lodged under section 33(1);
- “Electoral Affairs Commission” (選舉管理委員會) means the Electoral Affairs Commission established by section 3 of the Electoral Affairs Commission Ordinance (Cap. 541);
- “electoral officer” (選舉事務人員) means—
- (a) the Returning Officer;
 - (b) the Chief Electoral Officer;
 - (c) an Assistant Returning Officer appointed under section 41(3);
 - (d) the Electoral Registration Officer appointed under section 44 of the Schedule;
 - (e) an Assistant Electoral Registration Officer appointed under section 44 of the Schedule;
 - (f) a Revising Officer appointed under section 46 of the Schedule;
 - (g) a Returning Officer appointed under section 47 of the Schedule;
 - (h) an Assistant Returning Officer appointed under section 47 of the Schedule; or
 - (i) any other person who is appointed under this Ordinance or the Electoral Affairs Commission Ordinance (Cap. 541) to perform functions at or in connection with an election or a subsector election;
- “final register of members of the Election Committee” (選舉委員會正式委員登記冊) means the register compiled under section 40 of the Schedule;
- “function” (職能) includes a power and a duty;
- “member of the Election Committee” (選舉委員) means a person whose name appears in the final register of members of the Election Committee;
- “poll” (投票) means a poll conducted under section 24;
- “polling date” (投票日) means the date fixed in accordance with section 10 or 11 as the date of the poll at an election;

“prescribed public officer” (訂明公職人員) means any of the following—

- (a) the Chairman of the Public Service Commission;
- (b) the Commissioner and Deputy Commissioner of the Independent Commission Against Corruption and the holder of any other office under the Independent Commission Against Corruption Ordinance (Cap. 204);
- (c) The Ombudsman and the holder of any appointment under section 6 of The Ombudsman Ordinance (Cap. 397);
- (d) a member of the Electoral Affairs Commission;
- (e) the Chief Executive of the Hong Kong Monetary Authority and any member of the senior management of that Authority, including divisional heads, executive directors, managers and counsel employed by that Authority;
- (f) the Privacy Commissioner for Personal Data and any person employed or engaged by him under the Personal Data (Privacy) Ordinance (Cap. 486);
- (g) the Chairperson of the Equal Opportunities Commission and any person employed or whose services are engaged by the Commission under the Sex Discrimination Ordinance (Cap. 480);
- (h) any person holding an office, whether permanent or temporary, in a Government department or bureau and employed in the department or bureau;

“Returning Officer” (選舉主任) means the Returning Officer appointed under section 41(1);

“Revising Officer” (審裁官) has the meaning assigned to it by section 1(1) of the Schedule;

“subsector election” (界別分組選舉) has the meaning assigned to it by section 1 of the Schedule;

“working day” (工作日) means any day other than—

- (a) a public holiday;
- (b) any day throughout or for part of which a black rainstorm warning is in force, and “black rainstorm warning” (黑色暴雨警告) means a warning issued by the Director of the Hong Kong Observatory of a heavy rainstorm in, or in the vicinity of, Hong Kong by the use of the heavy rainstorm signal commonly referred to as Black; and
- (c) any day throughout or for part of which a gale warning is in force, and “gale warning” (烈風警告) means a warning of the occurrence of a tropical cyclone in, or in the vicinity of, Hong Kong by the use of any of the tropical cyclone warning signals commonly referred to as No. 8NW, 8SW, 8NE, 8SE, 9 or 10.

(2) Any reference in this Ordinance to the performance of a function includes a reference to the exercise of a power or performance of a duty, as the case may be.

PART 2

TERM OF OFFICE AND ELECTION OF CHIEF EXECUTIVE

3. Term of office of Chief Executive

(1) The term of office of the Chief Executive shall—

(a) be 5 years; and

(b) commence on the date on which he assumes office being the date specified for this purpose by the Central People's Government in the instrument of appointment.

(2) No person shall hold the office of the Chief Executive for more than 2 consecutive terms.

(3) The date on which the term of office of the Chief Executive commences shall be published by notice in the Gazette.

4. Vacancy in office

The office of the Chief Executive becomes vacant—

(a) on the expiry of the term of office of the Chief Executive;

(b) if the Chief Executive dies; or

(c) if the Central People's Government removes the Chief Executive from office in accordance with the Basic Law.

5. Declaration of vacancy

(1) Where the office of the Chief Executive becomes vacant under section 4(b) or (c), the Acting Chief Executive shall, by notice published in the Gazette, declare the vacancy.

(2) A declaration under subsection (1) shall—

(a) be made within 21 days after the Acting Chief Executive becomes aware of the vacancy; and

(b) specify the date on which the office became vacant.

6. Election to return candidate for appointment to fill vacancy in office

An election shall be held in accordance with—

- (a) the Basic Law;
- (b) this Ordinance; and
- (c) any other enactment which applies to the election of the Chief Executive,

to return a candidate for appointment by the Central People's Government to fill the vacancy in the office of the Chief Executive—

- (d) that will arise under section 4(a); or
- (e) that arises under section 4(b) or (c).

7. Election by Election Committee

The Chief Executive shall be elected by the Election Committee as prescribed in Annex I to the Basic Law.

PART 3

ELECTION COMMITTEE

8. Constitution of Election Committee

(1) There shall be constituted a committee, to be known as the Election Committee, for the purposes of this Ordinance and such other purposes as may be prescribed by any other Ordinance.

(2) Subject to subsection (3), the Election Committee shall be constituted in accordance with the Schedule.

(3) The Election Committee constituted on 14 July 2000 under the Legislative Council Ordinance (Cap. 542) shall be continued and regarded as having been constituted as the first Election Committee under this Ordinance.

(4) The members of the Election Committee constituted on 14 July 2000 under the Legislative Council Ordinance (Cap. 542) shall, subject to the Schedule, be members of the first Election Committee constituted under this Ordinance.

9. Term of office of Election Committee

The term of office of the Election Committee shall be 5 years commencing on the date on which it is constituted.

PART 4

DATE OF POLL AND NOMINATION

10. Polling date

(1) Subject to section 11, the date of the poll at an election to return a candidate for appointment to fill the vacancy in the office of the Chief Executive that will arise under section 4(a) shall, where the first day of the period of 95 days expiring at the beginning of the day on which the vacancy will arise—

(a) is a Sunday, be that Sunday; or

(b) is not a Sunday, be the Sunday immediately preceding the commencement of that period.

(2) Subject to section 11, the date of the poll at an election to return a candidate for appointment to fill the vacancy in the office of the Chief Executive that arises under section 4(b) or (c) shall, where the 120th day after the date on which the office becomes vacant as specified under section 5(2)(b)—

(a) is a Sunday, be that Sunday; or

(b) is not a Sunday, be the Sunday immediately following that day.

(3) Nothing in this section or section 11 prevents any round of voting from being conducted on a day after the polling date if the operation of section 27 so requires.

11. Fixing new polling date under certain circumstances

(1) Where—

(a) a polling date is fixed in accordance with this section or section 10; and

(b) no candidate is validly nominated under section 17 at the close of nominations,

the new polling date shall, where the 42nd day after the close of nominations—

(c) is a Sunday, be that Sunday; or

(d) is not a Sunday, be the Sunday immediately following that day.

(2) Where—

(a) a polling date is fixed in accordance with this section or section 10; and

(b) the proceedings for the election are terminated under section 22(1),

the new polling date shall, where the 42nd day after the termination of the proceedings for the election—

(c) is a Sunday, be that Sunday; or

(d) is not a Sunday, be the Sunday immediately following that day.

(3) If the candidate returned at an election for appointment to fill the vacancy in the office of the Chief Executive—

(a) that will arise under section 4(a) cannot assume the office of the Chief Executive on the day on which the vacancy arises, the new polling date shall, where the 120th day after the expiry of the term of office of the serving Chief Executive—

(i) is a Sunday, be that Sunday; or

(ii) is not a Sunday, be the Sunday immediately following that day;

(b) that has arisen under section 4(b) or (c) cannot assume the office of the Chief Executive before the expiry of 6 months commencing on the date on which the vacancy arose, the new polling date shall, where the 120th day after the expiry of those 6 months—

(i) is a Sunday, be that Sunday; or

(ii) is not a Sunday, be the Sunday immediately following that day.

(4) Where a new polling date is fixed in accordance with this section, the Chief Electoral Officer shall fix the nomination period accordingly.

12. Publication of polling date

A polling date fixed in accordance with section 10 or 11 shall be published by notice in the Gazette.

13. Eligibility for nomination as candidate

Subject to section 14, a person is eligible to be nominated as a candidate at an election if—

(a) he is a permanent resident of the Hong Kong Special Administrative Region;

(b) he is a Chinese citizen as defined by section 2 of the Hong Kong Special Administrative Region Passports Ordinance (Cap. 539);

(c) he has no right of abode in any foreign country; and

(d) he—

(i) in the case of an election to fill the vacancy in the office of the Chief Executive that will arise under section 4(a), will have—

- (A) reached 40 years of age on the day on which the vacancy is due to arise; and
 - (B) ordinarily resided in Hong Kong for a continuous period of not less than 20 years before the day on which the vacancy is due to arise;
- (ii) in the case of an election to fill the vacancy in the office of the Chief Executive that arises under section 4(b) or (c), will have—
- (A) reached 40 years of age on the polling date; and
 - (B) ordinarily resided in Hong Kong for a continuous period of not less than 20 years before the polling date.

14. Disqualification from being nominated

Without prejudice to section 13(1)(c) of the Electoral Affairs Commission Ordinance (Cap. 541), a person is disqualified from being nominated as a candidate if—

- (a) he is the Chief Executive and holds the office of the Chief Executive for the second consecutive term;
- (b) he is a judicial officer as defined by section 2 of the Judicial Officers Recommendation Commission Ordinance (Cap. 92);
- (c) he is a prescribed public officer;
- (d) he is adjudged bankrupt under the Bankruptcy Ordinance (Cap. 6) and has not been discharged under section 30A or 30B of that Ordinance;
- (e) he holds a passport or similar travel document other than—
 - (i) a Hong Kong Special Administrative Region Passport issued under the Hong Kong Special Administrative Region Passports Ordinance (Cap. 539);
 - (ii) a certificate of identity within the meaning of the Immigration Ordinance (Cap. 115); or
 - (iii) any entry permit issued by an authority in any part of the People's Republic of China which authorizes its holder to enter any part of the People's Republic of China;
- (f) he has, in Hong Kong or any other place, been sentenced to death and has not either—
 - (i) served the sentence or undergone such other punishment as a competent authority may have substituted for the sentence; or
 - (ii) received a free pardon;
- (g) he has been convicted of treason;

- (h) he has been convicted—
 - (i) in Hong Kong or any other place, of an offence for which the person has been sentenced to imprisonment, whether suspended or not, for a term exceeding 3 months without the option of a fine;
 - (ii) of having engaged in corrupt conduct or illegal conduct in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554);
 - (iii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap. 201); or
 - (iv) of any offence prescribed by the EAC Regulations made for the purposes of this paragraph, within the 5 years before the date of nomination; or
- (i) he is found for the time being under the Mental Health Ordinance (Cap. 136) to be incapable, by reason of mental incapacity, of managing and administering his property and affairs.

15. Nomination period

- (1) The nomination period for candidature at an election and the time at which the nomination period terminates shall be fixed by the Chief Electoral Officer.
- (2) The nomination period—
 - (a) shall not be less than 14 days; and
 - (b) shall terminate on a day earlier than the 21 days before the polling date.
- (3) The time at which the nomination period terminates shall for the purposes of this Ordinance be regarded as the close of nominations.

16. Manner of nomination

- (1) A nomination of a candidate shall be made in such form and manner as may be specified in the EAC Regulations made for the purposes of this section.
- (2) A nomination of a candidate shall be made—
 - (a) subject to subsections (4) and (5), by not less than 100 members of the Election Committee; and
 - (b) by delivering a duly completed nomination form to the Returning Officer before the close of nominations.
- (3) A nomination made by a member of the Election Committee—
 - (a) shall be signified by his signature on the nomination form; and
 - (b) shall not be withdrawn or revoked by the member.

(4) The signature of a member of the Election Committee on a nomination form nominating a person is invalid and shall be disregarded for the purposes of subsections (2) and (3) if, at the time of the delivery of the form to the Returning Officer—

- (a) a nomination form nominating a person other than the first-mentioned person for the same election and signed by the member has been delivered to the Returning Officer; and
- (b) the person nominated by virtue of the nomination form referred to in paragraph (a) has not withdrawn his candidature under section 19.

(5) If a member of the Election Committee—

- (a) resigns under section 3(3) of the Schedule;
- (b) is serving a sentence of imprisonment for the time being;
- (c) falls within paragraph (a), (b), (c), (f) or (g) of section 18 of the Schedule; or
- (d) is or has been convicted, within the 3 years before the polling date of an election, in the manner prescribed by subparagraph (i), (ii) or (iii) of section 18(e) of the Schedule,

he shall be disqualified from making nomination at the election.

(6) The disqualification of a member of the Election Committee from making nomination shall not affect a nomination made by him before such disqualification.

(7) A nomination of a candidate shall be accompanied by—

- (a) a declaration to the effect that—
 - (i) he stands for the election in an individual capacity; and
 - (ii) he will uphold the Basic Law and pledge allegiance to the Hong Kong Special Administrative Region; and
- (b) a declaration as to his nationality and as to whether he has a right of abode in any foreign country.

(8) The declarations referred to in subsection (7) are not effective unless they are signed by the candidate concerned.

17. Determination of validity of nomination

The Returning Officer shall, as soon as practicable after receiving a nomination form, determine whether or not the person nominated by virtue of the nomination form is validly nominated in accordance with this Ordinance as a candidate at the election.

18. Publication of nomination

(1) The Returning Officer shall, by notice published in the Gazette, declare—

- (a) the names of all candidates who are validly nominated; and
- (b) together with the name of each of such candidates, the names of those members of the Election Committee nominating him.

(2) A notice under subsection (1) shall be published within 7 days after the date of the close of nominations.

(3) Copies of the nomination forms of all candidates shall be made available for inspection by the public free of charge during ordinary business hours at the office of the Returning Officer until the result of the election is declared under section 28.

19. Withdrawal of candidature

(1) A candidate may withdraw his candidature at any time before the close of nominations.

(2) The withdrawal of a candidate's candidature is not effective unless it complies with the EAC Regulations made for the purposes of this section.

(3) A person who is nominated as a candidate shall cease to be regarded as such upon the withdrawal of his candidature.

PART 5

ELECTION AND POLLING

20. Disqualification from being elected

(1) If, after the close of nominations but before the close of polling, proof is given to the satisfaction of the Returning Officer that—

- (a) a candidate does not satisfy the requirement in section 13(a), (b), (c) or (d);
- (b) a candidate falls within any paragraph (except paragraph (h)) of section 14;
- (c) a candidate is or has been convicted, within the 5 years before the polling date, in the manner prescribed by subparagraph (i), (ii), (iii) or (iv) of section 14(h); or
- (d) the nomination of a candidate does not comply with this Ordinance,

the Returning Officer shall, by a public declaration, disqualify the candidate from being elected at the election.

(2) A declaration made under subsection (1) shall be published in the Gazette as soon as practicable after it is made.

21. Postponement or adjournment of polling or counting of votes

(1) The Electoral Affairs Commission may direct the postponement of a poll or the counting of votes in respect of a poll if, before the commencement of polling or counting, as the case may be, the Commission is of the opinion that the polling or counting, as the case may be, is likely to be obstructed, disrupted, undermined or seriously affected by riot or open violence or any occurrence of public danger.

(2) The Electoral Affairs Commission may direct—

- (a) the adjournment of a poll if, during the polling, the Commission is of the opinion that the poll; or
- (b) the adjournment of the counting of votes in respect of a poll if, during the counting, the Commission is of the opinion that the counting,

is likely to be or is being obstructed, disrupted, undermined or seriously affected by riot or open violence or any occurrence of public danger.

(3) A member of the Election Committee who has cast a vote at a poll adjourned under subsection (2) is not entitled and shall not be allowed to cast a vote again at the resumed polling.

(4) Subsection (3) ceases to apply if the poll proceeds to another round of voting.

22. Termination of election proceedings

(1) Where—

- (a) at the close of nominations 2 or more candidates are validly nominated; and
- (b) proof is given to the satisfaction of the Returning Officer that any candidate dies or is disqualified under section 20(1) from being elected at any time after the close of nominations but before the declaration of the result of the election,

the Returning Officer shall, by a public declaration, terminate the proceedings for the election.

(2) If a candidate is eliminated at any round of voting under section 27(3)(c) or (4)(c), he shall cease to be regarded as a candidate for the purposes of subsection (1)(b).

23. The only candidate shall be returned

If at the close of nominations only one candidate is validly nominated, the Returning Officer shall publicly declare the candidate to be returned at the election.

24. A poll shall be conducted in contested election

Where there are 2 or more candidates in an election, a poll shall be conducted in accordance with the EAC Regulations under the supervision of the Returning Officer.

25. Voting by members of Election Committee

(1) Subject to section 26, only the members of the Election Committee whose names appear on the final register of members of the Election Committee can vote at a poll.

(2) The votes at a poll shall be cast by secret ballot.

(3) At a poll each member of the Election Committee is entitled to cast a single vote in each round of voting.

26. Disqualification from voting

If a member of the Election Committee whose name appears on the final register of members of the Election Committee—

(a) resigns under section 3(3) of the Schedule;

(b) is serving a sentence of imprisonment on the polling date of an election;

(c) falls within paragraph (a), (b), (c), (f) or (g) of section 18 of the Schedule; or

(d) is or has been convicted, within the 3 years before the polling date of an election, in the manner prescribed by subparagraph (i), (ii) or (iii) of section 18(e) of the Schedule,

he shall be disqualified from voting at the poll.

27. System of voting

(1) If a candidate obtains more than half of the total number of valid votes cast in any round of voting, he shall be returned at the election.

(2) Where—

(a) there are 2 candidates in the election; or

(b) 2 candidates remain after the elimination of all other candidates under subsection (3)(c) or (4)(c),

as many rounds of voting as may be necessary shall be conducted for the 2 candidates until one of them is returned under subsection (1).

(3) Where—

(a) there are 3 or more candidates in the election; and

(b) after the first round of voting—

- (i) only 2 candidates obtain the highest and the same number of valid votes cast; or
- (ii) (A) only one candidate obtains the highest number of valid votes cast but he does not obtain more than half of the total number of valid votes cast; and
- (B) only one candidate obtains the next highest number of valid votes cast,

then—

- (c) all candidates other than the 2 candidates referred to in paragraph (b)(i) or (ii) shall be eliminated; and
 - (d) subsection (2) applies in relation to those 2 candidates.
- (4) Where—
- (a) there are 3 or more candidates in the election; and
 - (b) after the first round of voting—
 - (i) 3 or more candidates obtain the highest and the same number of valid votes cast; or
 - (ii) (A) only one candidate obtains the highest number of valid votes cast but he does not obtain more than half of the total number of valid votes cast; and
 - (B) 2 or more candidates obtain the next highest and the same number of valid votes cast,

then—

- (c) all candidates (if any) other than the candidates referred to in paragraph (b)(i) or (ii) shall be eliminated;
- (d) as many rounds of voting as may be necessary shall be conducted for the candidates referred to in paragraph (b)(i) or (ii) until—
 - (i) one of them is returned under subsection (1); or
 - (ii) subsection (2) applies in relation to any 2 of them; and
- (e) the foregoing provisions of this subsection apply in relation to any such round of voting as they apply in relation to the first round of voting.

28. Declaration and publication of result

As soon as practicable after determining which candidate is returned at an election, the Returning Officer shall—

- (a) publicly declare as elected the candidate who is returned at the election; and
- (b) publish the result of the election in the Gazette.

29. Winning candidate presumed to be duly elected

A person declared under section 28 as elected at an election is presumed to be duly elected until he is ruled by the Court or the Court of Final Appeal pursuant to the determination of an election petition or otherwise as not duly elected.

30. Member of Legislative Council deemed to have resigned if appointed to be Chief Executive

If a Member of the Legislative Council is appointed to be the Chief Executive following his being returned at an election, he is deemed to have signed and given a notice of resignation from office as such Member under section 14 of the Legislative Council Ordinance (Cap. 542) specifying the date of the instrument appointing him to be the Chief Executive as the date on which the notice takes effect.

31. Winning candidate to declare he is not a member of political party

(1) A person declared under section 28 as elected at an election shall, within 7 working days after the declaration—

- (a) publicly make a statutory declaration to the effect that he is not a member of any political party; and
- (b) lodge with the Returning Officer a written undertaking to the effect that he will not, if appointed as the Chief Executive—
 - (i) become a member of any political party; or
 - (ii) do any act that has the effect of subjecting himself to the discipline of any political party,during his term of office as the Chief Executive.

(2) In this section—

“political party” (政黨) means—

- (a) a political body or organization (whether operating in Hong Kong or elsewhere) which purports to be a political party; or
- (b) a body or organization the principal function or main object of which is to promote or prepare a candidate for election as a member of the Legislative Council or any District Council.

PART 6

ELECTION PETITIONS

32. Election may be questioned only by election petition made on specified grounds

(1) An election may be questioned only by an election petition on the ground that the person declared by the Returning Officer under section 28 as elected was not duly elected because—

- (a) he was not eligible to be nominated as a candidate under section 13;
- (b) he was disqualified under section 14 from being nominated as a candidate;
- (c) he should have been disqualified under section 20(1) from being elected but was not so disqualified;
- (d) he engaged in corrupt conduct or illegal conduct at the election;
- (e) another person engaged in corrupt conduct or illegal conduct in respect of him at the election in connection with his candidature;
- (f) corrupt conduct or illegal conduct was generally prevalent at the election; or
- (g) material irregularity occurred in relation to—
 - (i) the election;
 - (ii) the poll at the election; or
 - (iii) the counting of votes in respect of the election.

(2) In this section—

“corrupt conduct” (舞弊行為) means corrupt conduct within the meaning of Part 2 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554);

“election” (選舉) includes nomination proceedings and the decisions of the Returning Officer or any Assistant Returning Officer;

“illegal conduct” (非法行為) means illegal conduct within the meaning of Part 3 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).

33. Who may lodge election petition

(1) An election petition—

- (a) may be lodged by any candidate in the election; or
- (b) may be lodged by—
 - (i) a person who was determined under section 17 to be not validly nominated;
 - (ii) a person the nomination of whom was not accepted by the Returning Officer; or

(iii) a person who was disqualified under section 20(1) from being elected,

provided that the election petition is, subject to subsection (4), subscribed to by not less than 10 members of the Election Committee in the manner specified in subsection (2).

(2) An election petition shall set out the names and addresses of and be signed by the members of the Election Committee subscribing to it.

(3) A subscription by a member of the Election Committee to an election petition shall not be withdrawn or revoked by the member.

(4) If a member of the Election Committee is disqualified—

(a) under section 16(5) from making nomination at an election; or

(b) under section 26 from voting at the poll at an election,

he shall be disqualified from subscribing to an election petition questioning the election.

34. Period within which election petition and appeal must be lodged

(1) An election petition questioning an election must be lodged within 7 working days after the day on which the result of the election is declared under section 28.

(2) Notwithstanding section 24 of the Hong Kong Court of Final Appeal Ordinance (Cap. 484), a notice of a motion for the purposes of an application for leave to appeal to the Court of Final Appeal under section 22(1)(c) of that Ordinance shall be filed within 7 working days after the day on which the relevant judgment of the Court is handed down, and the applicant shall give the opposite party 3 days notice of his intended application at any time during the period of 7 working days.

35. Respondent to election petition

The—

(a) person whose election is questioned by an election petition; and

(b) Returning Officer,

may be made a respondent to the petition.

36. Court to have jurisdiction to determine election petition

(1) The Court has the same jurisdiction and the same functions in respect of an election petition as it has in respect of an ordinary cause of action within its jurisdiction.

(2) An election petition shall be tried in open court and, unless the Chief Justice otherwise directs, before one judge.

37. Determination of election petition

(1) The Court shall determine—

(a) an election petition questioning an election in which the only candidate or remaining candidate, as the case may be, was declared as elected by ruling that—

(i) the candidate was duly elected; or

(ii) the candidate was not duly elected because his being the only candidate or remaining candidate, as the case may be, was the result of a wrongful determination of the Returning Officer;

(b) an election petition questioning a contested election by ruling that—

(i) the candidate declared as elected at an election was duly elected; or

(ii) the candidate declared as elected at an election was not duly elected.

(2) At the end of the trial of an election petition, the Court shall announce its determination by means of a written judgment.

38. Acts of person not invalid if ruled not to be elected

A—

(a) determination of the Court under section 37(1); or

(b) ruling by the Court or the Court of Final Appeal,

that a person who was originally declared as elected at an election was not duly elected does not invalidate acts purporting to have been done by the person as the Chief Executive before the determination or ruling, as the case may be.

39. Time limit for legal challenges

(1) Notwithstanding any provision in the High Court Ordinance (Cap. 4), no—

(a) application for leave to apply for judicial review under section 21K of that Ordinance; or

(b) other proceedings,

which put in issue whether the candidate declared under section 28 as elected at an election can lawfully assume the office of the Chief Executive shall be made or commenced more than 30 days after the publication of the result of the election under section 28 unless the leave of the Court has been obtained.

(2) The Court may upon application grant the leave to make an application for leave to apply for judicial review or commence proceedings after the expiry of the 30 days referred to in subsection (1) if it is satisfied that—

- (a) the person making the first-mentioned application has used his best endeavours to make the second-mentioned application or commence the proceedings within the 30 days; and
- (b) granting the leave applied for is in the interest of justice.

40. Chief Justice may make rules

The Chief Justice may make rules to provide for—

- (a) the preparation, lodgement, service, trial and withdrawal of election petitions;
- (b) costs in respect of those petitions and provision of security for costs;
- (c) the practice and procedure concerning the trial of those petitions;
- (d) circumstances in which an election petition is regarded as having been withdrawn;
- (e) applications under section 39(2); and
- (f) any other matters for the better carrying out of the objects and purposes of this Part.

PART 7

MISCELLANEOUS

41. Appointment of Returning Officers and assistants

(1) The Electoral Affairs Commission shall appoint—

- (a) a permanent judge or non-permanent judge of the Court of Final Appeal within the meaning of the Hong Kong Court of Final Appeal Ordinance (Cap. 484);
- (b) a Justice of Appeal within the meaning of the High Court Ordinance (Cap. 4); or
- (c) a judge of the Court of First Instance (other than a recorder or a deputy judge of the Court of First Instance),

to be the Returning Officer.

(2) The Returning Officer has such functions as are conferred or imposed on him by or under this Ordinance.

(3) The Electoral Affairs Commission shall appoint such number of Assistant Returning Officers as appears to the Commission to be necessary to enable an election to be held smoothly.

(4) An Assistant Returning Officer may, with the authority of the Returning Officer, perform the functions of the Returning Officer.

(5) An appointment under subsection (1) or (3) shall be published in the Gazette.

(6) Expenses properly incurred by the Returning Officer in the performance of his functions under this Ordinance shall be a charge on and payable from the general revenue.

42. Offence to obstruct or hinder electoral officers

A person who, without reasonable excuse, obstructs or hinders, or interferes with, an electoral officer in the performance of a function conferred or imposed on him by or under this Ordinance commits an offence and is liable on conviction to a fine at level 2.

43. Electoral Affairs Commission may give direction to electoral officers

(1) The Electoral Affairs Commission may give any direction, either generally or in any particular case, with respect to the performance by an electoral officer of any of his functions under this Ordinance with respect to the holding or conduct of—

(a) an election;

(b) the nomination and election of a person or persons to be a member or members of the Election Committee under Parts 3 and 4 of the Schedule; or

(c) a subsector election.

(2) A direction given under subsection (1) has no effect to the extent that it is inconsistent with this Ordinance or the Electoral Affairs Commission Ordinance (Cap. 541).

(3) An electoral officer shall, when performing a function under this Ordinance, comply with any direction given under subsection (1) with respect to the performance of the function.

44. Death or incapacity of electoral officer not to terminate authority

Death or incapacity of an electoral officer does not terminate any authority conferred by the officer for the purposes of this Ordinance.

45. Candidates entitled to send letters to members of Election Committee free of postage

(1) Two letters addressed to each member of the Election Committee may be sent free of postage by or on behalf of a candidate.

(2) The cost to the Postmaster General of enabling an entitlement under subsection (1) to be exercised shall be a charge on and payable from the general revenue.

46. Regulation

(1) The Chief Executive in Council may make regulation for the better carrying out of the purposes of this Ordinance.

(2) In particular, the regulation made under subsection (1) may provide for all or any of the following—

- (a) the number or qualifications of subscribers required to complete a nomination paper for a candidate at a subsector election;
- (b) the amount that a candidate at a subsector election is required to lodge as a deposit at the election;
- (c) the forfeiture of the deposit if the candidate at a subsector election fails to obtain a prescribed proportion of the votes cast at the election and for the return of the deposit if he obtains that proportion of votes at the election;
- (d) the functions of a Revising Officer;
- (e) appeals to a Revising Officer.

(3) A provision of the regulation made under subsection (1) may make it an offence, punishable by a fine not exceeding level 2, for a person to contravene a provision of the regulation.

(4) A provision of the regulation made under subsection (1) may—

- (a) make different provisions for different circumstances and provide for a particular case or class of cases;
- (b) be made so as to apply only in specified circumstances; and
- (c) prescribe fees for the purposes of the regulation.

47. Amendment of Schedule

The Chief Executive in Council may, with the approval of the Legislative Council, amend the Schedule by order published in the Gazette.

PART 8

CONSEQUENTIAL AMENDMENTS

High Court Ordinance**48. Appeals in civil matters**

Section 14(3) of the High Court Ordinance (Cap. 4) is amended—

- (a) in paragraph (f), in the proviso, by repealing the full stop and substituting a semicolon;
- (b) by adding—
 - “(g) from a determination, judgment or order of the Court of First Instance referred to in section 22(1)(c) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484).”.

Post Office Regulations**49. Regulation amended**

Regulation 6 of the Post Office Regulations (Cap. 98 sub. leg.) is amended—

- (a) in subregulation (1)(d)—
 - (i) in subparagraph (ii), by repealing the full stop at the end and substituting “; and”;
 - (ii) by adding—
 - “(iii) two letters posted in Hong Kong from each candidate at an election within the meaning of the Chief Executive Election Ordinance (21 of 2001) addressed to each member of the Election Committee which comply with the requirements in regulations in force under the Electoral Affairs Commission Ordinance (Cap. 541).”;
- (b) in subregulation (2)(b)—
 - (i) in the definition of “Election Committee”, by repealing “established under the Legislative Council Ordinance (Cap. 542)” and substituting “within the meaning of the Chief Executive Election Ordinance (21 of 2001)”;

- (ii) in the definition of “Election Committee subsector election”, by repealing “has the meaning assigned to it by the Legislative Council Ordinance (Cap. 542)” and substituting “means a subsector election within the meaning of the Chief Executive Election Ordinance (21 of 2001)”;
- (iii) in the definition of “subsector”, by repealing “Legislative Council Ordinance (Cap. 542)” and substituting “Chief Executive Election Ordinance (21 of 2001)”;
- (iv) in the definition of “subsector final register”, by repealing “final register compiled for subsectors under the Legislative Council Ordinance (Cap. 542)” and substituting “subsector final register within the meaning of the Chief Executive Election Ordinance (21 of 2001)”;
- (v) in the definition of “voter”, by repealing “Legislative Council Ordinance (Cap. 542)” and substituting “Chief Executive Election Ordinance (21 of 2001)”.

Maximum Scale of Election Expenses (Legislative Council) Order

50. Title amended

The title to the Maximum Scale of Election Expenses (Legislative Council) Order (Cap. 288 sub. leg.) is amended by adding “(ELECTION COMMITTEE)” before “**ORDER**”.

51. Interpretation

Section 1 is amended—

- (a) in the definition of “election”, by repealing paragraph (b) and substituting—
 - “(b) a subsector election within the meaning of section 1 of the Schedule to the Chief Executive Election Ordinance (21 of 2001);”;
- (b) in the definition of “Election Committee”, by repealing “section 3(1) of the Legislative Council Ordinance (Cap. 542)” and substituting “section 2(1) of the Chief Executive Election Ordinance (21 of 2001)”;
- (c) in the definition of “registered”—
 - (i) in paragraph (a), by repealing “, a functional constituency or the Election Committee” and substituting “or a functional constituency”;

- (ii) in paragraph (b), by repealing “referred to in section 7(1) of Schedule 2 to the Legislative Council Ordinance (Cap. 542)” and substituting “within the meaning of section 11(1) of the Schedule to the Chief Executive Election Ordinance (21 of 2001)”;
- (d) in the definition of “sub-subsectors”, by repealing “section 1(13)(a) of Schedule 2 to the Legislative Council Ordinance (Cap. 542)” and substituting “section 2(9)(a) of the Schedule to the Chief Executive Election Ordinance (21 of 2001)”;
- (e) in the definition of “subsector”, by repealing “section 1(12) of Schedule 2 to the Legislative Council Ordinance (Cap. 542)” and substituting “section 1(1) of the Schedule to the Chief Executive Election Ordinance (21 of 2001)”.

Hong Kong Court of Final Appeal Ordinance

52. Civil appeals

Section 22(1) of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) is amended—

- (a) by repealing “in any civil cause or matter”;
- (b) in paragraph (a)—
 - (i) by adding “in any civil cause or matter” after “Appeal”;
 - (ii) by repealing “and”;
- (c) in paragraph (b)—
 - (i) by adding “in any civil cause or matter” before “, whether”;
 - (ii) by repealing the full stop and substituting “; and”;
- (d) by adding—
 - “(c) at the discretion of the Court, from—
 - (i) a determination of the Court of First Instance under section 37(1) of the Chief Executive Election Ordinance (21 of 2001); or
 - (ii) a judgment or order of the Court of First Instance in—
 - (A) an application for judicial review under section 21K of the High Court Ordinance (Cap. 4); or
 - (B) any other proceedings under that Ordinance,

which put in issue whether the candidate declared under section 28 of the Chief Executive Election Ordinance (21 of 2001) as elected at an election can lawfully assume the office of the Chief Executive.”.

53. Applications for leave to appeal

Section 24(3) is amended by adding “or in the case of an appeal from a determination, judgment or order of the Court of First Instance referred to in section 22(1)(c)” after “Appeal”.

Electoral Affairs Commission Ordinance

54. Interpretation

Section 2 of the Electoral Affairs Commission Ordinance (Cap. 541) is amended—

(a) in subsection (1)—

(i) by repealing the definition of “by-election” and substituting—

““by-election” (補選) means—

(a) a by-election within the meaning of section 3(1) of the Legislative Council Ordinance (Cap. 542);

(b) a by-election within the meaning of section 2 of the District Councils Ordinance (Cap. 547); or

(c) a subsector by-election within the meaning of section 1 of the Schedule to the Chief Executive Election Ordinance (21 of 2001);”;

(ii) in the definition of “election”—

(A) by adding before paragraph (a)—

“(aa) electing the Chief Executive;”;

(B) in paragraph (b), by repealing “election committee” and substituting “Election Committee”;

(iii) by repealing the definition of “election committee” and substituting—

““Election Committee” (選舉委員會) has the meaning assigned to it by the Chief Executive Election Ordinance (21 of 2001);”;

- (iv) in the definition of “electoral law”—
 - (A) by adding before paragraph (a)—
 - “(aa) the Chief Executive;”;
 - (B) in paragraph (b), by repealing “election committee” and substituting “Election Committee”;
- (b) in subsection (2), by repealing ““election” within the meaning of paragraph (a) of the definition of it” and substituting “an election”.

55. Establishment and membership

Section 3(5) is amended—

- (a) in paragraph (a), by repealing “for election as” and substituting “in an election of the”;
- (b) in paragraph (c), by repealing “referred to in Annex I to the Basic Law”;
- (c) in paragraph (k)—
 - (i) by repealing subparagraph (i);
 - (ii) in subparagraph (iii), by repealing “referred to in Annex I to the Basic Law”;
 - (iii) in subparagraph (x), by adding “that was constituted for the purpose of returning persons as members of the Legislative Council for the first term of office of that Council” after “committee”.

56. Functions of Commission

Section 4(c) and (f) is amended by repealing “the election committee” and substituting “, and for filling vacancies in the membership of, the Election Committee”.

57. General powers of Commission

Section 5(e) is amended by repealing “or process for the formation of the election committee” and substituting “, or a process for the formation of, or for filling vacancies in the membership of, the Election Committee”.

58. Commission to issue guidelines

Section 6(1)(a)(iii) is amended by repealing “the election committee” and substituting “, or the filling of vacancies in the membership of, the Election Committee”.

59. Regulations

Section 7 is amended—

(a) in subsection (1)—

- (i) in paragraph (a)(ii)(B), by repealing “election committee” and substituting “Election Committee”;
- (ii) in paragraph (c), by repealing “the election committee” and substituting “, or the filling of vacancies in the membership of, the Election Committee”;

(b) by adding—

“(1A) The Commission may by regulation—

- (a) prescribe offences for the purposes of section 14(h) of the Chief Executive Election Ordinance (21 of 2001);
- (b) specify the form and manner of nomination of a candidate for the purposes of section 16(1) of the Chief Executive Election Ordinance (21 of 2001);
- (c) provide for withdrawal of candidature for the purposes of section 19(2) of the Chief Executive Election Ordinance (21 of 2001);
- (d) provide for the postponement or adjournment of a poll or the counting of votes in respect of a poll under section 21 of the Chief Executive Election Ordinance (21 of 2001) and the appointment of a new date for the poll or the count.”.

60. Report on elections

Section 8 is amended—

(a) in subsection (1), by repealing “subsection (5)” and substituting “subsections (5) and (6)”;

(b) by repealing subsection (5) and substituting—

“(5) A report under subsection (1) must include—

(a) where the election supervised by the Commission is an election of the Chief Executive, a report on the following as appropriate—

- (i) the formation of the Election Committee; or
- (ii) the subsector by-election, if any, that precedes the election of the Chief Executive;

(b) where the election supervised by the Commission is a by-election to fill a vacancy among the members of the Legislative Council returned by the Election Committee, a report on the subsector by-election, if any, that precedes the first mentioned by-election, unless such a report has already been included in another report previously made under subsection (1).

(6) The period within which the report referred to in subsection (5)(a) or (b) is to be made shall begin only on the conclusion of the election of the Chief Executive or the by-election to fill a vacancy among the members of the Legislative Council returned by the Election Committee.

(7) In this section, “subsector by-election” (界別分組補選) has the meaning assigned to it by the Chief Executive Election Ordinance (21 of 2001).”.

61. Members disqualified from nomination

Section 13(1) is amended—

(a) in paragraph (a)—

(i) by repealing subparagraph (i);

(ii) in subparagraph (ii), by repealing “referred to in Annex I to the Basic Law”;

(b) by repealing paragraph (b)(ii);

(c) in paragraph (c)—

(i) by repealing subparagraph (i);

(ii) in subparagraph (ii), by repealing “referred to in Annex I to the Basic Law”;

(iii) in subparagraph (vi), by adding “or” at the end;

(iv) in subparagraph (vii), by repealing “; or” and substituting a full stop;

(v) by repealing subparagraph (viii).

Legislative Council Ordinance

62. Interpretation

Section 3 of the Legislative Council Ordinance (Cap. 542) is amended—

(a) in subsection (1)—

- (i) in the definition of “election”, by repealing “, but, except in section 82 and Schedule 2, does not include an Election Committee subsector election”;
- (ii) in the definition of “Election Committee”, by repealing “the Election Committee constituted in accordance with Part IV” and substituting “, subject to the Schedule to the Chief Executive Election Ordinance (21 of 2001), the first Election Committee referred to in section 8(3) of that Ordinance”;
- (iii) in the definition of “Election Committee subsector”, by repealing “section 1(4) of Schedule 2” and substituting “section 2(4) of the Schedule to the Chief Executive Election Ordinance (21 of 2001)”;
- (iv) in the definition of “elector”, by repealing everything after “registered” where it first appears and substituting—
 - “—
 - (a) in accordance with this Ordinance, in a final register; or
 - (b) in accordance with the Schedule to the Chief Executive Election Ordinance (21 of 2001), in a final register of members of the Election Committee that is compiled and published, and in effect, under that Schedule, and who is not disqualified from being registered or from voting at an election;”;
- (v) in the definition of “ex-officio member”, by repealing “section 1(8) of Schedule 2” and substituting “section 2(7)(c) of the Schedule to the Chief Executive Election Ordinance (21 of 2001)”;
- (vi) in the definition of “final register”, by repealing paragraph (b);
- (b) in subsection (2)—
 - (i) in paragraph (b)(ii), by repealing “; and” and substituting a full stop;
 - (ii) by repealing paragraph (c);
- (c) in subsection (3), by repealing “, or the results of Election Committee subsector elections,”.

63. Establishment of Election Committee

Section 22(2) is repealed.

64. Electoral Registration Officer to compile and publish electoral registers

Section 32(2) is repealed.

65. When final register is to take effect

Section 33 is amended—

- (a) in subsection (1), by repealing “(other than a final register of members of the Election Committee)”;
- (b) by repealing subsection (2).

66. Who is entitled to vote at an election

Section 48 is amended—

- (a) in subsection (2), by adding “under the Chief Executive Election Ordinance (21 of 2001)” after “that Committee”;
- (b) in subsection (3B), by adding “, under this Ordinance in force immediately before the commencement of section 73 of the Chief Executive Election Ordinance (21 of 2001) or under the last mentioned Ordinance,” after “subsequently registered”;
- (c) in subsection (6), by repealing “prepared for that Committee” and substituting “of members of the Election Committee that is compiled and published, and in effect, under the Schedule to the Chief Executive Election Ordinance (21 of 2001)”.

67. When an elector is disqualified from voting at an election

Section 53(2) is amended by adding before paragraph (a)—

“(aa) has resigned from the membership under section 3(3) of the Schedule to the Chief Executive Election Ordinance (21 of 2001);”.

68. Appointment of Electoral Registration Officer and assistants

Section 75(1) is amended by repealing “and as voters at Election Committee subsector elections”.

69. Electoral Registration Officer may specify forms

Section 76 is amended by repealing “or Schedule 2”.

70. Appointment of Returning Officers and assistants

Section 78(2) is repealed.

71. Chief Executive in Council may make regulations

Section 82(5) is repealed.

72. Chief Executive in Council may amend Schedules 1, 1A, 1B, 1C, 1D and 1E

Section 83(1) is amended by repealing “Schedules 1 to 2” and substituting “Schedules 1, 1A, 1B, 1C, 1D and 1E”.

73. Constitution of Election Committee

Schedule 2 is repealed.

74. Savings and transitional provisions

Schedule 3 is amended by adding—

“5. Saving provision for Members returned by the Election Committee

For the avoidance of doubt, the amendments made to this Ordinance by sections 62 to 73 of the Chief Executive Election Ordinance (21 of 2001) do not affect an election by the Election Committee held before the commencement of those sections to return a Member or Members for the second term of office of the Legislative Council, or the office of such a Member or Members.”.

Electronic Transactions (Exclusion) Order

75. Provisions excluded from application of section 5 of Ordinance

Schedule 1 to the Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg.) is amended—

- (a) in item 60, in column 3, by repealing “and Schedule 2, sections 9(6) and 17(2)”;

(b) by adding—

“65. Chief Executive Election Ordinance (21 of 2001)

Sections 16(2) and (7), 31(1), 33(1) and 34(2) and the Schedule, sections 3(3), 13(6) and 21(2)”.

76. Provisions excluded from application of section 6 of Ordinance

Schedule 2 is amended—

(a) in item 19, in column 3, by repealing “and Schedule 2, section 17(2)”;

(b) by adding—

“22. Chief Executive Election Ordinance (21 of 2001)

Sections 16(3) and (8) and 33(2) and the Schedule, sections 3(4) and 21(2)”.

Elections (Corrupt and Illegal Conduct) Ordinance

77. Interpretation

Section 2 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) is amended—

(a) by renumbering it as section 2(1);

(b) in subsection (1)—

(i) in the definition of “appropriate authority”, in paragraph (a), by repealing “person designated to be the appropriate authority under any law in force providing for the election of the Chief Executive” and substituting “Chief Electoral Officer”;

(ii) in the definition of “election appeal”, by repealing “section 32 of Schedule 2 to the Legislative Council Ordinance (Cap. 542)” and substituting “section 39 of the Schedule to the Chief Executive Election Ordinance (21 of 2001)”;

(iii) in the definition of “Election Committee”, by repealing “in accordance with Part IV of the Legislative Council Ordinance (Cap. 542)” and substituting “under section 8(1) of the Chief Executive Election Ordinance (21 of 2001)”;

- (iv) in the definition of “Election Committee subsector”, by repealing “section 1(4) of Schedule 2 to the Legislative Council Ordinance (Cap. 542)” and substituting “section 2(4) of the Schedule to the Chief Executive Election Ordinance (21 of 2001)”;
- (v) in the definition of “elector”—
 - (A) in paragraph (a), by repealing “person who is an elector under any law in force providing for the election of the Chief Executive” and substituting “member of the Election Committee”;
 - (B) in paragraph (c), by repealing “section 7(1) of Schedule 2 to that Ordinance” and substituting “section 11(1) of the Schedule to the Chief Executive Election Ordinance (21 of 2001)”;
- (vi) in the definition of “electoral law”—
 - (A) by adding—

“(ca) the Chief Executive Election Ordinance (21 of 2001); or”;
 - (B) in paragraph (e), by repealing everything after “of” and substituting “village representatives;”;
- (vii) in the definition of “Electoral Registration Officer”, by adding “or section 44 of the Schedule to the Chief Executive Election Ordinance (21 of 2001)” after “(Cap. 542)”;
- (viii) in the definition of “returning officer”—
 - (A) in paragraph (a), by repealing “any law in force providing for the election of the Chief Executive” and substituting “section 41 of the Chief Executive Election Ordinance (21 of 2001)”;
 - (B) in paragraph (c), by repealing “section 78 of the Legislative Council Ordinance (Cap. 542)” and substituting “section 47 of the Schedule to the Chief Executive Election Ordinance (21 of 2001)”;
- (c) by adding—

“(2) In this Ordinance, a reference to the withdrawal of the nomination of a person as a candidate includes, in the case of a candidate at an election to elect the Chief Executive or to elect the members of the Election Committee, a reference to the withdrawal of his candidature.”.

78. What elections does this Ordinance apply to?

Section 4 is amended—

- (a) in paragraph (d), by repealing “an election” and substituting “a subsector ordinary election”;
- (b) by adding—
 - “(da) a by-election to fill a vacancy in the membership of the Election Committee;”.

79. Corrupt conduct with respect to voting at elections

Section 16(1)(c)(i) and (ii) is repealed and the following substituted—

- “(i) in the case of an election referred to in section 4(a), votes at the election more than once in the same round of voting;
- (ii) in the case of an election referred to in any other paragraph of section 4—
 - (A) votes at the election more than once in the same constituency; or
 - (B) votes at the election in more than one constituency.”.

80. Court empowered to restrain person from repeating certain illegal conduct

Section 28 is amended—

- (a) by repealing subsection (5)(a) and substituting—
 - “(a) in the case of—
 - (i) an election referred to in section 4(a), a candidate at the election;
 - (ii) an election referred to in any other paragraph of section 4, a candidate at the election—
 - (A) for the same constituency; or
 - (B) in the case of an election relating to the Heung Yee Kuk or a Rural Committee, for the same body; or”;
- (b) in subsection (6), by repealing everything after “made” and substituting “, in the case of an election to elect a village representative, a person specified for this purpose under any law in force providing for the election of village representatives.”.

81. Interpretation: Part 6

Section 36(a) is amended by repealing “specified for this purpose under any law in force providing for the election of the Chief Executive” and substituting “on which the result of the election is published in the Gazette”.

SCHEDULE

[ss. 2, 8, 16, 26,
43 & 47]

ELECTION COMMITTEE

PART 1

PRELIMINARY

1. Interpretation

(1) In this Schedule—

- “body” (團體) means an incorporated or unincorporated body, and includes a firm or a group of persons (which may include incorporated or unincorporated bodies) who are associated with each other through a shared relevant interest;
- “corporate member” (團體成員), in relation to a body included in a subsector, means a body that is a member of the body so included;
- “elector” (選民), in relation to a functional constituency or geographical constituency, has the meaning assigned to it by section 3(1) of the Legislative Council Ordinance (Cap. 542);
- “Electoral Registration Officer” (選舉登記主任) means the person holding office as Electoral Registration Officer under section 44, and includes any person appointed to act in place of the Officer when the Officer is absent or when the office is vacant;
- “ex-officio member” (當然委員), in relation to the Election Committee, means a member of that Committee referred to in section 2(7)(c);
- “functional constituency” (功能界別) means a functional constituency specified in section 20(1) of the Legislative Council Ordinance (Cap. 542);
- “geographical constituency” (地方選區) means an area declared to be a geographical constituency in accordance with Part III of the Legislative Council Ordinance (Cap. 542);
- “Member” (議員), in relation to the Legislative Council, has the meaning assigned to it by section 3(1) of the Legislative Council Ordinance (Cap. 542);
- “name” (名稱), in relation to a subsector, is to be construed by reference to its description under the column headed “subsector” in Table 1, 2, 3 or 4 in section 2, as may be applicable;
- “officer” (高級人員), in relation to a body corporate, includes a director or executive, or any other person concerned in the management, of the body;
- “registered” (登記), in relation to a functional constituency or geographical constituency, means registered under the Legislative Council Ordinance (Cap. 542) as an elector for the constituency;
- “the regulations” (《規例》) means regulations made under section 46 of this Ordinance;
- “Returning Officer” (選舉主任), in relation to a subsector, means the Returning Officer appointed for the subsector under section 47, and includes any person appointed to act in place of such an Officer when the Officer is absent or when an office of Returning Officer is vacant;
- “Revising Officer” (審裁官) means a Revising Officer appointed under section 46, and includes any person appointed to act in place of the Officer when the Officer is absent or when the office of Revising Officer is vacant;
- “subsector” (界別分組) means, subject to section 11, a subsector represented on the Election Committee as provided by section 2(4);
- “subsector by-election” (界別分組補選) means an election to elect a member of the Election Committee assigned to a subsector who, under section 2(7)(b), is to be elected by the relevant subsector, otherwise than at a subsector ordinary election;
- “subsector election” (界別分組選舉) means a subsector ordinary election or a subsector by-election;
- “subsector ordinary election” (界別分組一般選舉) means an election to elect those members of the Election Committee assigned to a subsector who, under section 2(7)(b), are to be elected by the relevant subsector, for a new term of office of the Election Committee;
- “sub-subsector” (小組) means a sub-subsector referred to in section 2(9)(a);
- “sub-subsector by-election” (小組補選) means an election to elect a member of the Election Committee assigned to a sub-subsector who, under section 2(7)(b) and (9), is to be elected by the sub-subsector, otherwise than at a sub-subsector ordinary election;

“sub-subsector ordinary election” (小組一般選舉) means an election to elect those members of the Election Committee assigned to a sub-subsector who, under section 2(7)(b) and (9), are to be elected by the sub-subsector, for a new term of office of the Election Committee.

(2) In this Schedule, unless the context otherwise requires, in respect of the sports, performing arts, culture and publication subsector—

- (a) all references to “subsector”, “subsector by-election” and “subsector ordinary election” mean “sub-subsector”, “sub-subsector by-election” and “sub-subsector ordinary election” respectively and with any necessary modifications; and
- (b) all references to “subsector election” mean “sub-subsector ordinary election” or “sub-subsector by-election” with any necessary modifications.

(3) For the purposes of this Schedule—

- (a) the circumstances in which a person has a substantial connection with a body include, but are not limited to, being a member, partner, officer or employee of the body; and
- (b) the circumstances in which a person has a substantial connection with a subsector include, but are not limited to, being a member, partner, officer or employee of—
 - (i) a body included in the subsector; or
 - (ii) a corporate member of a body referred to in subparagraph (i).

(4) For the purposes of this Schedule, a reference to an entitlement to vote at a general meeting of a body is a reference to an entitlement to vote at such a meeting as provided by the body’s constitution and, in this subsection—

- (a) the reference to the constitution of a body is a reference to the constitution either—
 - (i) as in force on 3 October 1997; or
 - (ii) as subsequently amended or substituted, but only if the amendment or substitution, in so far as it relates to—
 - (A) the objects of the body;
 - (B) the criteria and conditions of membership of the body; or
 - (C) the eligibility of members of the body to vote at a general meeting of the body,

has been approved in writing by the Secretary for Constitutional Affairs; and

- (b) “constitution” (章程), in relation to a body, includes articles of association and rules.

(5) In column 3 of Table 4 in section 2—

- (a) “Hong Kong and Kowloon District Councils” (港九各區議會), in relation to the subsector specified in item 5 of that Table, means the District Councils specified in items 1 to 9 of Schedule 2 to the District Councils Ordinance (Cap. 547); and
- (b) “New Territories District Councils” (新界各區議會), in relation to the subsector specified in item 6 of that Table, means the District Councils specified in items 10 to 18 of Schedule 2 to the District Councils Ordinance (Cap. 547).

(6) In item 8 of Table 5 in section 2—

- (a) “non-profit making company” (非牟利公司) means a company formed for the purpose of promoting the aims specified in paragraph (4)(a), (b) or (c) opposite to that item in column 3 of that Table, that is required by its constitution to apply its profits, if any, or other income solely in promoting those aims and to prohibit the payment of any dividend to its members; and
- (b) “social service” (社會服務) means the provision of any one or more of the following services for the benefit of the community—
 - (i) family and child welfare services;
 - (ii) services for young people;
 - (iii) services for the elderly;
 - (iv) services for offenders;
 - (v) rehabilitation services;
 - (vi) community development;
 - (vii) social security.

PART 2

MEMBERSHIP OF ELECTION COMMITTEE

2. How Election Committee is to be constituted

(1) The Election Committee is to consist of 800 members, who must be Hong Kong permanent residents.

(2) The membership of the Election Committee (other than ex-officio members) is to be determined in accordance with the procedures specified in this Schedule.

(3) The members of the Election Committee are to be representative of 4 sectors, with each sector being represented by 200 members.

(4) The sectors are to be composed of the subsectors specified in Tables 1, 2, 3 and 4.

(5) The composition of the subsectors is as follows—

(a) except in the case of the higher education and education subsectors, the social welfare subsector and the tourism and hotel subsectors, the composition of a subsector specified in Table 1, 2 or 3 which has the same name as that of a functional constituency is to be the same as that of the functional constituency;

(b) each of the subsectors specified in column 2 of Table 4 is to be composed of the persons described in column 3 of that Table in relation to the subsector;

(c) the Hong Kong Chinese Enterprises Association, tourism, hotel, Chinese medicine, higher education, education, Employers' Federation of Hong Kong and social welfare subsectors are to be composed as shown in Table 5; and

(d) the religious subsector is to be composed as described in Part 3.

(6) Subject to subsection (7), for the purpose of constituting the Election Committee, each subsector is allocated the number of members specified in the relevant Table in respect of the subsector.

(7) The Election Committee is constituted in the following manner—

(a) the number of members allocated to the religious subsector is to be nominated by that subsector in accordance with Part 3;

(b) subject to subsection (9), the number of members allocated to the subsectors specified in Tables 1, 2 and 3 (except those allocated to the religious subsector), and items 3, 4, 5 and 6 of Table 4 are to be elected by the relevant subsectors in accordance with Part 4; and

(c) subject to subsection (8), the number of members allocated to the subsector specified—

(i) in item 1 of Table 4 is to be filled by the persons holding office as Hong Kong deputies to the National People's Congress; and

(ii) in item 2 of Table 4 is to be filled by the persons holding office as the Members of the Legislative Council,

who are registered as ex-officio members of the Election Committee in, and whose names have not been removed from, the final register of members of the Election Committee.

(8) Subject to section 41, the Electoral Registration Officer shall, in compiling a final register of members of the Election Committee under section 40(1) after the publication of results of the subsector ordinary elections, register—

(a) the persons holding office on the date of those subsector ordinary elections (or the last of those dates, if different dates are specified for those subsector ordinary elections) as Hong Kong deputies to the National People's Congress; and

(b) the persons holding office on the date of those subsector ordinary elections (or the last of those dates, if different dates are specified for those subsector ordinary elections) as the Members of the Legislative Council,

(except those persons who are not Hong Kong permanent residents) as ex-officio members of the Election Committee, in accordance with the EAC Regulations.

(9) (a) Subject to paragraph (b), the number of members allocated to the sports, performing arts, culture and publication subsector is to be divided equally among the 4 sub-subsectors constituting that subsector, namely sports, performing arts, culture and publication sub-subsectors.

- (b) If the number of members cannot be allocated equally as an integer, the sub-sectors are to be allocated the largest possible integer, and the remaining number is to be allocated according to the number of voters of the sub-sectors such that the sub-sector having the greatest number of voters is allocated a seat first until all the seats are allocated.

TABLE 1
FIRST SECTOR

Item	Subsector	Number of members
1.	Catering	11
2.	Commercial (first)	12
3.	Commercial (second)	12
4.	Employers' Federation of Hong Kong	11
5.	Finance	12
6.	Financial services	12
7.	Hong Kong Chinese Enterprises Association	11
8.	Hotel	11
9.	Import and export	12
10.	Industrial (first)	12
11.	Industrial (second)	12
12.	Insurance	12
13.	Real estate and construction	12
14.	Textiles and garment	12
15.	Tourism	12
16.	Transport	12
17.	Wholesale and retail	12

TABLE 2
SECOND SECTOR

Item	Subsector	Number of members
1.	Accountancy	20
2.	Architectural, surveying and planning	20
3.	Chinese medicine	20
4.	Education	20
5.	Engineering	20
6.	Health services	20
7.	Higher education	20

Item	Subsector	Number of members
8.	Information technology	20
9.	Legal	20
10.	Medical	20

TABLE 3

THIRD SECTOR

Item	Subsector	Number of members
1.	Agriculture and fisheries	40
2.	Labour	40
3.	Religious	40
4.	Social welfare	40
5.	Sports, performing arts, culture and publication	40

TABLE 4

FOURTH SECTOR

Item	Subsector	Constituents	Number of members
1.	National People's Congress ("NPC")	Hong Kong deputies to the NPC.	36
2.	Legislative Council	Members of the Legislative Council.	60
3.	Chinese People's Political Consultative Conference ("CPPCC")	Hong Kong members of the National Committee of the CPPCC.	41
4.	Heung Yee Kuk	Chairman and Vice-Chairmen of the Heung Yee Kuk and the Ex-Officio, Special and Co-opted Councillors of the Full Council of the Heung Yee Kuk.	21
5.	Hong Kong and Kowloon District Councils	Members of the Hong Kong and Kowloon District Councils.	21
6.	New Territories District Councils	Members of the New Territories District Councils.	21

TABLE 5

COMPOSITION OF SUBSECTORS REFERRED TO IN SECTION 2(5)(c)
(Subsectors without an equivalent functional constituency)

Item	Subsector	Constituents
1.	Hong Kong Chinese Enterprises Association	Members of the Hong Kong Chinese Enterprises Association entitled to vote at general meetings of the Association.
2.	Tourism	(1) Members of the Travel Industry Council of Hong Kong entitled to vote at general meetings of the Council. (2) Members of the Board of Airline Representatives in Hong Kong.
3.	Hotel	(1) Members of the Hong Kong Hotels Association entitled to vote at general meetings of the Association. (2) Members of the Federation of Hong Kong Hotels Owners entitled to vote at general meetings of the Federation.
4.	Chinese medicine	Members of— (1) The Hong Kong Association of Traditional Chinese Medicine Limited; (2) The International General Chinese Herbalists and Medicine Professional Association Limited; (3) Sin-Hua Herbalists' and Herb Dealers' Promotion Society Limited; (4) The Society of Practitioners of Chinese Herbal Medicine Limited; (5) The Hong Kong Traditional Chinese Medicine Orthopaedic and Traumatic Association Limited; (6) The Hong Kong Federation of China of Traditional Chinese Medicine; (7) The Hong Kong Acupuncturists Association; (8) The Hong Kong Chinese Herbalists Association Limited; (9) The Association of Hong Kong and Kowloon Practitioners of Chinese Medicine Limited; (10) The Hong Kong Chinese Overseas Physician Association, who are Chinese medicine practitioners entitled to vote at the general meetings of the respective bodies.

Item	Subsector	Constituents
5.	Higher education	<ol style="list-style-type: none">(1) Full-time academic staff engaged in teaching or research and administrative staff of equivalent rank in—<ol style="list-style-type: none">(a) institutions of higher education funded through the University Grants Committee;(b) approved post secondary colleges registered under the Post Secondary Colleges Ordinance (Cap. 320);(c) technical colleges established under the Vocational Training Council Ordinance (Cap. 1130);(d) The Hong Kong Academy for Performing Arts;(e) The Open University of Hong Kong.(2) Members of—<ol style="list-style-type: none">(a) the Council of the University of Hong Kong;(b) the Council of The Chinese University of Hong Kong;(c) the Council of The Hong Kong University of Science and Technology;(d) the Council of the City University of Hong Kong;(e) the Council of The Hong Kong Polytechnic University;(f) the Council of The Hong Kong Academy for Performing Arts;(g) the Council of The Open University of Hong Kong;(h) the Council of the Vocational Training Council;(i) the Council of The Hong Kong Institute of Education;(j) the Council of the Hong Kong Baptist University;(k) the Council of Lingnan University;(l) the Board of Governors of the Hong Kong Shue Yan College.
6.	Education	<ol style="list-style-type: none">(1) Registered teachers registered under the Education Ordinance (Cap. 279).(2) Permitted teachers engaged in full-time employment in schools registered or provisionally registered under the Education Ordinance (Cap. 279).(3) Teachers and principals of schools entirely maintained and controlled by the Government.

Item	Subsector	Constituents
		<ul style="list-style-type: none"> (4) Persons whose principal or only employment is that of full-time teaching with the following bodies— <ul style="list-style-type: none"> (a) technical institutes, industrial training centres and skills centres established under the Vocational Training Council Ordinance (Cap. 1130); (b) industrial training centres established under the Industrial Training (Construction Industry) Ordinance (Cap. 317); (c) industrial training centres established under the Industrial Training (Clothing Industry) Ordinance (Cap. 318); (d) Pinehill Village Advanced Training Centre of the Hong Kong Association for the Mentally Handicapped; (e) Caritas Lok Mo Vocational Training Centre of the Caritas—Hong Kong under the Caritas—Hong Kong Incorporation Ordinance (Cap. 1092). (5) Registered managers of schools registered under the Education Ordinance (Cap. 279).
7.	Employers' Federation of Hong Kong	Members of the Employers' Federation of Hong Kong entitled to vote at general meetings of the Federation.
8.	Social welfare	<ul style="list-style-type: none"> (1) Social workers registered under the Social Workers Registration Ordinance (Cap. 505). (2) Corporate members of the Hong Kong Council of Social Service entitled to vote at general meetings of the Council. (3) Exempted societies within the meaning of the Societies Ordinance (Cap. 151) that have been operating with paid employees to provide service on a regular basis in accordance with the following aims for a period of 12 months immediately before making the application for registration as a voter— <ul style="list-style-type: none"> (a) to promote the co-ordination and improvement of social service activities; (b) to develop resources, such as manpower, funds and data, for social service activities; or (c) to promote public understanding of social service needs and the role of the voluntary agencies in meeting those needs, and which publish their annual reports and audited accounts or certified accounts with regard to annual income and expenditure.

Item	Subsector	Constituents
		<p>(4) Non-profit making companies registered under the Companies Ordinance (Cap. 32) that have been operating with paid employees to provide service on a regular basis in accordance with the following aims for a period of 12 months immediately before making the application for registration as a voter—</p> <ul style="list-style-type: none"> (a) to promote the co-ordination and improvement of social service activities; (b) to develop resources, such as manpower, funds and data, for social service activities; or (c) to promote public understanding of social service needs and the role of the voluntary agencies in meeting those needs, <p>and which publish their annual reports and audited accounts or certified accounts with regard to annual income and expenditure.</p>

3. Resignation of member of Election Committee

(1) If—

- (a) on 14 July 2000, a person was a member of the Election Committee constituted on that date under the Legislative Council Ordinance (Cap. 542) (other than an ex-officio member of the Committee within the meaning of that Ordinance in force on that date); and
- (b) after that date, the Electoral Registration Officer, by adding the person's name to the final register of members of the Election Committee, registered the person as an ex-officio member of the Committee under section 1(10) of Schedule 2 to that Ordinance in force immediately before the commencement of section 73 of this Ordinance,

the person is deemed to have resigned, on the commencement of this section, from the membership referred to in paragraph (a).

(2) If—

- (a) a person is a member of the Election Committee (other than an ex-officio member); and
- (b) the Electoral Registration Officer, by adding the person's name to the final register of members of the Election Committee, registers the person as an ex-officio member of the Committee under section 41(3),

the person is deemed to have resigned, on the date of the publication under section 41(4) of a notice to the effect that the person's name has been so added, from the membership referred to in paragraph (a).

(3) A member of the Election Committee (other than an ex-officio member) may resign from the membership by giving written notice of resignation to the Electoral Registration Officer.

(4) A notice of resignation is not effective unless it is signed by the member concerned.

(5) A notice of resignation takes effect—

- (a) on the date on which the notice is received by the Electoral Registration Officer; or
- (b) if a later date is specified in the notice, on that later date.

4. Electoral Registration Officer to compile and publish provisional register

- (1) The Electoral Registration Officer shall compile and publish in accordance with the EAC Regulations a provisional register of members of the Election Committee—
- (a) not later than 30 November 2001; and
 - (b) thereafter, within 14 days after the making of a vacancy declaration.
- (2) The Electoral Registration Officer is not required to compile and publish a provisional register of members of the Election Committee under subsection (1)(b) if—
- (a) the vacancy declaration is made before 30 November 2002 or within 12 months after the date of the making of another vacancy declaration; or
 - (b) the election to fill the vacancy referred to in the vacancy declaration is to be held on a date that falls outside the term of office of the Election Committee.
- (3) A provisional register of members of the Election Committee is to be based on the existing final register of members of the Election Committee.
- (4) In compiling a provisional register of members of the Election Committee, the Electoral Registration Officer shall—
- (a) after scrutinizing the existing final register of members of the Election Committee, strike out the names and other relevant particulars of those persons (other than ex-officio members) whom the Electoral Registration Officer is satisfied on reasonable grounds, on the relevant date, as—
 - (i) being dead;
 - (ii) having resigned, or being deemed to have resigned, from the Election Committee under section 3; or
 - (iii) having ceased to be registered or eligible to be registered, or having been disqualified from being registered, under the Legislative Council Ordinance (Cap. 542) as an elector for a geographical constituency; and
 - (b) enter the names and other relevant particulars of those persons on an omissions list.
- (5) As soon as practicable after complying with subsection (4), the Electoral Registration Officer shall publish—
- (a) in the Gazette; and
 - (b) in such other publications (if any) as are prescribed by the EAC Regulations,
- a notice to the effect that the names and other relevant particulars of persons who are no longer eligible to have their names included in the final register of members of the Election Committee have been entered on an omissions list and specifying the times and the place at which the omissions list may be inspected.
- (6) The Electoral Registration Officer shall, for the period prescribed for the purposes of this subsection by the EAC Regulations—
- (a) keep the omissions list at that Officer's office; and
 - (b) during the ordinary business hours of that office, make that list available for inspection by members of the public, free of charge.
- (7) In this section—
- “existing final register of members of the Election Committee” (現有選舉委員會正式委員登記冊), in relation to—
- (a) the compilation of the provisional register of members of the Election Committee to be compiled and published not later than 30 November 2001, means the final register of members of the Election Committee that was in effect immediately before the commencement of section 65(b) of this Ordinance, under section 33(2) of the Legislative Council Ordinance (Cap. 542);
 - (b) the compilation of a provisional register of members of the Election Committee to be compiled and published after the making of a vacancy declaration, means the final register of members of the Election Committee that is in effect under section 43 on the date of the making of the vacancy declaration;

“relevant date” (有關日期), in relation to—

- (a) the compilation of the provisional register of members of the Election Committee to be compiled and published not later than 30 November 2001, means 1 November 2001;
- (b) the compilation of a provisional register of members of the Election Committee to be compiled and published after the making of a vacancy declaration, means the date of the making of the vacancy declaration;

“vacancy declaration” (空缺宣布) means—

- (a) a declaration under section 5 of this Ordinance; or
- (b) a declaration under section 35 of the Legislative Council Ordinance (Cap. 542) as to the existence of a vacancy among the Members of the Legislative Council returned by the Election Committee.

5. Supplementary nomination or subsector by-election to be held to fill vacancy in membership of Election Committee

(1) As soon as practicable after the Electoral Registration Officer has published a provisional register of members of the Election Committee, the Electoral Affairs Commission—

- (a) shall ascertain the number of members representing each subsector (other than a subsector specified in items 1 and 2 of Table 4 in section 2) on the Election Committee; and
- (b) if the number of members so ascertained as representing a subsector is less than the number of members allocated to the subsector in accordance with section 2(6), shall, in accordance with the EAC Regulations, arrange for a supplementary nomination (in the case of the religious subsector) or a subsector by-election (in the case of any other subsector) to be held to fill the vacancy among the members representing the subsector on the Election Committee.

(2) When making an ascertainment under subsection (1)(a), the Electoral Affairs Commission shall have regard to—

- (a) the provisional register of members of the Election Committee; and
- (b) the determinations of the Revising Officer on the appeals, if any, made under section 48 against the decisions of the Electoral Registration Officer in relation to the register.

PART 3

RELIGIOUS SUBSECTOR

6. Composition of the religious subsector

(1) The religious subsector is to be composed of the following bodies (referred to in this Part as “the designated bodies”)—

- (a) Catholic Diocese of Hong Kong;
- (b) Chinese Muslim Cultural and Fraternal Association;
- (c) Hong Kong Christian Council;
- (d) The Hong Kong Taoist Association;
- (e) The Confucian Academy; and
- (f) The Hong Kong Buddhist Association.

(2) The Chief Executive in Council may, by order published in the Gazette, distribute the number of members allocated to the religious subsector among the designated bodies.

7. Nomination of members by the religious subsector

(1) Subject to subsection (7), each designated body may nominate a number of persons selected by it as members representing the religious subsector on the Election Committee for a new term of office of the Committee.

(2) If—

- (a) the Electoral Affairs Commission is required to arrange for a supplementary nomination to fill a vacancy among the members representing the religious subsector on the Election Committee; and
- (b) the vacancy is due to the number of members from a designated body representing the religious subsector on the Election Committee being less than the assigned number for the body,

the designated body may nominate a number of persons selected by it to fill the vacancy.

(3) The process of nomination under subsection (1) or (2) (other than the selection of nominees) shall be carried out in accordance with the EAC Regulations.

(4) If—

- (a) the number of persons nominated by a designated body under subsection (1) exceeds the assigned number for the body; or
- (b) the number of persons nominated by a designated body under subsection (2) exceeds the number of vacancies to be filled,

subject to subsection (6), the body shall—

- (c) indicate which of the nominees are to be given preference in making up the assigned number or in filling the vacancy; and
- (d) then rank the excess nominees, if more than one, in order of priority.

(5) If the Returning Officer determines that any of the nominees to be given preference under subsection (4) is not validly nominated, the assigned number is to be made up or the vacancy is to be filled from the excess nominees (subject to their being validly nominated) in their order of priority.

(6) If—

- (a) the number of persons nominated by a designated body under subsection (1) exceeds the assigned number for the body; or
- (b) the number of persons nominated by a designated body under subsection (2) exceeds the number of vacancies to be filled,

but the body does not indicate preference under subsection (4) or the number of nominees to whom preference is given is less than the assigned number for that body or the number of vacancies to be filled, the Returning Officer shall determine which nominees of that body (subject to their being validly nominated) are to make up the assigned number or to fill the vacancy by drawing lots. The nominees on whom the lot falls are to become members of the Election Committee.

(7) The number of nominees to become members of the Election Committee from each designated body cannot exceed the assigned number for that body.

(8) The Returning Officer shall declare the nominees who become the members of the Election Committee as such members in accordance with the EAC Regulations.

(9) In this section—

“assigned number” (獲配席位數目), in relation to a designated body, means the number specified in an order made under section 6(2) for that body.

8. Who is qualified for selection as a nominee

(1) A person is eligible to be selected as a nominee under section 7 if the person—

- (a) is both registered and eligible to be registered under the Legislative Council Ordinance (Cap. 542) as an elector for a geographical constituency, and is not disqualified from being so registered; and
- (b) has a substantial connection with the religious subsector.

- (2) A person is not eligible to be selected as a nominee under section 7(1) if the person—
- (a) is a Hong Kong deputy to the National People's Congress or a Member of the Legislative Council (whether or not the person is an ex-officio member of the Election Committee); or
 - (b) is a candidate at a subsector ordinary election.
- (3) A person is not eligible to be selected as a nominee under section 7(2) if the person—
- (a) is a member of the Election Committee; or
 - (b) is a candidate at a subsector by-election, the nomination period for which coincides or partly coincides with the period during which the nomination under that section is to be made.
- (4) A person who is selected as a nominee by a designated body as a member representing the religious subsector on the Election Committee is not eligible to be selected by another designated body as such a member if the period during which the nominations are to be made coincides or partly coincides.

9. **When a person is disqualified from being a nominee**

A person is disqualified from being a nominee under section 7 if the person—

- (a) has in Hong Kong or in any other place been sentenced to death or imprisonment (by whatever name called) and has not either—
 - (i) served the sentence or undergone such other punishment as a competent authority may have substituted for the sentence; or
 - (ii) received a free pardon;
- (b) on the date of nomination, is serving a sentence of imprisonment;
- (c) without limiting paragraph (a), where the nomination is made within 3 years after the date of the person's conviction, is or has been convicted—
 - (i) of having engaged in corrupt conduct or illegal conduct in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554);
 - (ii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap. 201); or
 - (iii) of any offence prescribed by the EAC Regulations;
- (d) is found for the time being under the Mental Health Ordinance (Cap. 136) to be incapable, by reason of mental incapacity, of managing and administering his property and affairs; or
- (e) is a member of the armed forces of the People's Republic of China or any other country or territory.

10. **Application of the Elections (Corrupt and Illegal Conduct) Ordinance**

The Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) applies, with any necessary modifications, to and in relation to the selection and nomination of persons to be members of the Election Committee under section 7 in the same way as it applies to and in relation to a subsector election and so applies as if the persons selected or nominated were candidates at a subsector election.

PART 4

SUBSECTOR ELECTION

Division 1—Preliminary

11. **Interpretation**

- (1) In this Part, unless the context otherwise requires—

- “authorized representative” (獲授權代表), in relation to a corporate voter, means the person authorized by the corporate voter to cast its vote at a subsector election;
- “corporate voter” (團體投票人) means a body that is a voter for a subsector;
- “existing functional constituencies final register” (現有功能界別正式選民登記冊) means the final register of electors for functional constituencies compiled under section 32(1) of the Legislative Council Ordinance (Cap. 542) that is in effect on the date of registration of voters for the subsectors;
- “existing geographical constituencies final register” (現有地方選區正式選民登記冊) means the final register of electors for geographical constituencies compiled under section 32(1) of the Legislative Council Ordinance (Cap. 542) that is in effect on the date of registration of voters for the subsectors;
- “existing subsector final register” (現有界別分組正式投票人登記冊), in relation to—
- (a) the compilation of a subsector provisional register to be compiled and published not later than 30 November 2001, means the subsector final register that was compiled and published under section 10 of Schedule 2 to the Legislative Council Ordinance (Cap. 542) in force immediately before the commencement of section 73 of this Ordinance;
 - (b) the compilation of any other subsector provisional register, means the subsector final register that is in effect under section 15 at the time the subsector provisional register is compiled;
- “subsector” (界別分組) means a subsector referred to in section 2(7)(b);
- “subsector final register” (界別分組正式投票人登記冊) means the final register to be compiled and published under section 14(1)(b);
- “subsector provisional register” (界別分組臨時投票人登記冊) means the provisional register to be compiled and published under section 14(1)(a);
- “voter” (投票人) means a person whose name is registered in a subsector final register and who is eligible to be so registered and is not disqualified from being so registered or from voting at a subsector election.
- (2) The results of subsector ordinary elections that are declared on different dates are, for the purposes of this Schedule, taken to have been declared on the later or latest of those dates.

Division 2—Registration of voters

12. Who is eligible to be registered as a voter

- (1) Subject to this section—
- (a) a person is eligible to be registered as a voter for a subsector with the same name as a functional constituency (other than the education subsector, the social welfare subsector and the tourism subsector) if—
 - (i) the person is eligible to be registered as an elector for that functional constituency and has made an application to be so registered; or
 - (ii) the person—
 - (A) is registered for that functional constituency in the existing functional constituencies final register; and
 - (B) is eligible to be, and is not disqualified from being, registered as an elector for that functional constituency; and
 - (b) a person is eligible to be registered as a voter for a subsector specified in Table 5 in section 2 (other than the higher education and education subsectors, the social welfare subsector and the tourism and hotel subsectors) if—
 - (i) the person—
 - (A) is a person specified opposite to that subsector in column 3 of Table 5 in section 2; and
 - (B) where the person is a natural person, is eligible to be registered as an elector under Part V of the Legislative Council Ordinance (Cap. 542) for a geographical constituency and has made an application to be so registered, or is registered in the existing geographical constituencies final register and is eligible to be, and is not disqualified from being, registered as an elector for a geographical constituency; or

- (ii) the person—
 - (A) is registered for that subsector in the existing subsector final register; and
 - (B) is eligible to be, and is not disqualified from being, registered as a voter for that subsector.
- (2) A person is eligible to be registered as a voter for the sports, performing arts, culture and publication subsector subject to the following conditions—
 - (a) a person who is registered, or applies to be registered, as an elector for the sports, performing arts, culture and publication functional constituency by virtue of being a person described in section 20V(1)(a) or (b) of, or Part 1 of Schedule 1B or item 25, 29, 40, 41, 43, 50, 54 or 59 of Part 3 of Schedule 1B to, the Legislative Council Ordinance (Cap. 542) may be registered only as a voter for the sports sub-subsector;
 - (b) a person who is registered, or applies to be registered, as an elector for the sports, performing arts, culture and publication functional constituency by virtue of being a person described in section 20V(1)(i) of, or item 1, 2, 3, 4, 5, 8, 9, 12, 16, 17, 18, 23, 24, 34, 39, 42, 44, 45, 46, 47, 49, 52, 55, 56, 57 or 60 of Part 3 of Schedule 1B to, the Legislative Council Ordinance (Cap. 542) may be registered only as a voter for the performing arts sub-subsector;
 - (c) a person who is registered, or applies to be registered, as an elector for the sports, performing arts, culture and publication functional constituency by virtue of being a person described in section 20V(1)(d) or (e) of, or Part 2 of Schedule 1B or item 6, 7, 10, 11, 13, 14, 19, 20, 22, 26, 27, 31, 33, 35, 37, 38, 48, 53, 58, 61 or 62 of Part 3 of Schedule 1B to, the Legislative Council Ordinance (Cap. 542) may be registered only as a voter for the culture sub-subsector; and
 - (d) a person who is registered, or applies to be registered, as an elector for the sports, performing arts, culture and publication functional constituency by virtue of being a person described in section 20V(1)(g), (h), (j) or (k) of, or item 15, 21, 28, 30, 32, 36 or 51 of Part 3 of Schedule 1B to, the Legislative Council Ordinance (Cap. 542) may be registered only as a voter for the publication sub-subsector.
- (3) A person is eligible to be registered as a voter for the higher education subsector if the person—
 - (a) is a person described in section 20E(a) or (b) of the Legislative Council Ordinance (Cap. 542) and has made an application to be registered for the education functional constituency; or
 - (b) is registered for the education functional constituency in the existing functional constituencies final register, and is eligible to be registered as an elector for that functional constituency by virtue of being a person described in section 20E(a) or (b) of the Legislative Council Ordinance (Cap. 542).
- (4) A person is eligible to be registered as a voter for the education subsector if—
 - (a) the person is a person described in section 20E(c), (d), (e), (f) or (g) of the Legislative Council Ordinance (Cap. 542) and has made an application to be registered for the education functional constituency; or
 - (b) the person is registered for the education functional constituency in the existing functional constituencies final register, and is eligible to be registered as an elector for that functional constituency by virtue of being a person described in section 20E(c), (d), (e), (f) or (g) of the Legislative Council Ordinance (Cap. 542).
- (5) A person is eligible to be registered as a voter for the social welfare subsector if—
 - (a) the person is a person described in section 20M of the Legislative Council Ordinance (Cap. 542) and has made an application to be registered for the social welfare functional constituency;
 - (b) the person is registered for the social welfare functional constituency in the existing functional constituencies final register, and is eligible to be registered as an elector for that functional constituency by virtue of being a person described in section 20M of the Legislative Council Ordinance (Cap. 542);
 - (c) the person is a person described in paragraph (2), (3) or (4) of item 8 of Table 5 in section 2 and has made an application to be registered for the social welfare subsector; or

- (d) the person—
- (i) is registered for the social welfare subsector in the existing subsector final register by virtue of being a person described in paragraph (2), (3) or (4) of item 8 of Table 5 in section 2; and
 - (ii) is not disqualified from being registered as a voter for that subsector.
- (6) A person is eligible to be registered as a voter for the tourism subsector if the person—
- (a) is a person described in section 20O(b) or (c) of the Legislative Council Ordinance (Cap. 542) and has made an application to be registered for the tourism functional constituency; or
 - (b) is registered for the tourism functional constituency in the existing functional constituencies final register, and is eligible to be registered as an elector for that functional constituency by virtue of being a person described in section 20O(b) or (c) of the Legislative Council Ordinance (Cap. 542).
- (7) A person is eligible to be registered as a voter for the hotel subsector if—
- (a) the person is a person described in section 20O(d) or (e) of the Legislative Council Ordinance (Cap. 542) and has made an application to be registered for the tourism functional constituency; or
 - (b) the person is registered for the tourism functional constituency in the existing functional constituencies final register, and is eligible to be registered as an elector for that functional constituency by virtue of being a person described in section 20O(d) or (e) of the Legislative Council Ordinance (Cap. 542).
- (8) A person is eligible to be registered as a voter for the Hong Kong and Kowloon District Councils subsector if the person is a person described opposite to that subsector in column 3 of Table 4 in section 2 and has made an application to be registered for the District Council functional constituency.
- (9) A person is eligible to be registered as a voter for the New Territories District Councils subsector if the person is a person described opposite to that subsector in column 3 of Table 4 in section 2 and has made an application to be registered for the District Council functional constituency.
- (10) Subject to this section—
- (a) a person who is registered or applies to be registered as an elector for a functional constituency with the same name as a subsector, cannot, subject to paragraph (b), be registered only as an elector for that functional constituency and not as a voter for the subsector;
 - (b) a person who is registered or applies to be registered as a voter for a subsector with the same name as a functional constituency, cannot be registered only as a voter for that subsector and not as an elector for the functional constituency;
 - (c) a person who is registered, or has made an application to be registered, as an elector for a functional constituency with the same name as a subsector may be registered only as a voter for that subsector (whether or not the person is eligible to be registered as a voter for any other subsector), except that, if the person is eligible to be registered as a voter for any other subsector specified in item 3 of Table 4, or item 1, 4, 7 or 8 (by virtue of subsection (5)(c) or (d)) of Table 5, in section 2, the person may choose to be registered as a voter in the first-mentioned subsector or in that other subsector; and
 - (d) a person who ceases to be eligible to be registered as an elector for a functional constituency with the same name as a subsector ceases to be eligible to be registered as a voter for that subsector, but may, subject to paragraph (a) and subsection (12), apply to be registered as a voter for any other subsector for which the person is eligible to be registered as a voter.
- (11) Subject to this section—
- (a) a person who—
 - (i) is a person described opposite to the Hong Kong and Kowloon District Councils subsector in column 3 of Table 4 in section 2; and
 - (ii) is registered or applies to be registered as an elector for the District Council functional constituency,cannot, subject to paragraph (c), be registered only as an elector for District Council functional constituency and not as a voter for the Hong Kong and Kowloon District Councils subsector;

- (b) a person who—
- (i) is a person described opposite to the New Territories District Councils subsector in column 3 of Table 4 in section 2; and
 - (ii) is registered or applies to be registered as an elector for the District Council functional constituency,
- cannot, subject to paragraph (d), be registered only as an elector for the District Council functional constituency and not as a voter for the New Territories District Councils subsector;
- (c) a person who is registered or applies to be registered as a voter for the Hong Kong and Kowloon District Councils subsector cannot be registered only as a voter for that subsector and not as an elector for the District Council functional constituency;
- (d) a person who is registered or applies to be registered as a voter for the New Territories District Councils subsector cannot be registered only as a voter for that subsector and not as an elector for the District Council functional constituency;
- (e) a person who is registered, or has made an application to be registered, as an elector for the District Council functional constituency may be registered only as a voter—
- (i) for the Hong Kong and Kowloon District Councils subsector if the person is a person described opposite to that subsector in column 3 of Table 4 in section 2; or
 - (ii) for the New Territories District Councils subsector if the person is a person described opposite to that subsector in column 3 of Table 4 in section 2,
- (whether or not the person is eligible to be registered as a voter for any other subsector) except that, if the person is eligible to be registered as a voter for any other subsector specified in item 3 of Table 4, or item 1 or 4 of Table 5, in section 2, the person may choose to be registered as a voter in the subsector referred to in subparagraph (i) or (ii), as the case may be, or in that other subsector; and
- (f) a person who ceases to be eligible to be registered as an elector for the District Council functional constituency ceases to be eligible to be registered as a voter for the Hong Kong and Kowloon District Councils subsector or the New Territories District Councils subsector, but may, subject to subsections (10)(a) and (12), apply to be registered as a voter for any other subsector for which the person is eligible to be registered as a voter.

(12) A person who would, but for this subsection, be eligible to be registered as a voter for 2 or more subsectors may, subject to subsection (10), be registered as a voter for only one of those subsectors of the person's choice.

(13) A person who is registered, or applies to be registered, as an elector for the education functional constituency by virtue of being a person described in section 20E(a) or (b) of the Legislative Council Ordinance (Cap. 542) may be registered only as a voter for the higher education subsector.

(14) A person who is registered, or applies to be registered, as an elector for the education functional constituency by virtue of being a person described in section 20E(c), (d), (e), (f) or (g) of the Legislative Council Ordinance (Cap. 542) may be registered only as a voter for the education subsector.

(15) A person who is eligible to be registered as a voter for both the education subsector and the higher education subsector, may only be registered as a voter for the higher education subsector.

(16) A person who is registered, or applies to be registered, as an elector for the tourism functional constituency by virtue of being a person described in section 20O(b) or (c) of the Legislative Council Ordinance (Cap. 542) may be registered only as a voter for the tourism subsector.

(17) A person who is registered, or applies to be registered, as an elector for the tourism functional constituency by virtue of being a person described in section 20O(d) or (e) of the Legislative Council Ordinance (Cap. 542) may be registered only as a voter for the hotel subsector.

(18) A person who is eligible to be registered as a voter for both the tourism subsector and the hotel subsector, may only be registered as a voter for the hotel subsector.

(19) A person described in column 3 of Table 4 in section 2 in relation to the subsector specified in item 3 of that Table, who—

- (a) is eligible to be registered as an elector under Part V of the Legislative Council Ordinance (Cap. 542) for a geographical constituency and has made an application to be so registered; or
- (b) is registered in the existing geographical constituencies final register, and is eligible to be, and is not disqualified from being, registered as an elector for a geographical constituency,

is eligible to be registered as a voter in that subsector.

(20) A member of a body specified in item 1, 2, 3, 7 or 8 of column 3 of Table 5 in section 2 is not eligible to be registered as a voter for the relevant subsector, unless immediately before that member applies for registration as a voter—

- (a) if the member is a corporate member of a body—
 - (i) that member has been a member of that body for at least 12 months; and
 - (ii) that member has been operating for at least 12 months; or
- (b) if the member is a natural person, the person has been a member of that body for at least 12 months.

13. Corporate voter to have authorized representative

(1) A corporate voter is required to select one eligible person to be its authorized representative for the purpose of casting its vote at a subsector election.

(2) A person is eligible to be an authorized representative of a corporate voter for a subsector only if the person—

- (a) is—
 - (i) registered as an elector for a geographical constituency; or
 - (ii) eligible to be registered as an elector for a geographical constituency and has applied to be so registered;
- (b) has a substantial connection with the corporate voter;
- (c) is not registered or has not made an application to be registered as a voter for the subsector; and
- (d) is not disqualified from registration or voting under section 31 or 53 of the Legislative Council Ordinance (Cap. 542).

(3) A person who is an authorized representative of a corporate voter is not eligible to be selected as the authorized representative of another corporate voter.

(4) A person cannot act as an authorized representative of a corporate voter unless the person is registered as such a representative by the Electoral Registration Officer.

(5) A corporate voter may from time to time replace its authorized representative, but only in the circumstances and manner prescribed by the EAC Regulations. The replacement does not have effect until it is registered by the Electoral Registration Officer.

(6) An application may be made to the Electoral Registration Officer for the purposes of subsection (1) or (5) in accordance with the EAC Regulations by the corporate voter concerned. The application shall be in writing and be in a form specified under section 45.

(7) The Electoral Registration Officer may refuse an application made under subsection (6) only on the ground that the authorized representative specified in the application is ineligible to be, or is disqualified from being, such a representative.

14. Electoral Registration Officer to compile and publish a register of voters

(1) The Electoral Registration Officer shall compile and publish in accordance with the EAC Regulations—

- (a) not later than 30 November 2001 and not later than 15 April in each subsequent year, a provisional register of voters for subsectors; and
- (b) not later than 14 December 2001 and not later than 25 May in each subsequent year, a final register of voters for subsectors.

(2) The Electoral Registration Officer may amend a subsector provisional register or subsector final register so as to rectify any clerical or printing error or any incorrect name or address of a person who is recorded in the register.

(3) Subject to section 49, a subsector provisional register is to be based on the existing subsector final register.

(4) In compiling a subsector provisional register, the Electoral Registration Officer shall—

(a) after scrutinizing the register on which the subsector provisional register is to be based, strike out the names and other relevant particulars of those persons whom the Electoral Registration Officer is satisfied on reasonable grounds as being no longer eligible to have their names included in the subsector final register;

(b) enter the names and other relevant particulars of those persons on an omissions list; and

(c) add to the register the names and other relevant particulars of those persons who have made applications for registration since the date prescribed for the purposes of this paragraph by the EAC Regulations and who are eligible to have their names included in the subsector final register.

(5) As soon as practicable after complying with subsection (4), the Electoral Registration Officer shall publish—

(a) in the Gazette; and

(b) in such other publications (if any) as are prescribed by the EAC Regulations,

a notice to the effect that the names and other relevant particulars of persons who are no longer eligible to have their names included in the subsector final register have been entered on an omissions list and specifying the times and the place at which the omissions list may be inspected.

(6) The Electoral Registration Officer shall, for the period prescribed for the purposes of this subsection by the EAC Regulations—

(a) keep the omissions list at that Officer's office; and

(b) during the ordinary business hours of that office, make that list available for inspection by members of the public, free of charge.

15. When subsector final register is to take effect

A subsector final register takes effect on the date of its publication and continues to have effect until the publication of the next subsector final register.

Division 3—Conduct of subsector elections

16. When a subsector ordinary election is to be held

(1) A subsector ordinary election is to be held on the date specified by the Chief Executive. The Chief Executive shall give notice of that date in the Gazette.

(2) The Chief Executive may specify different dates to hold different subsector ordinary elections.

17. Who is eligible to be nominated as a candidate at a subsector election

(1) A person is eligible to be nominated as a candidate at a subsector election for a subsector only if the person—

(a) has reached 18 years of age;

(b) is both registered and eligible to be registered for a geographical constituency; and

(c) either—

(i) is both registered and eligible to be registered as a voter for that subsector; or

(ii) satisfies the Returning Officer for the subsector that the person has a substantial connection with the subsector.

- (2) A person is not eligible to be nominated as a candidate at a subsector ordinary election if the person is—
- (a) a nominee of a designated body under section 7(1); or
 - (b) a Hong Kong deputy to the National People's Congress or a Member of the Legislative Council (whether or not the person is an ex-officio member of the Election Committee).
- (3) A person is not eligible to be nominated as a candidate at a subsector by-election if—
- (a) the person is a nominee of a designated body under section 7(2) and the period during which the nomination under that section is to be made and the nomination period for the by-election coincide or partly coincide; or
 - (b) the person is a member of the Election Committee.

18. When a person is disqualified from being a subsector candidate

A person is disqualified from being nominated as a candidate at a subsector election and from being elected as a member of the Election Committee if the person—

- (a) has ceased to have a substantial connection with the subsector concerned;
- (b) has ceased to be registered or eligible to be registered as an elector for a geographical constituency;
- (c) has in Hong Kong or in any other place been sentenced to death or imprisonment (by whatever name called) and has not either—
 - (i) served the sentence or undergone such other punishment as a competent authority may have substituted for the sentence; or
 - (ii) received a free pardon;
- (d) on the date of nomination or on the date of the subsector election, is serving a sentence of imprisonment;
- (e) without limiting paragraph (c), where the subsector election is to be held or is held within 3 years after the date of the person's conviction, is or has been convicted—
 - (i) of having engaged in corrupt conduct or illegal conduct in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554);
 - (ii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap. 201); or
 - (iii) of any offence prescribed by the EAC Regulations;
- (f) is found for the time being under the Mental Health Ordinance (Cap. 136) to be incapable, by reason of mental incapacity, of managing and administering his property and affairs; or
- (g) is a member of the armed forces of the People's Republic of China or any other country or territory.

19. Candidate to lodge deposit

(1) A person is validly nominated as a candidate for a subsector at a subsector election only if a deposit has, in the manner prescribed by the EAC Regulations, been lodged with the Returning Officer for the subsector concerned by or on behalf of the person.

(2) The deposit is to be of such an amount as prescribed by the regulations for the purposes of this section and is to be disposed of as provided by the regulations.

20. Person not to be nominated for more than one subsector

A person who is nominated as a candidate for a subsector at a subsector election is not eligible to be nominated as a candidate at another subsector election that is to be held on the same day or if the nomination periods for the elections coincide or partly coincide.

21. Withdrawal of candidature

(1) A candidate for a subsector election may withdraw the candidate's candidature at any time before the close of nominations.

(2) The withdrawal of such a candidate's candidature has effect only if it is in writing signed by the candidate and complies with the EAC Regulations.

22. Who are validly nominated candidates for subsector election

(1) The Returning Officer for a subsector shall, as soon as practicable after receiving a nomination form that complies with the EAC Regulations, decide in accordance with those Regulations whether or not a person is validly nominated as a candidate at the subsector election.

(2) The Returning Officer for a subsector shall, in accordance with the EAC Regulations, publish a notice stating which persons are validly nominated as candidates at the subsector election.

23. Death or disqualification of a validly nominated candidate before date of subsector election

(1) If, after the Returning Officer has made a decision under section 22(1) that a candidate is validly nominated for a subsector election, but before the date of the subsector election, proof is given to the satisfaction of the Returning Officer that the candidate has died, that Officer shall, in accordance with the EAC Regulations, give notice of the death.

(2) If a notice under section 22(2) has been published, the Returning Officer shall also, in accordance with the EAC Regulations—

(a) publicly declare that the candidate under subsection (1) has died; and

(b) further declare which candidates are validly nominated for the subsector election.

(3) Subsections (1) and (2) do not apply if the Returning Officer has publicly declared under section 25(1) that the candidate was duly elected as a member of the Election Committee.

(4) If, after the Returning Officer has made a decision under section 22(1) that a candidate is validly nominated for a subsector election, but before the date of the subsector election, proof is given to the satisfaction of the Returning Officer that the candidate is disqualified from being nominated as a candidate for a subsector election, the Returning Officer shall, in accordance with the EAC Regulations, vary the decision to the effect that the candidate is not validly nominated. If the Returning Officer so varies the decision, that Officer shall, in accordance with those Regulations, give notice of the variation of the decision.

(5) If a notice under section 22(2) has been published, the Returning Officer shall also, in accordance with the EAC Regulations—

(a) publicly declare that the decision has been varied; and

(b) further declare which candidates are validly nominated for the subsector election.

(6) Subsections (4) and (5) do not apply if the Returning Officer has publicly declared under section 25(1) that the candidate was duly elected as a member of the Election Committee.

24. When holding of a subsector election can be postponed or adjourned

(1) The Electoral Affairs Commission may by order direct the postponement of a subsector election if, before that election is held, the Commission is of the opinion that the election is likely to be obstructed, disrupted, undermined or seriously affected by riot or open violence or any other occurrence of public danger.

(2) The Electoral Affairs Commission may by order direct the adjournment of the polling or counting of votes for a subsector election if, during the polling or counting of votes in respect of that election, the Commission is of the opinion that the polling or counting is likely to be or is being obstructed, disrupted, undermined or seriously affected by riot or open violence or any other occurrence of public danger.

(3) The Returning Officer or Returning Officers concerned shall give effect to a direction under this section as soon as practicable after being notified of it.

(4) If the subsector election, or polling or counting of votes at the subsector election, is directed to be postponed or adjourned under this section, the Electoral Affairs Commission shall specify a date for the holding of the subsector election, or the polling or counting, in place of the postponed subsector election or the adjourned polling or counting. The Electoral Affairs Commission shall give notice of that date in the Gazette. That date is to be not later than 14 days from the date on which the election, polling or counting of votes would have taken place but for the direction.

25. What is to happen if insufficient number of candidates is nominated for a subsector

(1) If—

- (a) after the close of nominations of candidates for a subsector ordinary election, no more candidates have been validly nominated than the number of members allocated to the subsector; or
- (b) after the close of nominations of candidates for a subsector by-election, no more candidates have been validly nominated than the number of members to be returned at the by-election,

the Returning Officer concerned shall, in accordance with the EAC Regulations, publicly declare the candidates for the subsector to be duly elected as members of the Election Committee representing the subsector.

(2) If, after the close of nominations of candidates for a subsector election, no candidate was validly nominated, the Returning Officer concerned shall, by notice published in the Gazette, declare that no candidate was validly nominated for the subsector election.

(3) If—

- (a) after the close of nominations of candidates for a subsector ordinary election, the number of candidates validly nominated was less than the number of members allocated to the subsector; or
- (b) after the close of nominations of candidates for a subsector by-election, the number of candidates validly nominated was less than the number of members to be returned at the by-election,

the Returning Officer concerned shall, by notice published in the Gazette, declare that the number of members of the Election Committee returned at the subsector election for the subsector is less than the number of members to be returned at the election.

26. Death or disqualification of a validly nominated candidate before declaration of election result

(1) If, on or after the date of a subsector election but before declaring the result of the subsector election, proof is given to the satisfaction of the Returning Officer concerned that a validly nominated candidate for the subsector election has died or is disqualified from being elected, the proceedings for the subsector election are to begin (if they have not begun) or to continue (if they have begun) as if the death or disqualification had not occurred.

(2) If—

- (a) after the counting of votes is finished, the candidate referred to in subsection (1) is found to be successful at the subsector election; and
- (b) there is no other candidate at the subsector election who can be returned under section 29(9) for the subsector in place of that candidate,

the Returning Officer concerned shall, in accordance with the EAC Regulations, declare that—

- (c) no candidate is returned at the subsector election; or
- (d) (where more than one member of the Election Committee are to be returned at the subsector election and there are other candidates returned at the subsector election) the number of members of the Election Committee returned at the subsector election for the subsector is less than the number of members to be returned at the election.

27. How subsector election is to be conducted

- (1) At every contested subsector election—
 - (a) a poll is to be taken for the subsector; and
 - (b) voting at the poll is to be by secret ballot.
- (2) The poll is to be conducted in accordance with the EAC Regulations.
- (3) The Returning Officer appointed for a subsector is responsible for supervising a subsector election for the subsector in accordance with this Schedule, the Electoral Affairs Commission Ordinance (Cap. 541) and the EAC Regulations.

28. Who is entitled to vote at a subsector election

- (1) A person is entitled to vote at a subsector election only if the person is registered as a voter for the subsector concerned.
- (2) A person registered as a voter for a subsector may not be prevented from voting at a subsector election only because the person's name should not have been included in the subsector final register prepared for the subsector.
- (3) A corporate voter may vote at a subsector election only by its authorized representative.

29. System of voting and counting of votes

- (1) Voting and counting of votes at a poll referred to in section 27 is to be conducted in accordance with the simple or relative majority system of election (otherwise known as the "first past the post" system of voting).
- (2) At a subsector ordinary election, a voter may vote for as many candidates as the number of members allocated to the subsector concerned and no more.
- (3) At a subsector by-election, a voter may vote for as many candidates as the number of members to be returned at the by-election and no more.
- (4) If a subsector ordinary election is contested by more candidates than the number of members allocated to the subsector, the candidates to be elected for the subsector are those who obtain the greatest number of votes at the election and then the next greatest and so on until the required number of members is elected.
- (5) If a subsector by-election is contested by more candidates than the number of members to be returned at the by-election—
 - (a) in the case of a single vacancy, the candidate to be elected for the subsector is the one who obtains the greatest number of votes at the by-election; and
 - (b) in the case of more than one vacancy, the candidates to be elected for the subsector are those who obtain the greatest number of votes at the by-election and then the next greatest and so on until the required number of members is elected.
- (6) If, after the counting is finished at a subsector election, a member is still to be returned for the subsector and the most successful candidates remaining have an equal number of votes, the Returning Officer shall determine the result of the election by drawing lots. The candidate on whom the lot falls is to be returned at the subsector election.
- (7) As soon as practicable after determining the result of a subsector election, the Returning Officer concerned shall, in accordance with the EAC Regulations, publicly declare as elected the candidates who were successful at the subsector election.
- (8) Despite subsection (7), if, before declaring the result of a subsector election, proof is given to the satisfaction of the Returning Officer that the candidate or a candidate who was successful at the subsector election has died or is disqualified from being elected, that Officer shall not declare that candidate as elected.
- (9) If there is another candidate or there are other candidates at the subsector election who has not or have not been returned for the subsector, the candidate is to be returned or the candidate who obtains the greatest number of votes is to be returned (subject to that candidate's being not disqualified from being elected) in place of the deceased or disqualified candidate. In that case, the Returning Officer concerned shall publicly declare the candidate so returned to be elected.

30. When a voter is disqualified from voting at subsector election

(1) A person registered as a voter for a subsector is disqualified from voting at a subsector election for that subsector, if the person—

- (a) has ceased to be eligible to be registered as a voter for that subsector;
- (b) has in Hong Kong or in any other place been sentenced to death or imprisonment (by whatever name called) and has not either—
 - (i) served the sentence or undergone such other punishment as a competent authority may have substituted for the sentence; or
 - (ii) received a free pardon;
- (c) on the date of the relevant subsector election, is serving a sentence of imprisonment;
- (d) without limiting paragraph (b), where the subsector election is to be held or is held within 3 years after the date of the person's conviction, is or has been convicted—
 - (i) of having engaged in corrupt conduct or illegal conduct in contravention of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554);
 - (ii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap. 201); or
 - (iii) of any offence prescribed by the EAC Regulations;
- (e) is found for the time being under the Mental Health Ordinance (Cap. 136) to be incapable, by reason of mental incapacity, of managing and administering his property and affairs; or
- (f) is a member of the armed forces of the People's Republic of China or any other country or territory.

(2) This section applies to an authorized representative of a corporate voter in the same way as it applies to a voter who is a natural person.

31. Consequences of non-compliance with requirements of this Schedule

In any proceedings brought to question the validity of a subsector election, the Revising Officer shall not declare the election to be invalid only because of—

- (a) a failure to comply with the regulations or with the EAC Regulations; or
- (b) a mistake in the use of a form specified under this Schedule or under the Electoral Affairs Commission Ordinance (Cap. 541),

if the Revising Officer is satisfied on reasonable grounds that the conduct of the election was in accordance with the principles laid down in this Schedule and the Electoral Affairs Commission Ordinance (Cap. 541) and that the failure to comply or mistake did not affect the result of the election.

32. Misnomer or inaccuracy not to affect operation of election document

(1) A misnomer or inaccurate description of a person, a person's identity document or place specified in a document to which this section applies does not limit the full operation of the document with respect to that person, identity document or place if the description of the person, identity document or place is such as to be commonly understood.

(2) This section applies to a subsector provisional register, a subsector final register, a nomination paper, ballot paper, notice or other document prepared for the purposes of a subsector election.

(3) In this section—
“identity document” (身分證明文件) means—

- (a) an identity card issued to a person under the Registration of Persons Ordinance (Cap. 177);
- (b) a document issued to a person under regulations in force under that Ordinance certifying that the person is exempt from being required to register under that Ordinance; or
- (c) any other document issued to a person that is acceptable to the Electoral Registration Officer as proof of the person's identity.

33. Subsector election to be presumed valid

Every subsector election is presumed to be valid, unless it is questioned by means of an appeal lodged with a Revising Officer within the period during which an appeal can be made to a Revising Officer under section 39 and the Officer, on the hearing of an appeal, determines that the election is invalid.

34. Subsector election not to be questioned only because of defect in appointment of electoral officer

A subsector election is not to be questioned only because of a defect in the appointment of an electoral officer who is responsible for conducting the subsector election.

35. Returning Officer to publish result of subsector election

(1) The Returning Officer shall publish in the Gazette the names of the persons duly elected as members of the Election Committee at a subsector election.

(2) The publication of a notice shall be in accordance with the EAC Regulations.

36. Offences by Returning Officers and others with respect to conduct of subsector election

(1) Any person holding office as a Returning Officer or an Assistant Returning Officer at a subsector election who neglects or refuses to perform the functions of that office in relation to such an election commits an offence and is liable on conviction to a fine at level 2.

(2) A prosecution for an offence under this section may be brought only with the consent of the Secretary for Justice.

(3) A person is not to be liable to conviction under this section unless the complaint or information alleging the offence is laid within 3 months after the date of the alleged commission of the offence.

37. Voter not to be required to disclose how vote was cast

(1) A voter who is asked to disclose the name of, or any particulars relating to, the subsector candidate for whom the voter voted at a subsector election is not required to answer the question.

(2) A person shall not, without lawful authority, require or purport to require a voter at a subsector election to disclose the name of, or any particulars relating to, a subsector candidate for whom the voter voted at the subsector election.

(3) A person who contravenes subsection (2) commits an offence and is liable on conviction to a fine at level 2.

(4) In this section, “voter” (投票人) includes an authorized representative of a corporate voter.

Division 4—Miscellaneous

38. Subsector candidates entitled to send letters to voters free of postage

(1) A validly nominated candidate at a subsector election is entitled to send free of postage one letter addressed to each voter whose name appears in the subsector final register for the subsector for which the candidate is nominated.

(2) Each such letter is to relate to the election concerned and is to comply with all requirements and limitations (if any) prescribed by the EAC Regulations.

(3) The cost to the Postmaster General of enabling subsector candidates to exercise their entitlements under this section is a charge on, and is to be met from, the general revenue.

39. Subsector election may be questioned only by appeal to Revising Officer

(1) A person claiming to be a candidate at a subsector election may appeal against the result to a Revising Officer in accordance with the regulations.

(2) An appeal under subsection (1) may be lodged only during the period of 7 days following the date on which the Returning Officer has published in the Gazette the result being appealed against.

(3) Any person whose election is questioned by an appeal under this section and the Returning Officer in respect of the subsector election concerned may be made a respondent to the appeal.

(4) At the hearing of the appeal, the appellant is entitled to appear in person and, whether or not the appellant appears in person, to be represented by a legal practitioner or any other person.

(5) At the end of a hearing, the Revising Officer shall determine whether the person whose election is questioned was or was not duly elected.

(6) The determination of the Revising Officer on such an appeal is final.

PART 5

FINAL REGISTER OF MEMBERS OF ELECTION COMMITTEE

40. Electoral Registration Officer to compile and publish final register

(1) The Electoral Registration Officer shall compile and publish in accordance with the EAC Regulations a final register of members of the Election Committee within 7 days after the results of the subsector ordinary elections are published under section 35.

(2) The Electoral Registration Officer shall also compile and publish in accordance with the EAC Regulations a final register of members of the Election Committee within 7 days after the result of a subsector by-election is published under section 35.

(3) The Electoral Registration Officer shall also compile and publish in accordance with the EAC Regulations a final register of members of the Election Committee within 7 days after a nominee under section 7(2) is declared as a member of the Election Committee under section 7, unless the period during which the nomination under section 7(2) is to be made and the nomination period for a subsector by-election coincide or partly coincide.

(4) If—

(a) the Electoral Registration Officer has compiled and published a provisional register of members of the Election Committee under section 4;

(b) the Electoral Affairs Commission has ascertained under section 5(1)(a) the number of members representing each subsector (other than a subsector specified in items 1 and 2 of Table 4 in section 2) on the Election Committee; and

(c) the number of members representing each subsector on the Election Committee so ascertained is equal to the number of members allocated to the subsector in accordance with section 2(6),

the Electoral Registration Officer shall, as soon as practicable after the Electoral Affairs Commission's ascertainment, publish in accordance with the EAC Regulations the provisional register as a final register of members of the Election Committee.

41. Electoral Registration Officer to amend final register to give effect to change in ex-officio membership

(1) The Electoral Registration Officer may from time to time amend the final register of members of the Election Committee in accordance with this section and the EAC Regulations to give effect to any change in the ex-officio membership of the Election Committee.

- (2) If a person is registered as an ex-officio member of the Election Committee—
- (a) by virtue of being a person referred to in section 2(7)(c)(i), and subsequently that person ceases to be a Hong Kong deputy to the National People's Congress, that person ceases to be an ex-officio member of the Election Committee and the Electoral Registration Officer shall, subject to subsection (3), remove that person's name from the final register of members of the Election Committee; or
 - (b) by virtue of being a person referred to in section 2(7)(c)(ii), and subsequently that person ceases to be a Member of the Legislative Council, that person ceases to be an ex-officio member of the Election Committee and the Electoral Registration Officer shall, subject to subsection (3), remove that person's name from the final register of members of the Election Committee.
- (3) The Electoral Registration Officer shall register as ex-officio members of the Election Committee—
- (a) persons who become Hong Kong deputies to the National People's Congress; and
 - (b) persons who become Members of the Legislative Council,
- from time to time (except those persons who are not Hong Kong permanent residents) in accordance with the EAC Regulations.
- (4) If the Electoral Registration Officer adds names to or removes names from the final register of members of the Election Committee under this section, that Officer shall, as soon as practicable after the addition or removal, publish, in accordance with the EAC Regulations, a notice to the effect that names have been so added or removed.

42. Electoral Registration Officer may amend register

- (1) The Electoral Registration Officer may amend a provisional or final register of members of the Election Committee so as to rectify any clerical or printing error or any incorrect name or address of a person who is recorded in the register.
- (2) If a Revising Officer directs the Electoral Registration Officer to incorporate into the final register of members of the Election Committee the Revising Officer's determination on an appeal under section 39 or 48, the Electoral Registration Officer shall also amend the register to effect the direction.
- (3) If the Electoral Registration Officer amends the final register of members of the Election Committee under subsection (2), that Officer shall, as soon as practicable after the amendment, publish, in accordance with the EAC Regulations, a notice of the amendment.

43. When final register is to take effect

- (1) During the term of office of the Election Committee, a final register of members of the Election Committee is to—
- (a) have effect as amended from time to time in accordance with sections 41 and 42 and the EAC Regulations after its publication; and
 - (b) cease to have effect on the publication of the next final register of members of the Election Committee.
- (2) If names have been removed from or added to the final register of members of the Election Committee under section 41(2) or (3), or the register has been amended under section 42(2), the register as amended is to take effect on the date of the publication of the notice under section 41(4) or 42(3).

PART 6

MISCELLANEOUS

44. Appointment of Electoral Registration Officer and assistants

(1) The Chief Executive shall appoint an Electoral Registration Officer and such number of Assistant Electoral Registration Officers as appears to the Chief Executive to be necessary for the purposes of registering persons as members of the Election Committee and as voters at subsector elections.

(2) The Electoral Registration Officer has such functions as are conferred or imposed on that Officer by or under this Schedule.

(3) An Assistant Electoral Registration Officer may, with the authority of the Electoral Registration Officer, perform the functions of Electoral Registration Officer.

(4) The Secretary for Constitutional Affairs shall publish in the Gazette a notice of the appointment of a person as Electoral Registration Officer and the Officer's address.

(5) The executive authorities of the Government shall ensure that the Electoral Registration Officer is provided with such staff as that Officer requires in order to perform that Officer's functions under this Schedule.

(6) Expenses properly incurred by the Electoral Registration Officer in the performance of that Officer's functions under this Schedule or the Electoral Affairs Commission Ordinance (Cap. 541) are a charge on, and are payable from, the general revenue.

45. Electoral Registration Officer may specify forms

The Electoral Registration Officer may specify the form of any application, notice, return, record or other document required for the purposes of this Schedule.

46. Appointment of Revising Officer

(1) The Chief Justice may appoint any magistrate, or any legal officer within the meaning of the Legal Officers Ordinance (Cap. 87), to be a Revising Officer for the purposes of this Schedule.

(2) If no appointment is made under subsection (1), the Registrar of the High Court is taken to be a Revising Officer.

(3) A Revising Officer has such functions as are conferred or imposed on the Officer by or under this Schedule.

(4) A Revising Officer has, when performing the Officer's functions, the powers and immunities of a magistrate under sections 21, 22, 99, 125 and 126 of the Magistrates Ordinance (Cap. 227).

47. Appointment of Returning Officers and assistants

(1) The Electoral Affairs Commission shall appoint for each subsector a Returning Officer and such number of Assistant Returning Officers as appears to the Commission to be necessary to enable members of the Election Committee (other than ex-officio members) to be returned for the subsector.

(2) A Returning Officer has such functions as are conferred or imposed on that Officer by or under this Schedule.

(3) An Assistant Returning Officer may, with the authority of the Returning Officer concerned, perform the functions of Returning Officer.

(4) The Electoral Affairs Commission shall publish in the Gazette a notice of the appointment of a Returning Officer and that Officer's address.

(5) The executive authorities of the Government shall ensure that each Returning Officer is provided with such staff as that Officer requires in order to perform that Officer's functions under this Schedule.

(6) Expenses properly incurred by a Returning Officer in the performance of that Officer's functions under this Schedule or the Electoral Affairs Commission Ordinance (Cap. 541) are a charge on, and are payable from, the general revenue.

48. Right of appeal to Revising Officer against decisions of Electoral Registration Officer

(1) A person who is dissatisfied with a decision of the Electoral Registration Officer made for the purposes of this Schedule may appeal against the decision to a Revising Officer.

(2) The determination of a Revising Officer on such an appeal is final.

(3) The Electoral Registration Officer, or an Assistant Electoral Registration Officer, is required to appear as the respondent at the hearing of the appeal.

(4) At the hearing of the appeal, the appellant or any other person concerned in the appeal is entitled to appear in person and, whether or not the appellant appears in person, to be represented by a legal practitioner or any other person.

49. Savings and transitional provisions for first subsector provisional register

(1) Subject to subsections (2), (3) and (4), the subsector provisional register to be compiled and published under section 14(1)(a) not later than 30 November 2001 is to be based on—

- (a) the final register of electors for functional constituencies that was published in 2001 under section 32(1) of the Legislative Council Ordinance (Cap. 542); and
- (b) the subsector final register of voters that was published in 2000 under section 10 of Schedule 2 to the Legislative Council Ordinance (Cap. 542) in force immediately before the commencement of section 73 of this Ordinance.

(2) The register referred to in subsection (1)(a)—

- (a) for a functional constituency with the same name as a subsector (except the education functional constituency, the sports, performing arts, culture and publication functional constituency, the tourism functional constituency and the social welfare functional constituency) forms the basis of the subsector provisional register for that subsector;
- (b) for the education functional constituency, in so far as it relates to the names and other relevant particulars of the persons described—
 - (i) in section 20E(a) and (b) of the Legislative Council Ordinance (Cap. 542), forms the basis of subsector provisional register for the higher education subsector; and
 - (ii) in section 20E(c), (d), (e), (f) and (g) of the Legislative Council Ordinance (Cap. 542), forms the basis of subsector provisional register for the education subsector;

(c) for the sports, performing arts, culture and publication functional constituency, in so far as it relates to the names and other relevant particulars of the persons described—

- (i) in section 20V(1)(a) and (b) of, and Part 1 of Schedule 1B and items 25, 29, 40, 41, 43, 50, 54 and 59 of Part 3 of Schedule 1B to, the Legislative Council Ordinance (Cap. 542), forms the basis of subsector provisional register for the sports sub-subsector;
- (ii) in section 20V(1)(i) of, and items 1, 2, 3, 4, 5, 8, 9, 12, 16, 17, 18, 23, 24, 34, 39, 42, 44, 45, 46, 47, 49, 52, 55, 56, 57 and 60 of Part 3 of Schedule 1B to, the Legislative Council Ordinance (Cap. 542), forms the basis of subsector provisional register for the performing arts sub-subsector;
- (iii) in section 20V(1)(d) and (e) of, and Part 2 of Schedule 1B and items 6, 7, 10, 11, 13, 14, 19, 20, 22, 26, 27, 31, 33, 35, 37, 38, 48, 53, 58, 61 and 62 of Part 3 of Schedule 1B to, the Legislative Council Ordinance (Cap. 542), forms the basis of subsector provisional register for the culture sub-subsector; and
- (iv) in section 20V(1)(g), (h), (j) and (k) of, and items 15, 21, 28, 30, 32, 36 and 51 of Part 3 of Schedule 1B to, the Legislative Council Ordinance (Cap. 542), forms the basis of subsector provisional register for the publication sub-subsector;

- (d) for the tourism functional constituency, in so far as it relates to the names and other relevant particulars of the persons described—
 - (i) in section 200(b) and (c) of the Legislative Council Ordinance (Cap. 542), forms the basis of subsector provisional register for the tourism subsector; and
 - (ii) in section 200(d) and (e) of the Legislative Council Ordinance (Cap. 542), forms the basis of subsector provisional register for the hotel subsector; and
- (e) for the District Council functional constituency, in so far as it relates to the names and other relevant particulars of the persons who are members of the District Councils specified—
 - (i) in items 1 to 9 of Schedule 2 to the District Councils Ordinance (Cap. 547), forms the basis of subsector provisional register for the Hong Kong and Kowloon District Councils subsector; and
 - (ii) in items 10 to 18 of Schedule 2 to the District Councils Ordinance (Cap. 547), forms the basis of subsector provisional register for the New Territories District Councils subsector.
- (3) The register referred to in subsection (1)(b)—
 - (a) for the Chinese People's Political Consultative Conference subsector forms the basis of the subsector provisional register for that subsector;
 - (b) for the Hong Kong Chinese Enterprises Association subsector forms the basis of the subsector provisional register for that subsector;
 - (c) for the Chinese medicine subsector forms the basis of the subsector provisional register for that subsector; and
 - (d) for the Employers' Federation of Hong Kong subsector forms the basis of the subsector provisional register for that subsector.
- (4) The registers referred to—
 - (a) in subsection (1)(a) for the social welfare functional constituency; and
 - (b) in subsection (1)(b) for the social welfare subsector, in so far as it relates to the names and other relevant particulars of the persons described in paragraphs (2), (3) and (4) of item 8 of Table 5 in section 2,form the basis of the subsector provisional register for the social welfare subsector.