



# **Guidelines on Election-related Activities in respect of the Legislative Council Election**

**Electoral Affairs Commission  
July 2008 Revised Edition**

## **IMPORTANT**

1. These Guidelines come into operation on 16 July 2004 and will apply to all Legislative Council general elections and by-elections conducted under the Legislative Council Ordinance (Cap 542) to be held after that date.
2. In these Guidelines, “he” means “he” or “she” as far as the context permits.
3. The law stated in these Guidelines is that prevailing as at the date of publication.
4. All specified forms referred to in these Guidelines are obtainable from the Registration and Electoral Office, tel: 2891 1001; fax: 2891 1180; e-mail: [reoenq@reo.gov.hk](mailto:reoenq@reo.gov.hk), and its website at <http://www.reo.gov.hk>.
5. Electioneering, campaigning and canvassing activities referred to in these Guidelines include any positive and negative campaigning conducted for the purpose of promoting or prejudicing the election of a candidate or candidates at the election.
6. In the event that future amendments to these Guidelines are necessary, loose-leaf amendment sheets would be issued. Amendment sheets will be obtainable from the Registration and Electoral Office (tel: 2891 1001; website: <http://www.reo.gov.hk>).

## 2008 LEGISLATIVE COUNCIL ELECTION

### *Key Information*

- (1) Polling Date : 7 September 2008
- (2) Polling Hours : 7:30 am to 10:30 pm
- (3) Period to submit : 11 April to 18 July 2008  
Application for  
Nominations Advisory  
Committee's Service  
by Prospective  
Candidates
- (4) Nomination Period of : 19 July to 1 August 2008  
Candidature
- (5) Period to submit : 19 July to 1 August 2008  
Request for Printing of  
Particulars Relating to  
Candidates on Ballot  
Papers by Candidates
- (6) Chairman's Briefing : 5 August 2008  
for Candidates
- (7) Maximum Amount : Please refer to paragraph 16.8 of these guidelines.  
of Election Expenses
- (8) Deadline to remove all : Not later than 17 September 2008  
Election  
Advertisements on  
display
- (9) Submission of Return : Not later than 11 November 2008\*  
and Declaration of (if uncontested, not later than 10 October 2008<sup>#</sup>)  
Election Expenses and  
Donations by  
Candidates

- (10) Submission of Claim : Not later than 11 November 2008\*  
for Financial (if uncontested, not later than 10 October 2008#)  
Assistance by  
Candidates
- (11) Deadline to lodge : Not later than 12 November 2008\*  
Election Petition (if uncontested, not later than 11 October 2008#)

\*Assuming that the election result is published in the Gazette on 12 September 2008.

#Assuming that the election result is published in the Gazette on 11 August 2008.

## ABBREVIATIONS

AR, ARs	authorised representative, authorised representatives
ARO, AROs	Assistant Returning Officer, Assistant Returning Officers
Cap	Chapter of the Laws of Hong Kong
CE	Chief Executive
CEEO	Chief Executive Election Ordinance (Cap 569)
CEO	Chief Electoral Officer
CRO	Chief Returning Officer
CSB	Civil Service Bureau
DAS	Director of Accounting Services
DC	District Council
DCO	District Councils Ordinance (Cap 547)
DO	District Office
EA, EAs	election advertisement, election advertisements
EAC	Electoral Affairs Commission
EAC (EP) (LC) Reg	Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap 541D)

EAC (FA) (APP) Reg	Electoral Affairs Commission (Financial Assistance for Legislative Council Elections and District Council Elections) (Application and Payment Procedure) Regulation (Cap 541N)
EAC (NAC) (LC) Reg	Electoral Affairs Commission (Nominations Advisory Committees (Legislative Council)) Regulation (Cap 541C)
EAC (ROE) (FCSEC) Reg	Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap 541B)
EAC (ROE) (GC) Reg	Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap 541A)
EACO	Electoral Affairs Commission Ordinance (Cap 541)
EC	Election Committee
ECICO	Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554)
election	ordinary election or by-election as appropriate
ERO	Electoral Registration Officer
FC, FCs	functional constituency, functional constituencies

GC, GCs	geographical constituency, geographical constituencies
GC list, GC lists	list(s) of candidate(s) in a geographical constituency election
HKICPA	Hong Kong Institute of Certified Public Accountants
HKSAR	Hong Kong Special Administrative Region
ICAC	Independent Commission Against Corruption
LegCo	Legislative Council
LCO	Legislative Council Ordinance (Cap 542)
LC Subscribers & Deposit Reg	Legislative Council (Subscribers and Election Deposit for Nomination) Regulation (Cap 542C)
MAC, MACs	Mutual Aid Committee, Mutual Aid Committees
NAC, NACs	Nominations Advisory Committee, Nominations Advisory Committees
NCZ	no canvassing zone
NSZ	no staying zone
para., paras.	paragraph, paragraphs
PCBP (LC & DC) Reg	Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) Regulation (Cap 541M)

PD (P) O	Personal Data (Privacy) Ordinance (Cap 486)
POBO	Prevention of Bribery Ordinance (Cap 201)
printing details	name and address of the printer, date of printing and number of copies printed
PRO, PROs	Presiding Officer, Presiding Officers
REO	Registration and Electoral Office
RO, ROs	Returning Officer, Returning Officers
S, s, Ss, ss	section, sections
SFC, SFCs	special functional constituency, special functional constituencies
SMS	short message service
TD	Transport Department
VR	village representative
VREO	Village Representative Election Ordinance (Cap 576)

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## CHAPTER 1

### INTRODUCTION

#### PART I : THE LEGISLATIVE COUNCIL

1.1 The Legislative Council (“LegCo”) of the Hong Kong Special Administrative Region (“HKSAR”) is constituted under the Legislative Council Ordinance (Cap 542) (“LCO”) for the purpose of enacting laws, examining and approving budgets, taxation and public expenditure, receiving and debating the policy addresses of the Chief Executive (“CE”), raising questions on the work of the Government, debating issues concerning public interests and handling complaints from Hong Kong residents, etc.

1.2 In accordance with the Basic Law and the LCO, the term of office of the LegCo is 4 years except the first term which was 2 years. Each term of its office is to begin on a date to be specified by the CE in Council. The first term LegCo was between 24 May 1998 and 30 June 2000. The second and third term LegCo began on 1 October 2000 and 1 October 2004 respectively and each is for 4 years. The CE must specify a date for holding a general election to elect the members for each term of office of the LegCo. A person returned as a member at a general election holds office from the beginning of the term of office of the LegCo next following the election and vacates office at the end of the term. A by-election will be held to fill a vacancy in membership of LegCo. However, no by-election is to be held within the 4 months preceding the end of the LegCo’s current term of office or if the CE has published in the Gazette an order dissolving that LegCo in accordance with the Basic Law. *[Amended in October 2007]*

1.3 The composition of the third term of the LegCo as set out in Annex II of the Basic Law is as follows:

- |  |    |
|--|----|
| (a) Members returned by geographical constituencies (“GCs”) through direct elections | 30 |
| (b) Members returned by functional constituencies (“FCs”)                            | 30 |

### **Geographical Constituency**

1.4 The HKSAR is divided into 5 GCs, each having 4 to 8 seats. The GCs are geographically based and a total of 30 LegCo members will be returned through the following 5 GCs: Hong Kong Island to return 6 members; Kowloon East to return 4 members; Kowloon West to return 5 members; New Territories East to return 7 members; and New Territories West to return 8 members. The list system of proportional representation for voting is adopted. Details of the features of GC elections are set out in Chapter 2. *[Amended in July 2008]*

### **Functional Constituency**

1.5 There is a total of 28 FCs, with each representing a different economic, social, or professional sector of the community. 30 LegCo members will be returned through the following 28 FCs: (1) Heung Yee Kuk; (2) Agriculture and Fisheries; (3) Insurance; (4) Transport; (5) Education; (6) Legal; (7) Accountancy; (8) Medical; (9) Health Services; (10) Engineering; (11) Architectural, Surveying and Planning; (12) Labour; (13) Social Welfare; (14) Real Estate and Construction; (15) Tourism; (16) Commercial (first); (17) Commercial (second); (18) Industrial (first); (19) Industrial (second); (20)

Finance; (21) Financial Services; (22) Sports, Performing Arts, Culture and Publication; (23) Import and Export; (24) Textiles and Garment; (25) Wholesale and Retail; (26) Information Technology; (27) Catering; and (28) District Council (“DC”). Of these 28 FCs, the Labour FC is to return 3 members and the remaining 27 FCs is each to return 1 member.

1.6 Different voting systems apply to elections of different FCs. They are:

- (a) the preferential elimination system of voting for the election for the 4 special FCs, ie Heung Yee Kuk FC, Agriculture and Fisheries FC, Insurance FC and Transport FC; and
- (b) the first past the post voting system for the election of the 24 ordinary FCs.

Details of the features of FC elections are set out in Chapter 3.

### **Governing Legislation**

1.7 The LegCo elections are governed by the statutory requirements provided in three different ordinances, namely the LCO, the Electoral Affairs Commission Ordinance (Cap 541) (“EACO”) and the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) (“ECICO”).

1.8 The LCO provides for the constitution and membership of LegCo, establishment of constituencies, registration of electors, conduct of elections, financial assistance for candidates, election petitions and other related matters.

1.9 The EACO tasks the Electoral Affairs Commission (“EAC”) with making recommendations regarding the delineation of GCs for the LegCo

election and demarcation of their boundaries and regulating the printing of particulars relating to candidates on ballot papers and financial assistance for candidates. The EAC is also responsible for the conduct and supervision of elections and matters incidental thereto.

1.10 The ECICO prohibits election-related corrupt and illegal conduct and is administered by the Independent Commission Against Corruption (“ICAC”).

1.11 These ordinances are complemented by a number of pieces of subsidiary legislation, including those set out in paras. 1.12 – 1.19 below, which provide the detailed procedures for the conduct of the LegCo elections.  
*[Amended in October 2007]*

1.12 The electoral procedures for conducting the LegCo elections are provided in the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap 541D) (“EAC (EP) (LC) Reg”).

1.13 The Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap 541A) (“EAC (ROE) (GC) Reg”) and the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap 541B) (“EAC (ROE) (FCSEC) Reg”) set out the procedures for registration of electors for the LegCo elections.

1.14 The Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) Regulation (Cap 541M) (“PCBP (LC & DC) Reg”) sets out the procedures for printing specified particulars relating to candidates on ballot papers for use in the LegCo elections.

1.15 The Electoral Affairs Commission (Financial Assistance for Legislative Council Elections and District Council Elections) (Application and Payment Procedure) Regulation (Cap 541N) (“EAC (FA) (APP) Reg”) stipulates the detailed implementation procedures for the Financial Assistance Scheme for candidates standing in LegCo elections. *[Amended in October 2007]*

1.16 The Legislative Council (Subscribers and Election Deposit for Nomination) Regulation (Cap 542C) (“LC Subscribers & Deposit Reg”) sets out the requirements for subscription and payment and return of election deposit for the LegCo elections.

1.17 The Electoral Affairs Commission (Nominations Advisory Committees (Legislative Council)) Regulation (Cap 541C) (“EAC (NAC) (LC) Reg”) stipulates the appointment and functions of the Nominations Advisory Committees (“NACs”) and the procedures for seeking the NAC’s advice on the candidates’ eligibility for nomination for the LegCo elections.

1.18 The Maximum Amount of Election Expenses (Legislative Council Election) Regulation sets out the maximum amount of election expenses that may be incurred by or on behalf of a candidate, or all the candidates on a list, for election to the LegCo. *[Added in October 2007 and amended in July 2008]*

1.19 The Legislative Council (Election Petition) Rules (Cap 542F) set out the procedures for the lodgement of an election petition against the result of the LegCo elections. *[Added in October 2007]*

## **PART II : THE GUIDELINES**

1.20 According to s 6 of the EACO, the EAC may, in connection with an election, issue guidelines relating to:

- (a) the conduct or supervision of or procedure at an election;
- (b) election-related activities of a candidate, an agent of a candidate or any other person assisting a candidate, or any other person;
- (c) election expenses;
- (d) the display or use of election advertisements (“EAs”) or other publicity material; and
- (e) the procedure for making a complaint.

1.21 The aim of such guidelines is to provide a code of conduct based on the principle of fairness and equality for conducting election-related activities and some directions in layman’s language on how to comply with the relevant electoral legislation so that candidates can avoid breaching them due to inadvertence. Guidelines are issued for reference by the public to ensure that all public elections are conducted in an open, honest and fair manner.

1.22 This set of Guidelines applies to both the LegCo general election and by-election. It explains the various electoral arrangements made for LegCo elections, the legislative provisions and regulations as well as guidelines that should be observed by all parties concerned before, during and after an election and the procedure for lodging an election-related complaint. An action checklist for candidates can be found in **Appendix A**.

1.23 In the context of this set of Guidelines, the term “election” means general election and by-election, as appropriate.

### **PART III : SANCTION**

1.24 Members of the public, in particular, electors, candidates and their agents as well as government officials engaged in election-related duties should read, familiarise themselves with, and strictly observe, these Guidelines.

1.25 The EAC is committed to ensuring that all elections are conducted openly, honestly and fairly. If it comes to know that any candidate or person is in breach of the Guidelines, apart from notifying the relevant authorities for actions to be taken, it may make a reprimand or censure in a public statement which will include the name of the candidate or person concerned and, where appropriate, other relevant parties (if any). The reprimand or censure is separate from and additional to the criminal liability for any offences committed. *[Amended in July 2008]*

## **CHAPTER 2**

### **GEOGRAPHICAL CONSTITUENCIES**

#### **PART I : DESCRIPTION**

2.1 This chapter describes the GCs and the features relating to electoral procedure that electors of GCs may need to know. Electors of the FCs may refer to Chapter 3 : Functional Constituencies for details regarding the FCs.

2.2 In the general election for the fourth term of the LegCo, the 5 GCs are to return 30 of the 60 members of the LegCo, as follows:

- (a) the Hong Kong Island GC to return 6 members;
- (b) the Kowloon East GC to return 4 members;
- (c) the Kowloon West GC to return 5 members;
- (d) the New Territories East GC to return 7 members; and
- (e) the New Territories West GC to return 8 members.

*[Amended in July 2008]*

## **PART II : REGISTRATION OF ELECTORS**

### **Eligibility to Vote**

2.3 Only a registered elector is eligible to vote at a LegCo election. A registered elector is a person whose name appears on the final register of GC which is in force at the time of election as compiled and published by the Electoral Registration Officer (“ERO”) under the LCO. An elector may vote at an election in respect of the GC within which his residential address as entered in the final register is located [s 48 of the LCO].

### **Qualifications for Registration as an Elector**

2.4 To qualify for registration as an elector in a GC, an individual has to satisfy all the following requirements:

- (a) in any year other than a year in which a DC ordinary election is to be held (“non DC election year”), he has to be aged 18 years or above as at 25 July next following his application for registration (or 25 September in a DC election year); *[Amended in October 2007]*
- (b) he is a permanent resident of Hong Kong;
- (c) he ordinarily resides in Hong Kong and the residential address in his application for registration is his only or principal residence in Hong Kong;
- (d) he holds an identity document or has applied for a new identity document or a replacement identity document; and
- (e) he is not disqualified from being registered as an elector by virtue of s 31 of the LCO.

2.5 An individual who is **already registered** in the existing final register of GCs **need not apply** to be registered as an elector in a GC any further as his name and residential address will be repeated in the next register (a provisional register). However, he is not entitled to be an elector in the next register of GCs if he has ceased to ordinarily reside in Hong Kong, or no longer resides at the residential address recorded against his name in the existing register and the ERO does not know his new principal residential address in Hong Kong.

[Ss 24, 27, 28, 29 and 30 of the LCO.]

### **Disqualifications**

2.6 A natural person is disqualified from being registered as an elector and voting at an election for a GC if he:

- (a) has ceased to be eligible to be a permanent resident of Hong Kong;
- (b) has, in Hong Kong or any other place, been sentenced to death or imprisonment (by whatever name called) and has not either served the sentence or any substitute sentence or received a free pardon;
- (c) on the polling day, is serving a sentence of imprisonment;
- (d) is or has been convicted of the following offences within 3 years before the polling day:
  - (i) of having engaged in corrupt or illegal conduct in contravention of the ECICO, or

- (ii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap 201) (“POBO”), or
- (iii) of any offence prescribed by regulations in force under the EACO, eg the provision of false information to the ERO;
- (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 any armed forces.

[Ss 31 and 53 of the LCO.]

### **Roll-over of Electors**

2.7 If an **individual** is **registered in the existing GC final register**, his name and residential address will be repeated in the next provisional register for GCs and he **does not need to make any application for registration**, unless he is not eligible to be an elector because:

- (a) he is dead;
- (b) he is not a permanent resident of Hong Kong;
- (c) he does not ordinarily reside in Hong Kong;
- (d) he has changed his only or principal residence and his new address is not known to the ERO; or
- (e) he is disqualified from being registered as an elector.

*[Amended in October 2007]*

### **Application for Registration**

2.8 The registration of GC electors is undertaken in accordance with the provisions of the EAC (ROE) (GC) Reg.

2.9 A person may send in his application for voter registration on the specified form to the ERO any time in the year. However, for inclusion of his name in the final register of GCs to be published not later than 25 July in a non DC election year (or 25 September in a DC election year), his application form must have been received by the ERO **not later than 16 May** in that year (or 16 July in a DC election year) [s 4 of the EAC (ROE) (GC) Reg].

2.10 The ERO will process the application forms after they have been received. An applicant who qualifies for registration will be allocated to the relevant GC on the basis of his residential address. Closer to the polling day, he will also be allocated to the appropriate polling station on the basis of his residential address and he will be notified in writing. The ERO will send written inquiries to applicants to seek information or proof if the information on their applications is incomplete or incorrect. Applicants who are not qualified for registration will also be informed of the result, by registered mail.

2.11 The name and residential address of all eligible applicants will be entered in the registers of electors.

### **Change of Residential Address**

2.12 It will not be necessary for a registered elector to re-apply for registration every year unless he has changed his residential address. In such a case, he **must notify** the ERO **of his new address** in Hong Kong to ensure that he will be registered in the current register of electors. **If he fails to do so,**

**his name and address may be removed from the register**, and he will not be entitled to vote at subsequent elections.

2.13 If the elector has emigrated overseas and ceased to be a permanent resident of Hong Kong or ceased to ordinarily reside in Hong Kong, his name may also be removed from the register of electors.

### **Changes of Other Personal Particulars**

2.14 Any registered elector who has changed his other particulars (eg name), or has ceased to be a permanent resident of Hong Kong or ceased to ordinarily reside in Hong Kong, should also notify the ERO.

2.15 An elector can notify the ERO of any change of any of his particulars in writing or by sending in a new registration form with the altered particulars. If the elector wishes to have the alteration of his particulars effected in the next final register of electors, he **must notify** the ERO as soon as possible and **latest by 29 June in a non DC election year** (or 29 August in a DC election year). An elector who has reported change of particulars will be sent a notice by the ERO showing his updated electoral record [s 11(4) and (5) of the EAC (ROE) (GC) Reg].

### **The Provisional Register**

2.16 The provisional register for GCs will be published **not later than 15 June in a non DC election year** (or 15 August in a DC election year). It includes:

- (a) the names and addresses of those electors whose names appear in the existing final register for GC currently in force, updated and

corrected by the ERO based on reported or available information;  
and

- (b) the names and addresses of the eligible new applicants who have applied for registration in the constituency concerned on or before 16 May of that year (or 16 July in a DC election year).

The provisional register will be **available for public inspection** at the Registration and Electoral Office (“REO”) and District Offices as specified in the Gazette notice of publication for a period after its publication and before the appeal deadline referred to in para. 2.18 below [ss 12 and 13 of the EAC (ROE) (GC) Reg].

### **The Omissions List**

2.17 At the same time when the provisional register for GCs is published, the ERO will also publish an omissions list, containing the names and residential addresses of persons who have been formerly registered as GC electors. These particulars are struck out from the provisional register and proposed to be omitted from the next final register, based on the information received by the ERO who is satisfied on reasonable grounds that these persons are no longer eligible to be registered or have been disqualified [s 32(4)(a) and (b) of the LCO and ss 9 and 10 of the EAC (ROE) (GC) Reg].

### **Appeals – Objections and Claims**

2.18 Members of the public may lodge with the ERO objections as regards entries in the relevant provisional register **not later than 29 June in a non DC election year** (or 29 August in a DC election year). On or before that date, a dissatisfied applicant or a person whose name has been included in the omissions list may lodge a claim in respect of the entry or any omission

concerning himself. Cases of objections and claims will be referred to the Revising Officer for consideration. The Revising Officer, who is a member of the Judiciary, will rule on each objection or claim and decide on the inclusion, exclusion or correction of the entry concerned in the relevant final register [s 34 of the LCO and Part III of the EAC (ROE) (GC) Reg].

### **The Final Register**

2.19 The final register for GCs will be published **not later than 25 July in a non DC election year** (or 25 September in a DC election year). It includes the entries in the relevant provisional register, the updated names and residential addresses of electors who have applied to alter their particulars not later than 29 June of that year (or 29 August in a DC election year), and the names and residential addresses of those who were subject to a notice of objection or claim, updated and corrected to reflect the decisions of the Revising Officer as appropriate. The ERO will have also taken the opportunity to delete those entries of electors who are known to be dead and to correct any mistakes in the provisional register. This final register remains valid until the publication of the final register in the following year. The final register in force will be available for public inspection at the REO and facilities will be available at District Offices for the public to search for information in the register [s 20 of the EAC (ROE) (GC) Reg].

### **IMPORTANT :**

Information relating to a person contained in any register of electors or in any extract of any register of electors **can only be used for election-related purposes** under the electoral legislation. Any **abuse** or **misuse** of such information is an **offence** punishable with a fine at level 2 (up to \$5,000) and imprisonment for 6 months [s 22(3) of the EAC (ROE) (GC) Reg].

### **PART III : THE VOTING SYSTEM**

2.20 Different voting systems apply to elections of GCs and different FCs. For GCs, the list system of proportional representation applies [s 49 of the LCO].

2.21 A poll will be taken in respect of a GC to return members for that constituency if the number of validly nominated candidates contesting the election is more than the number of members to be returned for the constituency. Where no more candidates have been validly nominated than the number of members to be returned for the constituency, the validly nominated candidates will be declared elected by the Returning Officer (“RO”). In such a case, polling in respect of the constituency will not be necessary and electors of the constituency concerned should not attend the relevant polling stations since they no longer need to vote. If no candidates were validly nominated or the number validly nominated was less than the number of members to be returned for the constituency, the RO must declare the election to have failed or, as the case may be, to have failed to the extent that the number of candidates validly nominated was less than the number of members to be returned [s 46(1) and (2) of the LCO]. A by-election will then be necessary.

2.22 In the list system of proportional representation, the nomination of candidates is to be by way of a list in a nomination form specified by the EAC to contain the names of one or more candidates for a GC as a group, and if more than one name, the names have to be ranked in the order of priority of the group. After the RO of the relevant GC has determined the eligibility of the candidates on a nomination list, only the eligible candidates whose priority on the list is above or equals the number of vacancies in the GC will be allowed to remain as candidates, and other candidates on the same list who rank after

those prior candidates will have their names excluded from the nomination list. If, after the close of nominations but before the date of the election, proof is given to the satisfaction of the RO that a candidate whose name appears on a list of candidates has died or is disqualified from being nominated as a candidate, the RO must strike out the name of that candidate from the list. After striking out a name from a list of candidates, the RO must not add the name of any other person to the list. If no name remains on the list of candidates, the RO must reject the list [s 38 of the LCO].

2.23 At a GC election, an elector is entitled to cast a **single vote for a list** (as shown on the ballot paper) and not for an individual candidate. The number of valid votes cast for the election of the GC will be divided by the number of vacancies to be elected for that GC to arrive at the quota of votes. Each list that gets the quota will have one candidate on the list elected. When not all the vacancies are filled by applying the quota, then the filling of the remaining seat or seats will be decided by the largest remainder of valid votes cast for each list after the deduction of the quota or a number of quotas of votes cast for that list. If there are votes cast for a list that exceed the quota or quotas necessary to return all the candidates in the list, the list will be treated as having no further votes remaining [s 49 of the LCO]. For example, in a GC to elect 5 LegCo members, ie with 5 vacancies, where the number of valid votes cast is 1 million and there are 6 lists with varying number of candidates, the voting system operates in the following manner:

The quota of votes required to elect 1 candidate =  $1,000,000 \div 5 = 200,000$

The valid votes cast for the 6 lists, eg:

<u>List 1</u>	<u>List 2</u>	<u>List 3</u>	<u>List 4</u>	<u>List 5</u>	<u>List 6</u>
Candidate A	Candidate F	Candidate J	Candidate M	Candidate O	Candidate Q
Candidate B	Candidate G	Candidate K	Candidate N	Candidate P	
Candidate C	Candidate H	Candidate L			
Candidate D	Candidate I				
Candidate E					
290,000	270,000	80,000	120,000	30,000	210,000
votes	votes	votes	votes	votes	votes

(votes cast for each of the Lists)

### Step 1

No. of candidates in each List returned for satisfying the quota with the remainder votes:

<u>List 1</u>	<u>List 2</u>	<u>List 3</u>	<u>List 4</u>	<u>List 5</u>	<u>List 6</u>
Candidate A	Candidate F	None	None	None	Candidate Q
90,000	70,000	80,000	120,000	30,000	10,000
votes	votes	votes	votes	votes	votes

(treated as  
no votes  
remaining)

(On applying the quota, 200,000 votes for List 1 enables Candidate A, being the first candidate in the priority ranking of List 1, to be elected. On the same basis, Candidate F on List 2 and Candidate Q on List 6 are elected. The remainder votes for List 1 and List 2 are then used to compare with the votes not meeting the quota cast for the other lists.)

Step 2

No. of candidates in each List returned by applying the remainder votes:

<u>List 1</u>	<u>List 2</u>	<u>List 3</u>	<u>List 4</u>	<u>List 5</u>	<u>List 6</u>
Candidate B	None	None	Candidate M	None	None

(Candidate M has the highest remainder of 120,000 votes, and candidate B has the next highest remainder of 90,000 votes. There are only 2 available vacancies after applying the quota in step 1, and they are filled by these 2 candidates whose lists have the highest 2 remainder votes in step 2. The rest of the candidates are not elected.)

2.24 If it is found that 2 or more lists have the equal largest number of remaining votes and the number of those lists exceeds the number of members remaining to be returned at that stage, the RO must determine the result by drawing lots. The member/members will be returned from the list/lists on which the lot falls [s 49(11) of the LCO].

2.25 When the drawing of lots has to be used to determine the result, 10 table-tennis balls each marked with a number from 1 to 10 will be put into an empty opaque bag, to be provided by the RO. The candidate or the representative of a candidate list is to draw 1 ball from the bag. The number marked on the ball should be noted by the RO and the ball should be put back into the bag. The other candidate(s) or representative(s) of candidate list(s) will draw in the same way. The candidate on whom the lot falls is to be returned at the election. The RO would draw the lot on behalf of the candidate or the representative of a candidate list if such candidate or representative is absent at the time of drawing lots.

- (a) Where there is only 1 vacancy to be filled and there are 2 candidates, the candidate who obtains the larger number from 1

to 10 will be the winner. 1 is the smallest number and 10 is the largest number.

- (b) Where there is only 1 vacancy to be filled and there are more than 2 candidates, if in the first draw, the numbers drawn are different, then the candidate who obtains the largest number will win. If, on the other hand, 2 or more of the candidates have obtained the same larger number and the remaining candidate(s) has/have obtained a smaller number, there must be a second draw. Only those candidates who have obtained the same larger number in the first draw will participate in the second draw.
- (c) Where there are 3 candidates having an equal number of votes and there are only 2 vacancies to be filled, if the 3 candidates have obtained respectively the largest, the larger and the smallest numbers, the 2 candidates who have obtained the largest and the larger numbers should be successful in getting the 2 vacancies, and the remaining candidate will fail. If the 3 candidates have obtained respectively 2 larger equal and 1 smaller numbers, then again the 2 candidates who have obtained the larger equal numbers will be the winners to fill the 2 vacancies. If the 3 candidates have obtained respectively a larger and 2 equal smaller numbers, the candidate who has obtained the larger number will be successful and the remaining 2 candidates will participate in a second draw. The same principle will apply where there are N candidates having an equal number of votes and there are less than N vacancies to be filled.

2.26 As soon as practicable after the result of the elections has been determined, the RO should publicly declare the successful candidates as elected.

2.27 If, after the counting of votes is finished but before the result of an election for a GC is declared, proof is given to the satisfaction of the RO that a candidate on a list who was successful at the election has died or is disqualified from being elected, the RO must not declare that candidate as elected. If there is another candidate or there are other candidates on the same list who has not or have not been returned for the constituency, the candidate is to be returned or a candidate is to be returned according to the order of priority on the list in place of the deceased or disqualified candidate. If there is no other candidate on the same list who can be returned, the RO must publicly declare that the election has failed or has failed to the extent that the number of candidates returned at the election for the constituency was less than the number of members to be returned for the constituency [ss 46A(4), 49(14), (15) and (16) of the LCO and s 83(2)(a) and (b)(i) of the EAC (EP) (LC) Reg].

## CHAPTER 3

### FUNCTIONAL CONSTITUENCIES

#### PART I : COMPOSITION

3.1 This chapter describes the FCs and the features relating to electoral procedure that electors of FCs may need to know. Electors of the GCs may refer to Chapter 2 : Geographical Constituencies.

3.2 In the general election for the fourth term of the LegCo, the 28 FCs are to return 30 of the 60 members of the LegCo. *[Amended in July 2008]*

3.3 The electorates of the 28 FCs are from particular professional, industrial or trade groups, etc. Except the Labour FC that is to return 3 members to LegCo, each of the other 27 FCs will return 1 member [s 21 of the LCO]. The FCs and their electors are provided for in ss 20A to 20ZB of and Schedules 1 to 1E to the LCO, and are set out in **Appendix B**.

#### PART II : REGISTRATION OF ELECTORS

##### **Eligibility to Vote**

3.4 Only a registered elector, ie a person whose name appears on the final register of FC which is in force at the time of the election is eligible to vote. An elector may vote at an election in respect of an FC if he is registered as an elector in that constituency [s 48 of the LCO].

## **Qualification for Registration as an Elector**

### **The 28 FCs** [s 25 of the LCO]

3.5 Two kinds of persons (ie a natural person (individual) and a body) are eligible to be registered as FC electors. A person who is one specified in column 2 of Appendix B opposite an FC is eligible to be registered as an elector for that FC but if the person is an individual, he must **also** be either registered for a GC or eligible to be registered for a GC and has made an application to be so registered. (For registration as an elector for a GC, please refer to para. 2.4 of Chapter 2.)

3.6 If a person is **already registered** in the existing final register for one of the 28 FCs in Appendix B and is eligible to be, and not disqualified from, being registered as an elector for the FC, then his/its name and address will be repeated in the next provisional register for FCs, and he/it **need not apply** to be registered.

3.7 A body specified in item 3, 12, 20, 21(1), 22(2), (4), (5), (10) or (11), 23(1) to (3), 24(4) or (5), 26(14) or 27(1) of Appendix B is eligible to be registered as a corporate elector for the relevant FC only if it has been operating for the 12 months immediately before making its application for registration as an elector. *[Amended in October 2007]*

3.8 A body that is a corporate member of a representative organisation specified in item 2(1), 14 to 19, 21(2), 22(1) or (7) to (9), 23(5), 24(1) or (2), 25 or 26(10), 12(a) or (13) of Appendix B is eligible to be registered as a corporate elector for the relevant FC if it has been a corporate member of the representative organisation and has been operating for the 12 months immediately before making its application for registration as an elector.

3.9 An individual who is a member of a representative organisation specified in item 14, 17, 18, 22(7) to (9), 23(5), 24(3) or 25 of Appendix B is eligible to be registered as an elector for the relevant FC only if the person has been a member of the body for the 12 months immediately before making an application for registration as an elector. *[Amended in October 2007]*

3.10 No person may be registered in 2 or more FCs. If he/it is eligible to be registered in 2 or more FCs, except any one of the 4 FCs shown in the following paragraph, he/it may choose to be registered in any one of the FCs.

3.11 A person who is eligible to be registered in one of the following 4 FCs, and if he wants to be registered as an FC elector, has **no choice** but to be registered in that FC although he may be eligible for any other FC. The voting system for these 4 FCs is different from that for the other 24 FCs [see paras. 3.28-3.30 below]:

- (a) Heung Yee Kuk FC,
- (b) Agriculture and Fisheries FC;
- (c) Insurance FC; and
- (d) Transport FC.

These 4 special FCs (FCs specified in s 20(1)(a) to (d) of the LCO) (items 1 - 4 of Appendix B) are referred to as “SFCs” below.

**Authorised Representative** [s 26 of the LCO]

3.12 A corporate elector is required to select an eligible individual to be its authorised representative (“AR”) for the purpose of casting its vote at any election, otherwise it cannot vote [see also s 48(8) of the LCO]. An individual is eligible to be appointed as an AR of a corporate elector only if he:

- (a) is registered, or eligible to be and has applied to be registered, as an elector of a GC;
- (b) is a member, partner, officer or employee of the corporate elector or has a substantial connection with it;
- (c) is not registered, and has not applied to be registered, as an elector for the FC of the corporate elector; and
- (d) is not disqualified from being registered or voting under s 31 or 53 of the LCO [see para. 3.15 below].

3.13 An AR of a corporate elector is not eligible to be selected as the AR of another corporate elector.

3.14 An AR must be registered with the ERO. **A corporate elector is required to give notice of appointment of its AR to the ERO in its application form for registration as a corporate elector.** It may thereafter from time to time appoint a replacement AR by sending a specified form to reach the ERO not later than 14 days before the polling day of its FC. If the ERO is satisfied that the AR is dead or seriously ill or physically or mentally incapacitated, the deadline of 14 days for replacement is extended to 3 working days before the relevant polling day [s 20 of the EAC (ROE) (FCSEC) Reg].

### **Disqualifications**

3.15 A natural person is disqualified from being registered as an elector and voting at an election for an FC or as an AR if he :

- (a) has ceased to be eligible to be registered as an elector for the GC;
- (b) has ceased to remain qualified for the FC (this does not apply to an AR or an elector for a GC);
- (c) has, in Hong Kong or any other place, been sentenced to death or imprisonment (by whatever name called) and has not either served the sentence or any substitute sentence or received a free pardon;
- (d) on the polling day, is serving a sentence of imprisonment;
- (e) is or has been convicted of the following offences within 3 years before the polling day:
  - (i) of having engaged in corrupt or illegal conduct in contravention of the ECICO, or
  - (ii) of an offence against Part II of the POBO, or
  - (iii) of any offence prescribed by regulations in force under the EACO, eg the provision of false information to the ERO;
- (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 any armed forces.

[Ss 31 and 53 of the LCO.]

### **Roll-over of Electors**

3.16 If an individual has been an elector in the FC final register, his name and residential address will be repeated in the next provisional register for FCs and he does not need to make any application for registration, unless he is no longer eligible to be a GC elector or has ceased to be eligible to be an elector of the relevant FC. The same rules apply to a corporate body whose name and particulars have appeared in the existing final register of the relevant FCs.

### **Application for Registration**

3.17 The registration of electors is undertaken in accordance with the provisions of the EAC (ROE) (FCSEC) Reg.

3.18 A person (either an individual or a body) may send in his application for voter registration on the specified form to the ERO any time in the year. However, for inclusion of his name in the final register to be published on or before 25 July in a non DC election year (or 25 September in a DC election year), his application form must be received by the ERO **on or before 16 May of that year** (or 16 July in a DC election year).

3.19 The ERO will process the application forms after they have been received. An applicant who qualifies for registration will be allocated to the relevant FC, as appropriate, in accordance with his qualification and choice (if so entitled). Closer to the polling day, he will also be allocated to the appropriate polling station on the basis of his residential address and the

respective constituencies in which he is registered, and he will be notified in writing. The ERO will send written inquiries to applicants to seek further information or proof if the information on their applications is incomplete or incorrect. Applicants who are not qualified for registration will also be informed by registered mail.

3.20 The name and residential address of all eligible applicants will be entered in the registers of electors, including the name and business address of the relevant body, and the name of the AR of the body.

### **Change of Residential Address**

3.21 It will not be necessary for a registered elector to re-apply for registration every year unless he has changed his residential address. In such a case, he **must notify** the ERO of his new address in Hong Kong to ensure that he will be registered in the current register of electors. **If he fails to do so, his name and particulars may be removed from the register.** A registered elector should also notify the ERO of any change of his circumstances that may affect his eligibility (eg his connection with a particular FC). Based on such information from the elector, the ERO will decide whether he remains eligible to be registered, and if so, in which constituency.

3.22 If the elector has emigrated overseas and ceased to be a permanent resident of Hong Kong or ceased to ordinarily reside in Hong Kong, his name may also be removed from the register of electors.

### **Changes of Other Personal Particulars**

3.23 Any registered elector who has changed his other personal particulars (eg name), or has ceased to be a permanent resident of Hong Kong or ceased to ordinarily reside in Hong Kong, should also notify the ERO. An

elector should notify the ERO of any change of any of his particulars in writing or by sending in a new registration form with the altered particulars. If the elector wishes to have the alteration of his particulars effected in the next final register of electors, he **must notify** the ERO as soon as possible and the **latest by 29 June in a non DC election year** (or 29 August in a DC election year). An elector who has reported change of particulars will be sent a notice by the ERO showing his updated electoral record [s 26 of the EAC (ROE) (FCSEC) Reg].

### **The Provisional Registers**

3.24 The provisional register for FCs will be published **not later than 15 June in a non DC election year** (or 15 August in a DC election year). It includes:

- (a) the names and addresses of those electors whose names appear in the relevant register currently in force, updated and corrected by the ERO based on reported or available information;
- (b) the names and addresses of the eligible new applicants who have applied for registration in the constituency concerned on or before 16 May of that year (or 16 July in a DC election year); and
- (c) the names of the ARs of the corporate electors.

The provisional registers will be **available for public inspection** at the REO and certain District Offices, as specified in the Gazette notice of publication for a period after its publication and on or before the appeal deadline referred to in para. 3.26 below [ss 27 and 29 of the EAC (ROE) (FCSEC) Reg].

### **The Omissions List**

3.25 By the time when the provisional registers are published, the ERO will also publish an omissions list each in respect of FCs containing the names and addresses of persons who were formerly registered as FC electors, but are struck out from the provisional register and proposed to be omitted from the next final register, based on the information received by the ERO who is satisfied on reasonable grounds that the concerned persons are no longer eligible to be registered or are disqualified. The names and addresses of the persons included in the omissions list will not appear on the provisional register.[s 32(4)(a) and (b) of the LCO and ss 24 and 25 of the EAC (ROE) (FCSEC) Reg].

### **Appeals – Objections and Claims**

3.26 Members of the public may lodge with the ERO objections as regards entries in the relevant provisional register **not later than 29 June in a non DC election year** (or 29 August in a DC election year). On or before that date, a dissatisfied applicant or a person whose name has been included in the omissions list may lodge a claim in respect of the entry or any omission concerning himself/itself. Cases of objections and claims will be referred to the Revising Officer for consideration. The Revising Officer, who is a member of the Judiciary, will rule on each objection or claim and decide on the inclusion, exclusion or correction of the entry concerned in the relevant final register [s 34 of the LCO and Part VI of the EAC (ROE) (FCSEC) Reg].

### **The Final Registers**

3.27 The final register for FCs will be published **on or before 25 July in a non DC election year** (or 25 September in a DC election year). It includes the entries in the relevant provisional register, the updated names and

addresses of electors who have applied to alter their particulars on or before 29 June of that year (or 29 August in a DC election year), and the names and addresses of those who were subject to a notice of objection or claim, updated and corrected to reflect the decisions of the Revising Officer as appropriate. The ERO will have also taken the opportunity to delete those entries of electors who are known to be dead and to correct any mistakes in the relevant provisional register. The final registers may also contain notations to show if a person registered for a GC is also registered in an FC. The final registers for FCs remain valid until the publication of the relevant final register in the following year. The final registers in force will be available for public inspection at the REO and facilities will be available at District Offices for the public to search for information in the register [s 38 of the EAC (ROE) (FCSEC) Reg].

### **IMPORTANT :**

Information relating to a person contained in any register of electors or in any extract of any register of electors **can only be used for election-related purposes** under the electoral legislation. Any **abuse** or **misuse** of such information is an **offence** punishable with a fine at level 2 (up to \$5,000) and imprisonment for 6 months [s 42(3) of the EAC (ROE) (FCSEC) Reg].

## **PART III : THE VOTING SYSTEMS**

3.28 Different voting systems apply to elections of different constituencies, namely,

- (a) for the 4 SFCs referred to in para. 3.11 above (items 1 – 4 of Appendix B), the preferential elimination system of voting; and
- (b) for the 24 ordinary FCs (items 5 – 28 of Appendix B), the first past the post voting system.

### **The Preferential Elimination System for the 4 SFCs**

3.29 For each of the 4 SFCs, an elector is entitled to cast a single vote. The vote is transferable amongst the candidates nominated for the election, with the elector marking his preference or preferences for those candidates on the ballot paper against one or more of those candidates in descending order. In order to be elected, a candidate must obtain an absolute majority of the valid votes. If no candidate obtains an absolute majority of the votes at a particular stage of the counting of votes, the candidate with the least number of votes is to be eliminated at that stage, and that candidate's votes are to be transferred to the candidates then remaining in accordance with the next available preferences marked on the ballot papers. This process is to continue until one candidate obtains an absolute majority over the other candidate or candidates then remaining [s 50 of the LCO]. If, after the counting of votes is finished but before the result of an election of an FC is declared, proof is given to the satisfaction of the RO that the candidate who was successful at the election has died or is disqualified from being elected, that RO must not declare that candidate as elected and must publicly declare that the election has failed [ss 46A(3) and 50(8) of the LCO]. Details of how the votes are to be counted are set out in **Appendix C**.

### **The First Past the Post Voting System for the 24 Ordinary FCs**

3.30 An elector of each of the 24 ordinary FCs is entitled to vote for as many candidates as there are vacancies and no more. The candidate who

obtains the greatest number of votes will be elected, followed by the next candidate who has the next greatest number of votes, and so on, until all the vacancies are filled [s 51 of the LCO]. Out of the 24 ordinary FCs, only the Labour FC has 3 seats to be filled and electors of that ordinary FC can therefore vote for up to 3 candidates. In each of the remaining 23 ordinary FCs, only 1 seat is to be filled and the elector can only vote for 1 candidate. In the event that more than 1 candidate has the equal highest number of votes, the RO will have to draw lots to determine which one of these candidates should be elected to fill the vacancy.

3.31 When the successful candidate has to be determined by the drawing of lots, 10 table-tennis balls each marked with a number from 1 to 10 will be put into an empty opaque bag, to be provided by the REO. Each candidate is to draw 1 ball from the bag. The number marked on the ball should be noted by the RO and the ball should be put back into the bag. The other candidate(s) will draw in the same way. The candidate on whom the lot falls is to be returned at the election. The RO would draw the lot on behalf of the candidate if the latter is absent at the time of drawing lots.

- (a) Where there is only 1 vacancy to be filled and there are 2 candidates, the candidate who draws the larger number from 1 to 10 will be the winner. 1 is the smallest number and 10 is the largest number.
- (b) Where there is only 1 vacancy to be filled and there are more than 2 candidates, if in the first draw, the numbers drawn by the candidates are different, then the candidate who draws the largest number will win. If, on the other hand, 2 or more of the candidates have drawn the same larger number and the remaining candidate(s) has/have drawn a smaller number, there must be a second draw. As the system of voting for the election is “first

past the post”, only those candidates who have drawn the same larger number in the first draw will participate in the second draw.

- (c) Where there are 3 candidates having an equal number of votes and there are only 2 vacancies to be filled, if the 3 candidates have obtained respectively the largest, the larger and the smallest numbers, the 2 candidates who have obtained the largest and the larger numbers should be successful in getting the 2 vacancies, and the remaining candidate will fail. If the 3 candidates have obtained respectively 2 larger equal and 1 smaller numbers, then again the 2 candidates who have obtained the larger equal numbers will be the winners to fill the 2 vacancies. If the 3 candidates have obtained respectively a larger and 2 equal smaller numbers, the candidate who has obtained the larger number will be successful and the remaining 2 candidates will participate in a second draw. The same principle will apply where there are more than 3 candidates having an equal number of votes and there are 3 vacancies to be filled as in the case of the Labour FC.

3.32 As soon as practicable after the result of the elections has been determined, the RO should publicly declare the successful candidate as elected.

3.33 In the event that before the declaration of the result of the elections, proof is given to the RO's satisfaction that the successful candidate for a constituency has passed away or has been disqualified from being elected, the RO should not declare that candidate as elected and should declare that the election has failed or has failed to the extent that the number of candidates returned at the election was less than the number of members to be returned [ss 46A and 51(8) of the LCO].

## **CHAPTER 4**

### **NOMINATION OF CANDIDATES**

#### **PART I : QUALIFICATION AND DISQUALIFICATION FOR NOMINATION**

4.1           The law governing the qualification and disqualification for the nomination of candidates for the LegCo election is contained in the LCO. The procedure for nomination of candidates for the LegCo election is provided in the EAC (EP) (LC) Reg and EAC (NAC) (LC) Reg made by the EAC.  
*[Amended in October 2007]*

#### **Qualifications**

4.2           To qualify for nomination as a candidate at an election for a GC, a person must:

- (a)   be 21 years of age or over;
- (b)   be both registered and eligible to be registered as an elector for a GC;
- (c)   not be disqualified from being elected by virtue of s 39 of the LCO [see para. 4.5 below];
- (d)   have ordinarily resided in Hong Kong for the 3 years immediately preceding the date of his nomination; and

- (e) be a Chinese citizen who is a permanent resident of Hong Kong with no right of abode in any country other than the People's Republic of China.

4.3 To qualify to be nominated as a candidate at an election for an FC, a person must:

- (a) satisfy para. 4.2(a) to (e) above, save that for the following 12 FCs, para. 4.2(e) does not apply, namely,
  - (i) Legal FC,
  - (ii) Accountancy FC,
  - (iii) Engineering FC,
  - (iv) Architectural, Surveying and Planning FC,
  - (v) Real Estate and Construction FC,
  - (vi) Tourism FC,
  - (vii) Commercial (first) FC,
  - (viii) Industrial (first) FC,
  - (ix) Finance FC,
  - (x) Financial Services FC,
  - (xi) Import and Export FC,
  - (xii) Insurance FC; and
- (b) be both registered and eligible to be registered as an elector for the relevant FC or satisfy the RO for the constituency that he has a substantial connection with that FC.

4.4 A person is considered to have **ordinarily resided in Hong Kong** when he has habitually and normally lived there lawfully for a settled purpose, apart from temporary and occasional absences such as holidays and absence abroad for studying purposes. Each case has to be examined upon its own facts. Matters like the length of the person's absence, the reason for his absence, the location of the home of him, his spouse, children and parents and his maintenance of connections with Hong Kong are all relevant factors. In case of doubt, a prospective candidate should consult his own legal adviser or seek advice from the NAC [see paras. 4.7 - 4.13 below].

### **Disqualifications**

4.5 A person will be disqualified from being nominated, if he:

- (a) is a judicial officer, or a prescribed public officer<sup>1</sup>;
- (b) is an officer of the LegCo or a member of staff of The LegCo Commission;
- (c) has, in Hong Kong, or any other places, been sentenced to death or imprisonment (by whatever name called), and has not either served the sentence or any substitute sentence or received a free pardon;

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<sup>1</sup> A prescribed public officer means any of the following:

- (a) the Chairman of the Public Service Commission;
- (b) the Commissioner and Deputy Commissioner of the ICAC and the holder of any other office under the ICAC Ordinance (Cap 204);
- (c) the Ombudsman and the holder of any appointment under s 6 of The Ombudsman Ordinance (Cap 397);
- (d) a member of the EAC;
- (e) the chief executive of the 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); or
- (h) any person holding an office, whether permanent or temporary, in a government department or bureau and employed in the department or bureau.

- (d) has been convicted of treason;
- (e) on the date of nomination, or of the election, is serving a sentence of imprisonment;
- (f) is or has been convicted, within 5 years before the polling day, of any offence in Hong Kong or in any other place, the sentence for which is imprisonment (suspended or not) for not less than 3 months, or convicted of having engaged in corrupt or illegal conduct in contravention of the ECICO, or convicted of any offence against Part II of the POBO or any offence prescribed by the regulations made by the EAC;
- (g) is ineligible because of operation of the LCO or any other law;
- (h) is a representative or a salaried functionary of the government of a place outside Hong Kong;
- (i) is a member of any national, regional or municipal legislature, assembly or council of any place outside Hong Kong, other than a people's congress or people's consultative body of the People's Republic of China, whether established at the national level or local level;
- (j) is an undischarged bankrupt or, within the previous 5 years, has either obtained a discharge in bankruptcy or has entered into a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap 6) with the person's creditors, in either case without paying the creditors in full; or *[Amended in July 2008]*
- (k) is found for the time being under the Mental Health Ordinance (Cap 136) to be incapable, because of mental incapacity, of managing and administering his property and affairs.

[S 39(1) and (2) of the LCO.]

4.6 A person is also disqualified from being treated as a member for an FC if, since the close of nominations, the person has ceased to have a substantial connection with the constituency [s 39(4) of the LCO].

## **PART II : NOMINATIONS ADVISORY COMMITTEES**

4.7 The EAC has the power to appoint NACs to provide advice, on request, to prospective candidates and ROs on the candidates' eligibility for nomination [s 3 of the EAC (NAC) (LC) Reg]. Each of these NACs is in the charge of either a Senior Counsel or a legal practitioner of not less than 10 years standing in accordance with established practice who, in the opinion of the EAC, is unconnected to any candidate or political organisation in Hong Kong, independent and impartial. *[Amended in October 2007]*

### **NAC's Service to Candidates**

4.8 NAC's service will be provided to candidates at a LegCo general election only. During a period to be announced by the REO – which normally ends 1 day before the commencement of the nomination – a prospective candidate may apply, by completing a specified application form obtainable from the REO or from any District Office, for the advice of the NAC as to whether he is qualified to be, or is disqualified from being, nominated as a candidate at the LegCo general election. He may make only 1 application in respect of the GC election and 1 application in respect of a particular FC election. While a prospective candidate may apply for advice only once in respect of a particular FC, he may apply for advice in respect of more than 1 FC.

4.9 The application should be:

- (a) sent to the Chief Electoral Officer (“CEO”) so as to be received by him:
  - (i) by post to the REO; or
  - (ii) by facsimile transmission; or
- (b) served on the CEO personally,

**on or before the deadline for application to be specified by the EAC.**

4.10 An NAC may, before giving its advice, request the applicant to make available to it within a specified period any information, particulars and evidence relating to his intended candidature. The NAC may also request the applicant to present himself before it at a specified time and place to assist it in the consideration of the application. The applicant may, at the specified time and place, make representations to the NAC personally or through any person authorised by him in writing for the purpose.

4.11 Where an applicant does not make available any information, particulars or evidence as requested by the NAC, or fails to present himself before the NAC in response to a request, the NAC may:

- (a) refuse to consider the application or to give any advice on it; or
- (b) give qualified advice on the application having regard to either or both of the following:
  - (i) the fact that any information, particulars or evidence, or where appropriate, all of them, were not available to it;

- (ii) the failure of the applicant to present himself before the NAC.

4.12 The NAC's advice to an applicant, including a decision to refuse to consider an application or to give advice, will be in writing and will be sent to the applicant not later than a date to be specified by the EAC.

4.13 Any advice given by an NAC or a refusal to give any such advice does not preclude a person from seeking nomination as a candidate in an election or proceeding with a nomination, if he so wishes [s 9 of the EAC (NAC) (LC) Reg]. *[Amended in July 2008]*

### **NAC's Service to ROs**

4.14 NAC's service will be provided to ROs at both LegCo general elections and by-elections. During the period from the commencement, up to one day after the close of the nomination period, ROs may seek the advice of an NAC, where they consider necessary, on the eligibility for nomination of the candidates who have submitted their nominations. Such application must be in writing and made to the NAC through the CEO. The NAC will, not later than a date specified by the EAC, advise the RO concerned as to whether the candidate concerned is eligible to be nominated.

4.15 The RO is required, in making a decision as to whether a particular candidate is validly nominated in respect of the constituency for which he seeks nomination, to have regard to any advice given by an NAC on that candidate [s 17 of the EAC (EP) (LC) Reg]. The decision on the validity of nomination, however, remains with the RO alone [s 6 of the EAC (NAC) (LC) Reg].

## PART III : WHEN AND HOW TO NOMINATE

### **When to Nominate**

4.16 Nominations may be made during the **nomination period** specified in the Notice of Election published in the Gazette [ss 4, 5 and 7 of the EAC (EP) (LC) Reg]. An election timetable will be provided to each candidate by the RO for the relevant constituency. The ordinary business hours on each working day (ie any day other than a general holiday or Saturday) in the nomination period for the ROs to receive nominations are from 9 am to 5 pm, and on a Saturday, from 9 am to 12 noon. **Candidates are encouraged to submit their nominations well before the expiration of the nomination period to allow time for any errors in their nomination forms to be corrected.** *[Amended in October 2007]*

### **How to Nominate**

4.17 Nomination forms specified by the EAC are available from any District Office or from the REO, or can be downloaded from the website of the REO (<http://www.reo.gov.hk>). *[Amended in October 2007]*

4.18 The nomination form comprises:

(a) **The Nomination**

- (i) In respect of a **GC** election, the nomination is a list containing either the names of 2 or more proposed candidates contesting the election of the particular GC as a group with their names ranked in the order of priority of the group, or the name of a single proposed candidate.

The nomination must be subscribed by **100 registered electors** (other than the candidates) of that particular GC assenting to the nomination and the number of persons that may subscribe a nomination shall not be more than 200 [s 7(1)(a) and (aa) of the LC Subscribers & Deposit Reg]. An elector may subscribe only 1 nomination as regards a particular GC election. Under s 38 of the LCO, after a nomination has been submitted to an RO, the order in which the names of proposed candidates appear in the list cannot be altered, no other name of any proposed candidate can be added to the list, and names already on the list cannot be deleted. [See, however, para. 4.36 below in the case of withdrawal.]

- (ii) In respect of a candidate of an **FC**, it must be subscribed by **10 registered electors** (other than the candidate himself) and the number of persons that may subscribe a nomination shall not be more than 20 [s 7(2)(a) and (aa) of the LC Subscribers & Deposit Reg]. An elector may subscribe any number of nomination forms up to the number of seats in any FC [s 7(2)(b) of the LC Subscribers & Deposit Reg]. Thus, an elector of the Labour FC may subscribe up to 3 nominations as there are 3 vacancies to fill in that FC. For other FCs, with 1 seat each, an elector may only subscribe 1 nomination.

In any of the above cases, **the subscribing elector must be registered for the GC or the FC concerned**, as the case may be. In other words, **an elector** in respect of a GC and an FC is entitled to **subscribe only 1 nomination regarding his own GC and any number of nominations**

**up to the number of vacancies regarding his FC.** Where the number of persons subscribing a nomination has exceeded the required number (ie 100 for a GC election and 10 for an FC election), any surplus over the required number of qualified subscribers will be regarded as not having subscribed the nomination concerned [s 7(2C) of the LC Subscribers & Deposit Reg]. In this case, the elector may subscribe another nomination instead. If the nomination subscribed by an elector has been held to be invalid, or the candidate or all the nominees on a nomination list has withdrawn his/their nomination, the elector may subscribe another one instead before the end of the relevant nomination period, and his signature shall not be inoperative on that other nomination form. Under this scenario, if he subscribes more than 1 nomination form in contravention of the regulations, his signature shall be operative only on the first one delivered [s 7(3)(ii) of the LC Subscribers & Deposit Reg].

### **IMPORTANT :**

A candidate who submits a nomination form on the last few days of the nomination period is advised to include more than the required number of subscribers for his nomination, to avoid the risk of invalidation of the nomination should one or more of the subscribers be subsequently found not to be qualified as subscribers. A candidate should use his best endeavour to ensure that the electors subscribing his nomination form are eligible. Electors subscribing a nomination should sign the nomination form **personally**. *[Amended in October 2007]*

No illegal act shall be used to cause an elector to subscribe or not to subscribe a nomination. Intimidation is an offence under s 24 of the Crimes Ordinance (Cap 200), punishable by a fine and up

to 5 years' imprisonment. Bribery is also an offence punishable by fine or imprisonment. *[Added in October 2007]*

(b) The Candidate's Consent to Nomination and Declarations

This must be completed and signed by the candidate and endorsed by a witness. There are the following **declarations** and promissory oath that a candidate must make and sign:

- (i) a declaration to the effect that the candidate will uphold the Basic Law and pledge allegiance to the Hong Kong Special Administrative Region;
- (ii) a declaration as to the candidate's nationality and as to whether or not he has a right of abode in a country other than the People's Republic of China;
- (iii) a promissory oath given by the candidate to the effect that, if elected, he will not do anything during his term of office that results in his disqualification, including mainly those set out in para. 4.5 above, plus becoming a member of any armed forces;
- (iv) a declaration to the effect that the candidate (in the case of a GC list, each candidate) is eligible to be nominated as a candidate for the constituency concerned; is not disqualified from being so nominated; and consents to being so nominated. In the case of a GC list, each candidate must also declare his consent to the order of priority in which the names of candidates appear on the nomination list; and

- (v) a declaration to the effect that the candidate (in the case of a GC list, each candidate) has ordinarily resided in Hong Kong for the 3 years immediately preceding the date of his nomination.

[S 40 of the LCO and ss 10 and 11 of the EAC (EP) (LC) Reg.]

**IMPORTANT :**

No person shall be nominated in an election as a candidate for more than one constituency [s 41 of the LCO]. When a person submits his nomination form, he must have withdrawn all his prior nominations, if any, and make a declaration (contained in the specified form) that either he has not been nominated before for any other constituency in the election, or if he has been so, he has withdrawn all those prior nominations. Where a candidate stands nominated [see para. 4.25 below], any subsequent nominations of his will be rejected as invalid.

In the nomination form, a candidate is required to state his occupation, and he is free to state his political affiliation for publication if he so prefers. Candidates should make sure that their nomination forms are properly completed before submission.

4.19 Each nomination form must be submitted to the RO for the constituency concerned together with the payment of an appropriate election deposit [see Part IV of this chapter for details]. The RO may refuse to accept any nomination form where there is a material alteration of its content.

4.20 The completed nomination form must be lodged with the RO for the constituency concerned by the candidate, and in case of a list of candidates by one of the candidates, **in person** during ordinary business hours, ie the hours between 9 am and 12 noon on a Saturday and the hours between 9 am and 5 pm on any day other than a general holiday, within the nomination period. In the case of nominations for FC elections, the CEO may, in exceptional circumstances, eg the nominee's temporary absence from Hong Kong or incapacity due to illness, authorise other form of delivery of the nomination form to the RO [s 11(14) of the EAC (EP) (LC) Reg].

### **False Declarations**

4.21 A candidate who knowingly and wilfully makes a statement which is false in a material particular in the declaration in the nomination form shall be guilty of an offence under the Crimes Ordinance (Cap 200) punishable by a fine and imprisonment of up to 2 years. Under EAC (EP) (LC) Reg, a person who knowingly or recklessly makes a false or incorrect statement in a material particular or knowingly omits a material particular from an election-related document commits an offence and he shall be punishable by a fine and imprisonment for 6 months with the disqualifying effect as described in paras. 16.56 and 17.34 of these Guidelines [s103 of the EAC (EP) (LC) Reg].  
*[Amended in October 2007]*

## **PART IV : ELECTION DEPOSIT**

### **Payment of Election Deposit**

4.22 Each nomination form must be presented with the payment of an election deposit, in cash, cashier order or by cheque, in such amount as prescribed by regulation made by the CE in Council [ss 40(3) and 82(2)(b) of the LCO]. The following election deposits are prescribed by s 2 of the LC Subscribers & Deposit Reg:

for all the candidates on a GC list	\$50,000
for a candidate of an FC	\$25,000

4.23 A nomination form will not be received by the RO unless it is accompanied by the required sum of election deposit.

### **IMPORTANT :**

Candidates are encouraged to pay their election deposit by cash or cashier order although they may pay by crossed cheque. In the event that a cheque is dishonoured, the nomination will be ruled invalid unless the sum of deposit is made good before the expiration of the nomination period. In order to avoid the risk of invalidation of the nomination due to dishonoured cheque, candidates are strongly advised to submit the election deposit in cash or cashier order if they submit nomination in the last 3 working days (excluding Saturday) of the nomination period.

### **Return of Election Deposit**

4.24 The deposit will be returned to the candidate (or in the case of a list of candidates, the person who has lodged the deposit on behalf of the list) if:

- (a) he is not validly nominated (and in the case of a list of candidates, if all the candidates on the list are not validly nominated);
- (b) his nomination is withdrawn (and in the case of a list of candidates, if all the candidates on the list have withdrawn their nomination);
- (c) he has died or is disqualified from being nominated (and in the case of a list of candidates, if all the candidates on the list have died or are disqualified from being nominated);
- (d) in the case of a list of candidates, the list is rejected by the RO after he has struck out from the list all the names of candidates for any one, or any combination, of the reasons stated in items (a), (b) or (c) above;
- (e) the election is terminated;
- (f) he is elected (and in the case of a list of candidates, if the first ranked candidate on the list is elected);
- (g) in the case of a GC or one of the ordinary FCs, other than the 4 SFCs, he or the list of candidates secures in his or its favour not

less than 3% of the total number of ballot papers containing valid votes received in that constituency; or

- (h) in the case of one of the 4 SFCs, he secures in his favour not less than 3% of the total number of ballot papers containing valid first preference votes received in that constituency.

The deposit will be forfeited if none of the above conditions is satisfied. [For details, see ss 3 and 4 of the LC Subscribers & Deposit Reg.]

## **PART V : VALIDITY OF NOMINATIONS**

[Ss 16, 17 and 18 of the EAC (EP) (LC) Reg]

4.25 Where the RO has received a nomination form within the nomination period, the candidate will be deemed to stand nominated unless the RO decides that the nomination is invalid.

4.26 The RO will make a decision as to the validity of a nomination as soon as practicable after receipt of the nomination form and will publish a notice stating which persons are validly nominated as candidates [s 42A(1) and (2) of the LCO].

4.27 Where an RO has doubts as to whether or not a particular candidate is qualified to be nominated, he may apply to an NAC for advice [see para. 4.14 above].

4.28 Where a nomination appears to the RO to be invalid because of some errors which can be corrected within the nomination period, the RO will, if practicable, give the candidate a reasonable opportunity of correcting the

errors before making a decision that the nomination is invalid. For example, if the entitlement of any subscriber is in doubt, a prospective candidate may be allowed to make a substitution as soon after the submission of his nomination form as practicable. However, no substitution for any subscriber or re-submission of a nomination form will be accepted after the close of the nomination period.

4.29 A nomination may be ruled invalid if any errors on the nomination form are not corrected by the close of the nomination period.

4.30 The RO may require such additional information from a candidate as he considers necessary to satisfy himself as to the validity of the nomination.

4.31 A nomination will not be valid unless it contains all the information and signatures required to be shown on the nomination form or by the RO and the candidate has made the declarations and oath referred to in para. 4.18(b) above.

4.32 The RO can decide that a nomination is invalid only where:

- (a) the number or qualifications of the subscribers are not as required by LC Subscribers & Deposit Reg;
- (b) the nomination form, including the nomination and declarations and oath, has not been completed or signed as required by s 40 of the LCO and ss 10 and 11 of the EAC (EP) (LC) Reg;
- (c) he is satisfied that the candidate or all the candidates on the GC list is/are not qualified to be, or is disqualified from being, nominated as a candidate, having regard to any advice given by

the NAC to an application made by him or by that candidate [see paras. 4.15 and 4.27 above];

- (d) the candidate or all the candidates on the GC list has/have been nominated for another constituency in the same election and the RO is not satisfied that he/they has/have withdrawn that candidature; *[Amended in July 2008]*
- (e) the cheque for the payment of the election deposit of the candidate is dishonoured and has not been made good before the expiration of the nomination period;
- (f) he is satisfied that the candidate has passed away; or
- (g) the nomination form is not duly lodged within the nomination period [see paras. 4.16 and 4.20 above].

4.33 If, having decided that a candidate is validly nominated for election for a GC but before the polling day, proof is given to the satisfaction of the RO that the candidate has died, he must publicly declare that the candidate has died and further declare which candidate is or candidates are validly nominated for that constituency. The RO does not have to make any such declaration if the candidate who has died is uncontested in the election in his constituency and the RO has publicly declared that the candidate was duly elected [s 42B(1), (2) and (3) of the LCO].

4.34 If, having decided that a candidate is validly nominated for election for a GC but before the polling day, proof is given to the satisfaction of the RO that the candidate is disqualified from being nominated as a candidate, the RO must vary the decision to the effect that the candidate is not validly nominated. He must then publicly declare his varied decision and which

candidate is or candidates are validly nominated for that constituency. The RO may not vary his decision if the candidate who has been disqualified is uncontested in his constituency and the RO has publicly declared that the candidate was duly elected [s 42B(4), (5) and (6) of the LCO].

4.35 If, after the close of nominations for an election for an FC but before the polling day, proof is given to the satisfaction of the RO that the candidate has died or is disqualified from being nominated as a candidate for the constituency, he must publicly declare that the proceedings for the election for that FC are terminated [s 42C of the LCO].

## **PART VI : WITHDRAWAL FROM CANDIDATURE**

4.36 A candidate may withdraw his nomination by completing and signing a specified “Withdrawal of Candidature” form and lodging it with the RO concerned by not later than the last day of the nomination period [s 42 of the LCO and s 20 of the EAC (EP) (LC) Reg]. Where a candidate in a nomination list for a GC election has effectively withdrawn his candidature, the RO must strike out his name from the list and adjust the order of priority in which the names of other candidates appear on the list accordingly [s 38(6) of the LCO]. If, after the RO has determined that a nominee is validly nominated, but before the close of nominations, the RO becomes aware that the nominee has died or is disqualified from being nominated, the RO must strike out his name from the list and adjust the order of priority in which the names of other candidates appear on the list accordingly [s 38(6A) of the LCO]. After striking out a name from a list of candidates, the RO must not add the name of any other person to the list. If no name remains on the list of candidates, the RO must reject the list [s 38(11), (12) and (13) of the LCO].

### **IMPORTANT :**

It is an offence under ss 7 and 8 of the ECICO for a person to bribe, or use or threaten to use force or duress, against a candidate to withdraw his candidature; and for a candidate to solicit or accept a bribe to withdraw his candidature.

## **PART VII : NOTICE OF NOMINATION**

4.37 The RO for the constituency concerned will publish a notice in the Gazette within 14 days after the close of the nomination period stating the name and the principal residential address of each of all the validly nominated candidates for the constituency, together with the alphabet or number (which will be shown on the ballot paper) allocated by the drawing of lots to each candidate or list of candidates [s 21 of the EAC (EP) (LC) Reg]. Each validly nominated candidate will also be separately informed.

## **PART VIII : PARTICULARS RELATING TO CANDIDATES ON BALLOT PAPERS**

4.38 Under the PCBP (LC & DC) Reg, candidates may, **during the nomination period**, request the EAC to print specified particulars relating to candidates on ballot papers for use in LegCo elections. These particulars include registered names and emblems of prescribed bodies<sup>2</sup>, registered

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<sup>2</sup> A prescribed body means a prescribed political body or a prescribed non-political body.

emblems of prescribed persons<sup>3</sup>, words indicating that a candidate is an independent candidate or a non-affiliated candidate, and personal photographs of candidates. *[Amended in October 2007]*

### **Request to Print Particulars Relating to Candidates on Ballot Papers**

#### **Request by candidate for FC or a sole candidate on nomination list**

4.39 A candidate for an FC or a sole candidate on a nomination list may request the EAC to print on ballot papers a personal photograph of the candidate and a choice of combinations of specified particulars - including the registered names relating to not more than 3 prescribed bodies, the registered emblems relating to not more than 3 prescribed bodies and the candidate concerned, and with or without the words “Independent Candidate” or “Non-affiliated Candidate”. *[Amended in October 2007]*

4.40 A request must be made in the specified form and signed by the requestor. Where the subject of the request relates to 1 or more prescribed bodies, it must be accompanied by a consent given, during the nomination period, by the body or each of the bodies in relation to the request. Where the subject of the request includes a photograph, it must be accompanied by the photograph with the name of the candidate shown on the back of the photograph [s 3 of the PCBP (LC & DC) Reg]. *[Amended in October 2007]*

#### **Request by candidate on nomination list with more than 1 candidate**

4.41 A candidate on a nomination list with more than 1 candidate may request the EAC to print on ballot papers a personal photograph of any 1 or more of the candidates on the list, and a choice of combinations of specified

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<sup>3</sup> A prescribed person means a person that is registered in a final register of electors for GCs as compiled and published in accordance with the LCO and that is not disqualified from being so registered or from voting at an election.

particulars - including the registered names relating to not more than 3 prescribed bodies, the registered emblems relating to not more than 3 prescribed bodies and the candidates concerned, and with or without the words “Independent Candidate” or “Non-affiliated Candidate” against the names of the corresponding candidates. *[Amended in October 2007]*

4.42 A request must be made in the specified form and signed by the requestor and all other candidates on the nomination list concerned. Where the subject of the request relates to 1 or more prescribed bodies, it must be accompanied by a consent given, during the nomination period, by the body or each of the bodies in relation to the request. Where the subject of the request includes one or more photographs, it must be accompanied by the photograph or photographs with the name of the candidate concerned shown on the back of each photograph [s 4 of the PCBP (LC & DC) Reg]. *[Amended in October 2007]*

### **Application for Registration of Name and Emblem**

4.43 The particulars already registered with the EAC under the former Particulars Relating to Candidates on Ballot Paper (Legislative Council) Regulation are deemed to have been registered with the EAC in relation to both LegCo and DC elections. All subsequent registrations will be applicable to both LegCo and DC elections. *[Added in October 2007]*

### **Application by prescribed body for the registration of its name and emblem**

4.44 A prescribed body intending to support a candidate in a LegCo election may at any time apply to the EAC for the registration of all or any of the following particulars:

- (a) the Chinese name of the body;

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

4.45 An application must be made in the specified form and signed by the applicant. It should indicate that the applicant is a prescribed political body or a prescribed non-political body and that the applicant intends to consent to the subject of application being printed on a ballot paper as particulars relating to one or more persons as candidates. The application must also be accompanied by a copy of the certificate or document issued to the body by an authority or regulatory organisation that regulates the body under the laws of Hong Kong and showing the name of the body [s 8 of the PCBP (LC & DC) Reg]. *[Amended in October 2007]*

#### Application by prescribed person for the registration of his emblem

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

4.47 An application must be made in the specified form and signed by the applicant [s 9 of the PCBP (LC & DC) Reg]. *[Amended in October 2007]*

#### **Timing of Application**

4.48 Applications for registration may be submitted at any time. However, applicants should note that the relevant cut-off date of the annual registration cycle ending on 31 December 2008 is 15 April 2008. *[Amended in October 2007 and July 2008]*

### **Processing of Application**

4.49 The EAC will process any application made by a prescribed body or a prescribed person -

- (a) if the application is made on or before 15 April in a year, as soon as practicable after that date, and in any event within that annual registration cycle; or
- (b) if the application is made after the 15 April in a year, as soon as practicable after 15 April of the next following annual registration cycle, and in any event within the next following annual registration cycle.

[S 11 of the PCBP (LC & DC) Reg.] *[Amended in October 2007 and July 2008]*

4.50 If the EAC is of the opinion that it may refuse to grant an application made by a prescribed body or a prescribed person, it must give the applicant a notice in writing. The applicant may, within 14 days after the notice is given, vary the application or make representations to the EAC on why it should not refuse to grant the application [ss 12 and 13 of the PCBP (LC & DC) Reg]. *[Amended in October 2007]*

4.51 If the EAC, having considered an application made by a prescribed body or a prescribed person, is of the opinion that it may grant the application, it will publish a notice in respect of the application in the Gazette –

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

to make objection to the EAC in accordance with s 15 of the PCBP (LC & DC) Reg.

[S 14 of the PCBP (LC & DC) Reg.] *[Amended in October 2007]*

4.52 Under s 15 of the PCBP (LC & DC) Reg, any person may, within 14 days after the publication of a notice in respect of an application in the Gazette, by notice in writing given to the EAC, object to the granting of the application. *[Amended in October 2007]*

4.53 In the event of an objection, the EAC will conduct a hearing. Under normal circumstances, a hearing will be held in public. However, a hearing may be held in private if it is in the interest of justice to do so. The EAC will make a decision on whether the application should be granted after hearing the representations and examining the relevant materials.

4.54 The EAC will, as soon as practicable after a decision is made to grant an application made by a prescribed body or a prescribed person, publish a notice in respect of the application in the Gazette specifying the name of the applicant and the subject of the application. If a decision is made to refuse an application, the EAC will notify the applicant in writing of the EAC's decision with reasons for its refusal [s 19 of the PCBP (LC & DC) Reg]. *[Amended in October 2007]*

### **Registration and De-registration of Name, Emblem, etc.**

4.55 A register of the relevant particulars in respect of the registered names and emblems of prescribed bodies and the registered emblems of prescribed persons is established and maintained by the CEO who makes the register available for inspection, free of charge, by members of the public during ordinary business hours at the REO [s 20 of the PCBP (LC & DC) Reg]. *[Amended in October 2007]*

4.56 The EAC may de-register the name, the abbreviation of the name and the emblem that is registered in relation to a prescribed body on the grounds that –

- (a) no request is made to print the subject of registration on ballot papers:
  - (i) in 2 consecutive LegCo general elections;
  - (ii) in 2 consecutive DC ordinary elections, one of which is held between such LegCo general elections; and
  - (iii) in any LegCo or DC by-election held between such LegCo general elections or DC ordinary elections; or
- (b) the body ceases to exist.

*[Amended in October 2007]*

4.57 The EAC may also de-register the emblem that is registered in relation to a prescribed person on the grounds that -

- (a) no request is made to print the subject of registration on ballot paper:
  - (i) in 2 consecutive LegCo general elections;
  - (ii) in 2 consecutive DC ordinary elections, one of which is held between such LegCo general elections; and
  - (iii) in any LegCo or DC by-election held between such LegCo general elections or DC ordinary elections; or

- (b) the person has died.

[S 21 of the PCBP (LC & DC) Reg.] *[Amended in October 2007]*

## **PART IX : PUBLICITY**

4.58 After the close of nominations, the RO will inform each validly nominated candidate/list of candidate(s) the time and date on which he will draw lots to allocate the alphabet or number to each candidate/list of candidate(s) to be shown on the ballot paper and they may attend if they so wish. Thereafter, the REO will publish a booklet entitled Introduction to Candidates. The alphabet or number of each candidate or list of candidate(s) on the ballot paper allocated to him or the list by the drawing of lots will also be shown on this booklet, which will be mailed to the electors close to the time of the polling day. *[Amended in July 2008]*

4.59 Candidates are free to make use of the booklet<sup>4</sup> to promote themselves. Any candidate who so wishes should submit the following to the relevant RO **before the close of the nominations:**

- (a) a duly completed grid paper affixing a colour photograph of the candidate which must be in a specified size and taken within the last 6 months; and
- (b) 2 additional copies of his photograph identical to the one affixed to the grid paper with his name label affixed on the back.

*[Amended in October 2007 and July 2008]*

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<sup>4</sup> If a candidate does not submit the grid paper, the booklet will only show the name of the candidate and the number of the candidate/list of the candidates. The statement, "Relevant information has not been provided by the candidate", will also be printed in the area provided for the election platform.

4.60           The contents, nature and presentation of the candidates' messages in the booklet are exclusively the idea and work of the candidate himself. They will not be subject to alteration or edition by the REO unless they are considered to be indecent, defamatory or in any other way unlawful. Candidates are reminded that some electors are only able to read English.  
*[Amended in July 2008]*

## **CHAPTER 5**

### **POLLING AND COUNTING ARRANGEMENTS**

#### **PART I : BEFORE THE POLL**

5.1 For each of the 5 GCs, a number of polling stations situated within the GC will be designated. The polling stations designated for the GCs will be used also for polling for the 24 ordinary FCs and 4 SFCs (a combined polling arrangement). The polling stations will be converted to counting stations for counting the GC ballot papers. A central counting station will be set up for counting the ordinary FC and SFC ballot papers and any misplaced GC ballot papers found in FC/SFC ballot boxes at the central counting station.

5.2 The CEO may designate the same place as a polling station and a counting station. He will designate a polling station at which less than 500 electors are assigned to vote as a small polling station. He will designate 1 polling station (not being a small polling station) as a main counting station for the purpose of counting the votes of the small polling station [s 28(1A), (1B) and (1C) of the EAC (EP) (LC) Reg]. The RO will, at least 1 working day before the polling day, give notice in writing to each candidate of the place or places at which vote counting is to take place for the constituency contested by the candidates. *[Amended in July 2008]*

5.3 An area outside the polling station will be designated as the No Canvassing Zone (“NCZ”) and No Staying Zone (“NSZ”), the boundaries of which will be determined by the RO. All candidates will be notified of these zones before the polling day [s 40 of the EAC (EP) (LC) Reg]. The RO may also authorise the PRO to vary the NCZ or NSZ on the polling day [s 40(11A)]

of the EAC (EP) (LC) Reg]. [See Chapter 14 : Prohibition Against Canvassing Activities Outside Polling Stations.] *[Amended in July 2008]*

5.4 A polling station for a GC is normally situated within the boundaries of the constituency, but where there are no suitable premises for use within the GC, polling stations will have to be designated in nearby areas outside the constituency. Where circumstances require, non-permanent structures may be designated as polling stations. The polling stations designated for the 5 GCs are localised in the sense that an elector of a particular GC will be assigned to a polling station close to his principal residence as shown on the final register of electors.

### **The Combined Polling Arrangements**

5.5 Combined polling arrangements will be made so as to convenience all electors. The arrangements are for providing a one-stop service to each and every elector, no matter whether he is entitled to vote in the GC, an ordinary FC or an SFC, or two or more of them, so that he needs only to attend **1** polling station to cast all his votes. There are the following scenarios:

- (a) an elector who is only entitled to cast a GC vote: he will be allocated to a polling station designated for that GC for casting his GC vote;
- (b) an ordinary FC/SFC elector or AR of a corporate elector of one of the ordinary FCs/SFCs: he will be allocated to the polling station designated for his GC, in which he can at the same time cast his GC vote, his ordinary FC/SFC elector vote or his ordinary FC/SFC AR vote; and

- (c) an elector of an ordinary FC/SFC who may be at the same time an AR of another ordinary FC/SFC: he will be allocated to the polling station designated for his GC, in which he can at the same time cast his GC vote, his ordinary FC/SFC vote as elector and his ordinary FC/SFC vote as AR.

[S 30 of the EAC (EP) (LC) Reg.]

5.6 Owing to the fact that combined polling arrangements are used, special arrangements regarding poll cards, ballot papers, cardboards and ballot boxes may be required, so as to help prevent confusion and mistake at polling, avoid breaking the secrecy of the vote, and facilitate sorting of ballot papers at the count.

5.7 The **ballot papers** for each of the 5 GCs, each of the 24 ordinary FCs and each of the 4 SFCs will be made easily distinguishable by way of one or more of the following ways, namely, size, colour, colour pattern and code. This will help prevent confusion and mistake at polling, and will facilitate sorting of ballot papers at the count. The **poll card** (notifying the elector/AR of the polling station he must attend to cast his vote or votes) sent to the elector/AR shortly before the polling day will bear the same colour as that used for the cardboard referred to in para. 5.9 below, depending on the number of ballot papers he is entitled to be issued to him in the polling station.

5.8 **Different types of ballot boxes** are provided in a polling station for receiving the GC ballot papers and the FCs/SFCs ballot papers (mixed).  
[Amended in July 2008]

5.9 In order to ensure that no elector or AR will leave the polling station with any ballot paper, a **colour cardboard** will be given to him at the same time when ballot paper(s) are issued to him. The colour of the

cardboard depends on how many ballot papers are issued to the elector according to his entitlement: **white** for an elector issued with one ballot paper, **red** for one issued with 2 ballot papers and **blue** for one issued with 3 ballot papers.

[Please see **Appendix D** for details of the combined polling arrangements mentioned in the preceding 5 paragraphs.]

5.10 About 10 days before the polling day, electors of contested constituencies will be sent poll cards, addressed to their last addresses known to the REO, notifying them of the date, time and place of the poll [s 31 of the EAC (EP) (LC) Reg]. In the case where the number of validly nominated candidates for a constituency does not exceed the number of vacancies, the candidate(s) will be declared elected [s 46 of the LCO]. Electors in respect of such a constituency do not need to vote, and a notice to that effect will be sent to them. The polling stations designated for the constituency will not be used for polling in respect of that constituency.

5.11 An elector (and an AR of a corporate elector) **may vote only at the polling station allocated to him** by the CEO. Many of the polling stations are accessible to persons with a disability including those who have difficulty in walking. An elector with a disability finding it difficult for him to access the polling station allocated to him may **at least 5 days** before the polling day apply to the CEO for re-allocation of a polling station specifically designated for such electors (“special polling station”) [s 33 of the EAC (EP) (LC) Reg]. Whether the polling station allocated to an elector is accessible to persons with mobility difficulty will be specified clearly in the location map attached to the poll card sent to each elector, together with a note indicating that if any elector allocated to this polling station has any difficulty in mobility and wishes to vote at a special polling station, he may apply to the CEO for re-allocation. If a special polling station is re-allocated to him, then he can

vote only at that polling station. If circumstances permit, free Rehabus service will also be arranged to take those electors to the special polling station. In case circumstances require, the CEO may allocate to an elector an alternative polling station, in addition to or in substitution of the one originally allocated to him [s 30(4A) of the EAC (EP) (LC) Reg]. Electors concerned can make enquiries with the REO on this subject by telephone or facsimile. *[Amended in October 2007]*

## **PART II : INSIDE THE POLLING STATION**

5.12 About 15 minutes before the commencement of polling, which is at **7:30 am** on the polling day, the PRO at a polling station will show the candidates, their election agents and polling agents, if they are present, the empty ballot boxes before proceeding to lock and seal them. Candidates concerned and their agents may observe the locking and the sealing of the ballot boxes. For a small polling station, a notice about the venue for the counting of votes will be displayed by the PRO outside the station.

5.13 The PRO will also inform and show to the candidates, their election agents and polling agents, if they are present, the number of unissued ballot papers relating to the constituency, which are in his possession.

5.14 In the polling stations, there will be different sets of ballot papers and ballot boxes to prevent confusion and mistake. For ballot papers, there will be 29 different sets, 1 for the particular GC for which the polling station is designated, 1 for each of the 24 FCs and 1 for each of the 4 SFCs. For ballot boxes, there will be 2 different sets, 1 to hold the ballot papers cast for the GCs and the other to hold the ballot papers cast for the FCs/SFCs (mixed).

5.15 The GC and FC ballot papers are easily distinguishable by different colour patterns, sizes or code numbers, at the back and/or in the front, to facilitate easy identification in the polling and counting process.

### **PART III : OUTSIDE THE POLLING STATION**

5.16 Where circumstances permit, the PRO will arrange an enlarged copy of the relevant Introduction to Candidates published by the REO to be displayed outside the polling station to facilitate easy reference by electors. A NCZ will be designated outside each polling station to ensure the free and safe passage of electors into the polling station. Door-to-door canvassing and, for the purpose of such canvassing, the display of any propaganda material, eg any badge, emblem, clothing or head-dress, which may promote or prejudice the election of a candidate or candidates at the election, or makes direct reference to a body any member of which is standing as a candidate in the election or a prescribed body the registered name or registered emblem of which has been printed on any ballot paper for the election [see paras. 4.38 to 4.42 above], will be allowed on the storeys above or below street level in a building within a NCZ other than a building in which there is a polling station, provided that permission has been obtained for entry to the building for canvassing votes, obstruction is not posed to electors and no sound amplifying device is used. Apart from this, the RO or the PRO of the relevant polling station will allow no other canvassing activities or display of EAs within a NCZ except for static display of EAs that are authorised. A notice of the declaration of a NCZ and a map or plan showing the boundary of the area will be put up at or near the polling station. A NSZ in which no one is allowed to stay or loiter will also be designated immediately outside the entrance/exit of a polling station to avoid any obstruction of entry/exit. [See Chapter 14 : Prohibition Against Canvassing Activities outside Polling Stations.] *[Amended in October 2007 and July 2008]*

5.17 On the polling day, a person must not:

- (a) other than the door-to-door canvassing activities stated in para. 5.16 above, engage in canvassing votes (including suggesting not to vote for any candidate) within the NCZ; *[Amended in October 2007]*
- (b) use a sound amplifying system or device for any purpose within the NCZ;
- (c) use a sound amplifying system or device, or conduct any activity (eg lion dance) for canvassing votes, so that the sound emitted by it can be heard in the NCZ;
- (d) without reasonable excuse, display in the NCZ any propaganda material, eg any badge, emblem, clothing or head-dress, which:
  - (i) may promote or prejudice the election of a candidate or candidates at the election; or
  - (ii) makes direct reference to a body any member of which is standing as a candidate in the election or a prescribed body the registered name or registered emblem of which has been printed on any ballot paper for the election; or
- (e) stay or loiter in the NSZ without the express permission of the PRO;

otherwise he commits an offence with a maximum penalty of a fine at level 2 (up to \$5,000) and imprisonment for 3 months [ss 40, 41 and 45 of the EAC (EP) (LC) Reg]. *[Amended in October 2007]*

## **PART IV : ADMISSION TO THE POLLING STATION**

5.18 Other than electors, the following persons may also be admitted to a polling station:

- (a) the PRO and other polling staff;
- (b) the Chief Returning Officer (“CRO”);
- (c) ROs and Assistant Returning Officers (“AROs”) for the relevant constituency;
- (d) members of the EAC;
- (e) the CEO;
- (f) public officers on duty at the polling station, including police officers and members of the Civil Aid Service;
- (g) candidates and election agents of the relevant constituency;
- (h) polling agents for the polling station (only one at a time in respect of each candidate);
- (i) public officers authorised in writing by the CEO;
- (j) any person authorised in writing by a member of the EAC;
- (k) a person authorised in writing by the RO for liaison purposes;  
and

- (l) a child who accompanies an elector to the polling station for the purpose of voting (if the PRO considers that the child should not be left unattended while that elector is in the polling station and the child will not disturb or cause inconvenience to any person in the polling station). *[Amended in October 2007]*

[S 44 of the EAC (EP) (LC) Reg.]

A notice will be displayed at the entrance to polling stations to show that only the above persons and electors may be allowed to enter.

**NOTE :**

For the purpose of ensuring that polling takes place smoothly and efficiently, the PRO may regulate the number of electors, candidates, election agents and polling agents to be admitted to the polling station at any one time. Only one such person may be present in the polling station: a candidate or his election agent or his polling agent. [See also Chapter 7 : Appointment and Roles of Election Agent, Election Expense Agents, Polling Agents and Counting Agents.]

5.19 Except for an elector or a police officer on duty or a member of the Civil Aid Service on duty, all other persons permitted to enter a polling station are required to sign a **Declaration of Secrecy** on a specified form and observe the provisions governing the secrecy of voting [s 95 of the EAC (EP) (LC) Reg].

## PART V : CONDUCT INSIDE THE POLLING STATION

5.20 The polling stations designated for the 5 GCs which will also serve the 24 ordinary FCs and 4 SFCs will have polling arrangements designed to convenience electors. Inside each of such polling stations, a notice will be displayed to inform electors that polling for the relevant GC, all the 24 ordinary FCs and all the 4 SFCs is being held concurrently, and that an elector will be issued with 1, 2 or 3 **different ballot papers**, depending on his entitlement. **The ballot papers** issued to the elector so entitled **will be issued at the same time**. Therefore, such an elector who wishes to exercise the right to cast any of his votes will have to do so at the **same visit** to the polling station.

5.21 On arrival at the polling station, an elector or AR should show to the polling staff at the ballot paper issuing desk his identity card or such other identity document or documents, which show the identity card/document number, name and photograph of the elector, to the satisfaction of the PRO. The polling staff will check the elector/AR's identity document against the entries on the copy of register of electors to ascertain if the elector/AR is registered in respect of both the GC, and one or two of the 24 ordinary FCs and the 4 SFCs. If so, the polling staff will inform him accordingly. The polling staff will call out the name of the elector/AR as stated in the entry in the copy of the composite or annotated register of electors and cross out the name and the identity document number of that entry, before giving him either 1 or 2 or 3 different ballot papers, as appropriate. An elector/AR may be asked to check his own entry on the register to ensure that he has been given the correct ballot paper(s). No record will be made as to which particular ballot paper is given to an elector/AR.

5.22 For control purpose regarding the total number of ballot papers issued, the counterfoil of each ballot paper bears a serial number on its front.

The serial number on the counterfoil will not, however, be recorded or related to the particular elector to whom the ballot paper is issued.

5.23 If there is reasonable ground for questioning the bona fides of an elector, the PRO shall ask him the following questions at the time of his application for a ballot paper (but not afterwards):

- (a) Are you the person registered in the final register of electors now in effect for this GC and/or FC/SFC (as appropriate), as follows (reads the whole of the relevant entry in the register)?  
*[Amended in October 2007]*
- (b) Have you already voted for this or any other GC and/or FC/SFC (as appropriate) in this election?

The person will not be issued with any ballot paper unless he has answered the questions to the satisfaction of the PRO [s 51(3) and (4) of the EAC (EP) (LC) Reg].

5.24 Where there is reasonable cause to believe that a person has committed an offence of impersonation of an elector, the PRO may request the police officer on duty at the polling station to arrest that person [s 52 of the EAC (EP) (LC) Reg].

5.25 If an elector has been issued with a ballot paper but chooses not to take it, he cannot return to the polling station later and claim for that or another one. If for a reason considered justified by the PRO, an elector who has not marked the ballot paper issued to him, may, with the permission of the PRO, hand back the ballot paper to the PRO and return later to cast his vote. If, after having been issued with a ballot paper, an elector has become incapacitated by physical illness and has left the polling station without

marking his ballot paper, he may return to the polling station to cast his vote before the close of poll, provided that before he leaves the polling station, his ballot paper has been retrieved by the PRO. Under either of the above circumstances, the PRO must keep that ballot paper in his custody and re-issue it, in the presence of a police officer, to the elector in question when the latter returns before the close of poll to cast his vote. But if at the close of poll, the elector has not returned, the PRO shall endorse the ballot paper with the word “**UNUSED**”; such ballot paper should not be counted [ss 61 and 80 of the EAC (EP) (LC) Reg].

5.26           The PRO would need to keep a ballot paper left in the polling station in his custody in the circumstances described in para. 5.25 above only when he knows which elector had left the ballot paper behind. Otherwise, a ballot paper found to be left in the polling station should be regarded as “unused” and would not be counted.

5.27           When issued with ballot paper(s), an elector/AR will also be provided with a cardboard to which a chop with a tick “✓” is attached. Persons who are supplied with one ballot paper will be required to carry a **white** cardboard to show that they have only one ballot paper. Persons who are issued with 2 ballot papers will be required to carry a **red** cardboard, and those who are issued with 3 ballot papers will be required to carry a **blue** cardboard. This arrangement is to facilitate control and monitoring so that no person can take away any ballot paper from the polling station. The cardboard will be collected by the polling staff after the elector/AR has inserted his ballot paper(s) into the ballot box(es) before leaving the polling station.

5.28           After being issued with the ballot paper(s)/the cardboard to which a chop with a tick “✓” is attached, the elector/AR should immediately proceed to one of the voting compartments where he should mark his ballot paper(s) to indicate his choice of candidate(s). The manner in which a ballot paper

should be marked for the GC, the 24 ordinary FCs and the 4 SFCs will be different, depending on the applicable voting system. An elector/AR should read carefully the instructions given on the ballot paper and follow the instructions in marking his choice of candidate(s).

5.29 Briefly, in respect of a GC ballot paper to which the list system of proportional representation is applicable, the elector has only one vote and he must affix the chop supplied to give only one “✓” against the list containing one or more candidates’ names (as opposed to an individual candidate’s name) of his choice in the circle provided. In respect of a ballot paper regarding the 24 ordinary FCs to which the first past the post voting system applies, the elector/AR is entitled to cast one vote and must indicate his choice of candidate of the relevant FC by giving one “✓” against the candidate of his choice in the circle provided, save in the Labour FC which has 3 vacancies to fill, then the elector may give a “✓” against the names of up to 3 candidates. The ballot paper regarding the 4 SFCs to which the preferential elimination voting system applies will have all the candidates’ names printed on it together with circles against each name for the elector or the AR of the corporate elector to mark his choices of preference. He must mark the ballot paper to indicate his preference, by writing **Arabic numerals** in the circle opposite the names of the candidates, in descending order of preference, ie:

- (a) writing “1” in the circle opposite the name of the candidate of his first preference (“first preference vote”);
- (b) writing “2” in the circle opposite the name of the candidate of his second preference;

and so on. **An elector/AR must mark a first preference vote.** He may, if he wishes, mark second, third and subsequent preferences for as many candidates as are indicated on his ballot paper.

5.30 For an elector of the GC, after he has marked the ballot paper(s) to indicate his choice of the list of candidate, he should **keep the ballot paper as folded to conceal the marking(s) thereon**. For an elector/AR of the FCs/SFCs, he must **not fold his ballot paper** before inserting it face down into the ballot box.

5.31 Immediately after an elector/AR has come out of the voting compartment, he should insert the GC ballot paper into the ballot box designated for the GC ballot papers and the FC/SFC ballot paper(s) face down into the ballot boxes designated for the FC/SFC ballot papers as directed by the polling staff. The elector/AR should then return the cardboard and the chop to the polling staff and leave the polling station immediately. *[Amended in July 2008]*

**NOTE :**

An elector/AR must not remove a ballot paper from a polling station. It is an offence under s 54(6) of the EAC (EP) (LC) Reg for a person to bring out a ballot paper from a polling station. Any person who removes a ballot paper from a polling station with an intent to deceive may commit an offence under s 17(1)(c) of the ECICO and may be prosecuted. It will also be a corrupt conduct under s 17(1)(d) of the ECICO if any person, without lawful authority, destroys, defaces, takes or otherwise interferes with a ballot paper at the election.

5.32 A visually impaired elector who so requests will be provided with a **template** to facilitate his marking of the ballot paper without any assistance from anyone [s 59(3) of the EAC (EP) (LC) Reg]. [For details about the template, see para. 7.36 of Chapter 7.] The template should be returned to the polling staff after use.

5.33 An elector/AR who is unable to mark a ballot paper to indicate the choice of candidate (eg being unable to read or write or incapacitated by visual deficiency or other physical cause) may ask the PRO, Deputy PRO or Assistant PRO to mark the ballot paper on his behalf. The marking of the ballot paper will be made to show the elector's choice in the presence of one of the polling officers as a witness [s 59 of the EAC (EP) (LC) Reg].

5.34 **The ballot is secret. No one can force a person to vote or not to vote for any particular candidate** [s 13 of the ECICO]. **Also no one is required to tell which candidate he has voted for or is going to vote for.** A person who, without lawful authority, requires or purports to require an elector to disclose the name of, or any particular relating to, the candidate for whom the elector voted commits an offence [s 60 of the LCO]. S 96 of the EAC (EP) (LC) Reg prohibits a number of acts which may infringe the secrecy of the vote during the polling and counting process. If a person contravenes any of the acts prohibited under this section, he commits an offence and will be liable to a fine at level 2 (up to \$5,000) and imprisonment for 6 months.

5.35 Any elector/AR who has inadvertently torn or damaged any ballot paper or has made an error in marking any ballot paper issued to him may ask the PRO to exchange it for another unmarked ballot paper. Such spoilt ballot papers will be endorsed on the front with the word **“SPOILT”** and will be kept by the PRO. The spoilt ballot papers will not be counted at the counting of the votes [ss 62 and 80 of the EAC (EP) (LC) Reg].

5.36 Where a person, representing himself to be a particular elector or AR of a corporate elector entered on the register, applies for any ballot paper after a person has been issued with any ballot paper as such an elector or AR, he may be issued with a ballot paper with the word **“TENDERED”** endorsed on the front. Such a ballot paper shall not be counted at the counting of the votes [ss 60 and 80 of the EAC (EP) (LC) Reg]. However, if an elector or AR

who has been issued with a ballot paper chooses not to cast his vote and leaves the polling station and a person returns later to claim for that or another ballot paper, the PRO may issue a tendered ballot paper to the elector **ONLY IF** he is not certain that the person is the elector who had been issued with a ballot paper earlier, and he answers the appropriate questions set out in para. 5.23 to the satisfaction of the PRO. *[Amended in July 2008]*

5.37 Ballot papers which have been issued (whether marked or unmarked) are sometimes abandoned or found left behind by electors/ARs in the voting compartments or lying on the floor of the polling station, or otherwise not used. The intention of the electors/ARs is not clear in such cases. Any person who discovers such a ballot paper is required to hand it to the PRO. Such a ballot paper will be endorsed on the front with the word **“UNUSED”** (unless it is not reasonably practicable to do so) and will be kept by the PRO. In no circumstances will the ballot paper be put into a ballot box. Such a ballot paper will not be counted at the counting of the votes [ss 61 and 80 of the EAC (EP) (LC) Reg].

5.38 Inside a polling station, an elector/AR must not:

- (a) interfere with or attempt to influence any other elector/AR;
- (b) speak to or communicate with any other elector/AR contrary to a direction of the RO, ARO, the PRO or any polling officer not to do so;
- (c) attempt to obtain information, or disclose any knowledge acquired, concerning the vote of another elector/AR;
- (d) exhibit or distribute any campaign material;

- (e) without any reasonable excuse, display any propaganda material, eg any badge, emblem, clothing or head-dress, which:
  - (i) may promote or prejudice the election of a candidate or candidates at the election; or
  - (ii) makes direct reference to a body any member of which is standing as a candidate in the election or a prescribed body the registered name or registered emblem of which has been printed on any ballot paper for the election; or
- (f) use a mobile telephone or any telephone or paging machine or any other form of electronic communication device contrary to a direction of the RO, ARO, the PRO or any polling officer not to do so.

If a person contravenes any of the above prohibitions, he commits an offence and will be liable to a fine at level 2 (up to \$5,000) and imprisonment for 3 or 6 months, as the case may be [s 45(7) and 96 of the EAC (EP) (LC) Reg].  
*[Amended in October 2007 and July 2008]*

5.39 A person must not misconduct himself at a polling station or its vicinity or fail to obey any lawful order of the RO or the PRO; otherwise he commits an offence punishable with a fine and imprisonment and may be ordered by such officer to leave the polling station or the vicinity of the polling station. A person misconducts himself if he disrupts the poll or disturbs or causes inconvenience to any person in the polling station. If he fails to leave immediately as ordered by the RO or the PRO, he may be removed by a police officer or by any other person authorised in writing by the RO or the PRO to remove him. The person so removed may not re-enter the polling station

during that day except with the permission of the RO or the PRO [s 46 of the EAC (EP) (LC) Reg].

5.40 Only the following persons may speak to or communicate with electors/ARs within a polling station:

- (a) the PRO and other polling staff;
- (b) the ROs and AROs for the relevant constituency;
- (c) members of the EAC;
- (d) the CEO;
- (e) police officers and members of the Civil Aid Service on duty at the polling station;
- (f) a person authorised in writing by the ROs for liaison purposes;  
and
- (g) any person authorised in writing by a member of the EAC.

[S 45(1) and (6) of the EAC (EP) (LC) Reg.]

5.41 No person may canvass or display any EA within a polling station. Any person who undertakes photographing, filming and video or audio recording within a polling station without the express permission of a member of the EAC or the PRO, or the express permission in writing of the RO for the constituency or constituencies for which the polling station is used, commits an offence and will be liable to a fine at level 2 (up to \$5,000) and imprisonment for 6 months [s 45(2) and (7)(a) of the EAC (EP) (LC) Reg].

Normally such permission is only granted to members of the media or government photographers for publicity purposes. *[Amended in October 2007 and July 2008]*

## **PART VI : CLOSE OF POLL**

5.42 Polling will close at **10:30 pm**, and electors who intend to vote but are not at the door of their designated polling station by that time will not be allowed in afterwards. At the close of poll, the ballot boxes will be locked and sealed by the PRO in the presence of the relevant candidates and their agents, if they are present. The PRO will also inform them the numbers of unissued ballot papers, spoilt ballot papers and unused ballot papers in his possession. All ballot papers which are unissued, spoilt or unused and the marked copies of the registers will then be made up into sealed packets in respect of each constituency.

5.43 The polling stations set up for each of the 5 GCs (except the small polling stations) will be converted to counting stations for the purpose of conducting the count. A central counting station will be set up to conduct the count for the 24 ordinary FCs and 4 SFCs and for any misplaced GC ballot papers found in FC/SFC ballot boxes at the central counting station.

### **A Polling Station other than a Small Polling Station**

5.44 At the close of poll, a notice will be displayed by the PRO outside the polling station (which is also designated as a counting station) to inform the public that the poll has been closed and that the station is being arranged for the counting of GC votes and will be open to them when such arrangements are completed. A candidate, and an election agent, a polling

agent and a counting agent of the candidate may stay in the polling station while it is closed for the preparation for the counting of GC votes. *[Amended in October 2007 and July 2008]*

5.45 The sealed ballot boxes and sealed packets of unissued ballot papers etc will be kept by the PRO until the counting of the GC votes begins, when all GC ballot boxes will be opened and all ballot papers inside will be put on the counting table. For the counting of FC/SFC votes, the sealed ballot boxes and sealed packets of unissued ballot papers, together with any FC/SFC ballot papers found to have been misplaced in GC ballot boxes [see para. 5.53 below] etc will be delivered to the central counting station. Up to 2 persons being candidates competing in the FCs/SFCs (or their respective agents), if they so wish, will be allowed to accompany the Deputy PRO/Assistant PRO in the delivery of the ballot boxes from the polling station to the central counting station. Where there are more than 2 such persons wishing to participate in the delivery, the PRO will draw lots to determine which 2 persons will participate. FC/ SFC candidates and their agents are allowed to remain in the polling station only until they see that the police escort for the delivery is available. Thereafter, all of them may either leave the polling station or stay to observe the count in the public area.

### **A Small Polling Station**

5.46 At the close of poll, a notice will be displayed by the PRO outside the polling station to inform the public that the poll has been closed. A candidate and his election agent and polling agent may stay in the polling station while it is closed.

5.47 For the small polling stations which have not been designated as counting stations for GC votes, the sealed ballot boxes, the sealed packets of unissued ballot papers and ballot paper accounts, etc for the GCs and FCs/SFCs will be first delivered to the main counting station by the PRO/Deputy PRO

under police escort. The FC/SFC ballot boxes, together with any misplaced FC/SFC ballot papers found inside the GC ballot boxes, will then be delivered to the central counting station for counting [see paras. 5.53 and 5.63 below for details]. Not more than 2 candidates or their agents, if they so wish, will be allowed to participate in the delivery. Where there are more than 2 such persons wishing to participate in the delivery, the PRO will draw lots to determine which 2 persons will participate. Candidates and their agents are allowed to remain in the polling station until they see that the police escort for the delivery is available.

## **PART VII : THE COUNT**

5.48 A polling station, other than a small polling station which has not been designated as a counting station for GC votes, will be converted to a counting station for the purpose of conducting the count for GC votes and making known the counting results to the candidates and their agents present. The PRO, assisted by his Deputy PROs, Assistant PROs and counting staff, will be responsible for the conversion and the conduct of the count. Before the counting of votes begins, a notice will be displayed outside the counting station to inform the public the time that the station is expected to be open to them to observe the counting of votes [s 65(5A) of the EAC (EP) (LC) Reg]. The telephone number of a polling officer who may be contacted by agents should also be shown on such a notice to facilitate communication between agents and the station staff. For FC/SFC votes, a central counting station will be set up to conduct the count and announce the election results. The RO for each FC, assisted by his AROs and counting staff will be responsible for the conduct of the count. An RO will be designated for each of the 5 GCs. The 5 ROs will be stationed at the central counting station. Each RO will be assisted by a number of AROs to compile the final election results of the

respective GC by adding up counting results from polling stations under his charge. *[Amended in October 2007]*

### **Conduct at the Counting Station**

5.49 Only the following persons may be present at the counting of votes at the counting zone of a counting station or the central counting station:

- (a) the ROs, AROs, PROs, Deputy PROs, Assistant PROs and counting staff for the relevant constituencies;
- (b) the CRO;
- (c) members of the EAC;
- (d) the CEO;
- (e) police officers and members of the Civil Aid Service on duty at the counting station;
- (f) candidates and their election agents and counting agents of the relevant constituencies;
- (g) public officers authorised in writing by the CEO;
- (h) any person authorised by the CRO, the RO or the PRO; and
- (i) any person authorised in writing by a member of the EAC.

The PRO or the CRO or the RO, as the case may be, will designate a restricted zone inside the counting zone where the counting staff will count the votes.

Candidates and their agents must not go into the restricted zone. Any member of the public may observe the counting of the votes from an area (“the public area”) at the counting station set apart for that purpose by the PRO or the CRO or the RO, unless the PRO or the CRO or the RO considers that his presence may:

- (a) cause disorder or disturbance in the counting station; or
- (b) prejudice the secrecy of the individual votes.

[S 68 of the EAC (EP) (LC) Reg.]

5.50 Before entry, every person authorised to be present at a counting station, other than the police officers and members of the Civil Aid Service on duty, must make a **Declaration of Secrecy** on a specified form and observe the provisions governing the secrecy of voting [s 95 of the EAC (EP) (LC) Reg]. Members of the public present within the public area will not be required to make a Declaration of Secrecy.

5.51 Except with the express permission of the relevant PRO or CRO or RO or a member of the EAC, as the case may be, any person who undertakes photographing, filming and video or audio recording within a counting zone of a counting station during the period commencing from the time at which the counting of the votes is to begin at the zone and ending upon the completion of the counting and re-count, if any, at the zone commits an offence [s 68A(1) and (2) of the EAC (EP) (LC) Reg].

5.52 A person must not misconduct himself in or in the vicinity of a counting station or fail to obey any lawful order of the PRO or the CRO or the RO; otherwise he commits an offence punishable with a fine and imprisonment and may be ordered by the PRO or the CRO or the RO to leave the area. A

person misconducts himself if he disrupts the counting of votes or disturbs or causes inconvenience to any person in the counting station. The PRO or the CRO or the RO may also order a person to leave the counting station if the person conducts himself in such a way that the purpose of his presence is not that for which he was authorised or permitted to enter or remain in the counting station. If he fails to leave immediately, he may be removed by a police officer or by any other person authorised in writing by the PRO or the CRO or the RO to remove him. The person so removed may not re-enter the counting station during that day except with the permission of the PRO or the CRO or the RO [ss 68A and 69 of the EAC (EP) (LC) Reg].

(a) **Counting of GC votes**

5.53 The PRO will check whether all the ballot boxes are properly sealed. The seal on each GC ballot box will then be broken by the PRO in the presence of the candidates or their election or counting agents, if they are present at the time. All GC ballot boxes will then be opened and the contents emptied onto a counting table. The candidates and their election or counting agents may request to inspect any papers other than ballot papers taken out from the ballot boxes before they are disposed of. If the PRO identifies any misplaced FC/SFC ballot papers, the PRO will seal the misplaced FC/SFC ballot papers and then arrange to deliver them, together with the sealed FC/SFC ballot boxes, to the relevant RO of the central counting station for counting. The PRO will then conduct the count of the GC ballot papers in the presence of the candidates, or their election or counting agents, if they are present. **At no time should a candidate, his election agent or counting agent touch any ballot papers.**

5.54 The PRO other than the PRO of a main counting station will:

- (a) sort the ballot papers according to the choices marked by the electors on the ballot papers and place them in separate transparent boxes on the table;
- (b) separate, count and put aside the invalid and questionable ballot papers, if any;
- (c) determine the validity of questionable ballot papers;
- (d) count the valid votes obtained by each candidate;
- (e) verify the ballot paper account; and
- (f) compile the final counting results.

5.55 The PRO of a main counting station will:

- (a) count and record the number of ballot papers in each ballot box of the polling station designated as the main counting station and of such ballot box that has been delivered from the small polling stations;
- (b) verify the ballot paper account;
- (c) mix the ballot papers of the polling station designated as the main counting station together with the ballot papers that have been delivered from the small polling stations;
- (d) sort the ballot papers according to the choices marked by the electors on the ballot papers and place them in separate transparent boxes on the table;

- (e) separate, count and put aside the invalid and questionable ballot papers, if any;
- (f) determine the validity of questionable ballot papers;
- (g) count the valid votes obtained by each candidate; and
- (h) compile the final counting results.

[Ss 74A and 75 of the EAC (EP) (LC) Reg.]

### **Invalid Ballot Papers**

5.56 A ballot paper is invalid if:

- (a) no vote has been marked on it;
- (b) it is not marked with the chop provided;
- (c) it is endorsed on the front with the word “SPOILT”;
- (d) it is endorsed on the front with the word “TENDERED”;
- (e) it is endorsed on the front with the word “UNUSED”; and
- (f) votes are given for more than one list of candidates for a GC (eg by marking a “✓” each against 2 lists of candidates).

These ballot papers will be set aside as invalid on the spot. They will not be counted and will not be treated as questionable ballot papers. A candidate, an election agent or a counting agent may inspect but is not entitled to make

representations to the PRO concerning these ballot papers [s 80 of the EAC (EP) (LC) Reg]. *[Amended in October 2007 and July 2008]*

### **Questionable Ballot Papers**

5.57 Ballot papers with doubtful validity in the following areas are set aside as questionable ballot papers. A questionable ballot paper will be decided as invalid if in the opinion of the PRO:

- (a) it has any writing or mark by which the elector can possibly be identified;
- (b) it is not marked by affixing the chop to give a single “✓” in the circle opposite the list of candidates of the elector’s choice on the ballot paper, and the elector’s intention is unclear. (However, the PRO may count that ballot paper if he is satisfied that the elector’s intention is clear);
- (c) it is substantially mutilated; or
- (d) it is void for uncertainty.

When deciding on the validity of the ballot papers in (a) above, the PRO will make reference to the judgment made by the Court on an election petition case (HCAL 127/2003). In that case, the Court ruled that the handwritten tick found on the ballot paper in question in the said election petition was considered a mark by which the elector could possibly be identified. The validity of ballot papers with any other writing or mark will remain to be determined by the PRO on a case-by-case basis [s 81(2) and (3) of the EAC (EP) (LC) Reg.]. *[Amended in October 2007]*

5.58 The validity of all questionable ballot papers shall be decided by the PRO after considering the representations, if any, concerning the ballot papers by the candidate or his election agent or counting agent. Before the PRO makes his decision, a candidate or his election agent or counting agent, if present at the counting zone, may inspect the questionable ballot papers as set aside, in the presence of the PRO and other candidates or their election or counting agents who are present. A candidate or his election agent or counting agent may object to the acceptance or rejection of a questionable ballot paper by making his objection known to the PRO who has decided whether the ballot paper (or the vote recorded thereon) is valid or to be rejected and, in the latter event, endorse on the ballot paper the word “rejected” [s 81 of the EAC (EP) (LC) Reg].

5.59 A candidate or his election agent or counting agent may object to the rejection of a ballot paper by the PRO, in which case the PRO shall add to the endorsement the words “rejection objected to”. Questionable ballot papers which are accepted by the PRO but objected to by a candidate or his election agent or counting agent will be marked “acceptance objected to” [s 81 of the EAC (EP) (LC) Reg].

5.60 The decision of the PRO in regard to any question arising in respect of any ballot paper shall be **final** [s 82 of the EAC (EP) (LC) Reg], and may only be questioned by an election petition [s 61 of the LCO] [see Part II of Chapter 6].

### **Counting Arrangements**

5.61 The counting of the votes will proceed continuously, as far as possible, until the counting is completed.

5.62 When vote counting is completed at any one of the counting stations for the constituency, the relevant PRO will inform the candidates or their election or counting agents present of the counting results. Any such candidate or his election agent or his counting agent may request the PRO to re-count the votes and the PRO shall comply with the request unless in his opinion it is unreasonably made. Where there is no request for a re-count or where the request for a re-count is rejected or the re-count is completed and there is no request for a further re-count or the request for a further re-count has been rejected by the PRO, the PRO shall report to an ARO for the constituency at the central counting station of the counting results. Any misplaced GC ballot papers found in FC/SFC ballot boxes at the central counting station and delivered to the relevant RO will be counted by the RO. The validity of any questionable ballot papers will be determined by the RO. Candidates, their election agents or counting agents present may raise objection to the acceptance or rejection of a questionable ballot paper. The RO's decision on the validity of the ballot paper is final. The counting arrangement as set out in paras. 5.56 to 5.60 above will be followed by the RO [s 79A of the EAC (EP) (LC) Reg]. *[Amended in July 2008]*

5.63 After the ARO has been notified of the results of the counting of votes of all the counting stations in the constituency in his charge, he shall inform the RO for the constituency of the results who shall then inform the candidates or their election agents or counting agents at the central counting station of the results. If a candidate or his election agent at the central counting station requests the RO to re-count all the votes of all the counting stations for the constituency, the RO will decide whether the request should be acceded to. If he decides that such a re-count is reasonable in the circumstances, he will inform the PROs of all the counting stations for the constituency to conduct a re-count at their respective counting stations [s 79A of the EAC (EP) (LC) Reg].

5.64 When the RO makes known to the candidates or their election agents or counting agents the counting results of all the counting stations for

the GC, he must also make known to them the estimated number of GC ballot papers estimated to be misplaced in FC/SFC ballot boxes (the estimated number will be based on the information in the ballot paper account). Candidates and their election agents may at that point request a re-count of the votes of all counting stations for a GC without having to wait for the counting results of any misplaced GC ballot papers [see para. 5.63 above]. Alternatively, they may at that point request a re-count of the votes of all the counting stations together with the votes of the misplaced GC ballot papers after the latter votes are counted. The RO will not entertain the alternative request if the estimated number of misplaced GC ballot papers is **less** than the difference between the remaining numbers of votes cast for any two lists of candidates (in which case the counting results of the misplaced GC ballot papers will not affect the overall election results of the GC in question) [s 79A of the EAC (EP) (LC) Reg].

5.65           The PRO of each of the counting stations will make known the result of the re-count at his counting station to the candidates or their election or counting agents present at that counting station and shall report the same to the ARO for the constituency at the central counting station who shall inform the RO for the constituency of the results of the re-count of all the counting stations in his charge. The RO shall add such results and the result of the counting of the votes recorded on the misplaced GC ballot papers found in FC/SFC ballot boxes, and shall inform the aggregate result to the candidates or their election agent or counting agents. If a candidate or his election agent requests the RO for a re-count of the votes of the misplaced GC ballot papers, the RO shall comply with the request unless in his opinion, it is unreasonably made [s 79A of the EAC (EP) (LC) Reg]. *[Amended in July 2008]*

5.66           If at any time, it appears to the Commission that a counting station (“first counting station”) assigned for the counting of votes cast at a polling station (“polling station concerned”) in respect of a GC is no longer available or suitable for the counting to take place or continue to take place for

reasons other than those referred to in s 2(3) of Schedule 2 to the EAC (EP) (LC) Reg, (*ie the occurrences of a typhoon or other climatic condition of a serious nature; riot, open violence or other occurrences of public danger; or an occurrence which appears to the Commission to be a material irregularity relating to the election, the poll or count*), the Commission may direct that the counting is to take place or continue to take place at another counting station (“new counting station”) specified by the CEO. The RO must give notice to the candidate ranking first in priority on each list of candidates for the constituency of the time and place at which the counting is to take place or continue to take place. Where such direction is given by the Commission, the PRO of that station must arrange the ballot boxes (whether opened or un-opened) and receptacles, if any, together with the ballot papers (whether counted or not), any un-issued ballot papers, tendered ballot papers, ballot paper account, verification of a ballot paper account or re-verification of a ballot paper account, and any other relevant election materials to be transferred to the new counting station. Any person who may be present at the first counting station or polling station concerned may also be present with the PRO when the PRO makes any of the aforesaid arrangement. [Ss 65(7A) and 75A of the EAC (EP) (LC) Reg.] *[Amended in July 2008]*

**(b) Counting of FC/SFC votes**

5.67 The FC/SFC ballot boxes will first be delivered to the central counting station, together with any FC/SFC ballot papers found to have been misplaced in GC ballot boxes, and will be given into the charge of the relevant RO. Each ballot box will then be checked to see if it is properly sealed. The seal on the ballot box will be broken by the relevant RO in the presence of the relevant candidates or their election agents or counting agents, if they are present at the time. The ballot box will then be opened and the contents emptied onto a counting table. Any misplaced GC ballot papers found will be sealed and then delivered to the RO of the relevant GC for counting. **At no**

**time should a candidate, his election agent or counting agent touch any ballot papers.**

5.68 There will be a large number of sorting/counting zones for the ordinary FCs and SFCs. The ballot papers (but not the votes marked on them) for the ordinary FCs/SFCs from each of the polling stations will first be counted for verification of the ballot paper accounts by the counting staff. Such ballot papers will be separately bundled with the respective verified ballot paper account.

5.69 The ordinary FC/SFC ballot papers in each of the sorting/counting zones will be sorted to make up separate bundles for each constituency. Each bundle of ballot papers which is required to be delivered to another sorting/counting zone will be placed in a separate receptacle and sealed under observation by persons present at the counting station. Bundles belonging to the same constituency will be allocated to the AROs and their staff for transferring them to the counting zones in respect of the relevant constituency for the counting of votes marked on them under the supervision of the RO of the ordinary FC/SFC. The ballot papers for the same ordinary FC/SFC from not less than 2 of the polling stations will first be mixed before counting.

### **Invalid Ballot Papers**

5.70 A ballot paper is invalid if:

- (a) no vote has been marked on it;
- (b) it is endorsed on the front with the word “TENDERED”;
- (c) it is endorsed on the front with the word “SPOILT”;

- (d) it is endorsed on the front with the word “UNUSED”;
- (e) in respect of an ordinary FC ballot paper, it is not marked with the chop provided;
- (f) for an ordinary FC, votes are marked for more than the number of vacancies to be filled (in respect of the Labour FC, a ballot paper is invalid if more than 3 votes are marked on it; in respect of the other 23 FCs, a ballot paper is invalid if more than 1 vote is marked on it);
- (g) in respect of a SFC ballot paper, it is not marked by Arabic numerals;
- (h) for a SFC, votes are marked with a first preference for 2 or more candidates (whether or not the elector marks second, third or subsequent preferences); and
- (i) for a SFC, votes are not marked with a first preference (whether or not the elector marks second, third or subsequent preferences).

[S 80 of the EAC (EP) (LC) Reg.]

Ballot papers from (a) to (i) will be set aside as invalid on the spot. They will not be counted and will not be treated as questionable ballot papers. A candidate, an election agent or a counting agent may inspect but not entitled to make representations to the RO concerning these ballot papers [s 80 of the EAC (EP) (LC) Reg]. *[Amended in October 2007 and July 2008]*

### **Questionable Ballot Papers**

5.71 Other ballot papers with doubtful validity are set aside as questionable ballot papers. A questionable ballot paper will be decided as invalid if in the opinion of the RO:

- (a) it has any writing or mark by which the elector or AR can possibly be identified;
- (b) for an FC, the vote is not marked by affixing the chop to give a single “✓” in the circle opposite the name of the candidate of the elector’s or AR’s choice on the ballot paper, and the elector’s or AR’s intention is unclear. For a SFC, the Arabic numeral is not entered in the circle opposite the name of the candidate of the elector’s or AR’s choice on the ballot papers and the elector’s or AR’s intention is unclear. However, the RO may count that ballot paper if he is satisfied that the elector’s or AR’s intention is clear; *[Amended in July 2008]*
- (c) it is substantially mutilated; or
- (d) it is void for uncertainty.

Regarding the validity of the ballot papers in (a) above, please also refer to the court judgment on an elector petition case detailed in para. 5.57 above [s 81(2) and (3) of the EAC (EP) (LC) Reg].

5.72 For a SFC, where an elector marks on his ballot paper the same preference other than the first preference for two or more candidates, only the preference vote or votes prior in sequence to that preference shall be valid. Where an elector marks on his ballot paper preferences which are not in a consecutive sequence, only the preference vote or votes which appear before the break in sequence shall be valid.

5.73 The validity of all questionable ballot papers shall be decided by the RO of the relevant constituency. Before the RO makes his decision, a candidate or his election agent or counting agent, if present at the counting zone, may inspect and make representations to the RO on the questionable ballot papers, in the presence of other candidates or their election or counting agents who are present. After considering the representation, if any, the RO should decide on the validity of the questionable paper. If he rejects the ballot paper, he must endorse the word “rejected” on the front of the ballot paper. A candidate or his election agent or counting agent may object to the acceptance or rejection of a questionable ballot paper by making his objection known to the RO [s 81 of the EAC (EP) (LC) Reg].

5.74 If a candidate or his election agent or counting agent object to the rejection of a ballot paper by the RO, the RO shall add to the endorsement the words “rejection objected to”. Questionable ballot papers which are accepted by the RO but objected to by a candidate or his election agent or counting agent will be marked “acceptance objected to” [s 81 of the EAC (EP) (LC) Reg]. The decision of the RO in regard to any question arising in respect of any ballot paper shall be **final** [s 82 of the EAC (EP) (LC) Reg], and may only be questioned by an election petition [s 61 of the LCO] [see Part II of Chapter 6].

5.75 The counting of the votes will proceed continuously, as far as possible, until the counting is completed.

5.76 When vote counting is completed for the relevant constituency of the FC/SFC, the relevant RO will inform the candidates and their election or counting agents present of the counting result. Any such candidate or his election agent may request the RO to re-count the votes and the RO shall comply with the request unless in his opinion it is unreasonably made. Where there is no request for a re-count or where the request for a re-count is rejected or the re-count is completed and there is no request for a further re-count or the request for a further re-count has been rejected by the RO, the RO will inform the candidates and their agents of the counting results [s 79 of the EAC (EP) (LC) Reg].

## **PART VIII : DECLARATION OF RESULT**

### **(a) For GCs**

5.77 The PRO of each of the counting stations shall report to an ARO for the constituency the final counting or re-count result of his counting station. After tallying the total of the final counting or re-count results with all the final counting or re-count results reported from individual counting stations for the constituency, the RO shall apply the list system of proportional representation and accordingly declare the successful candidates as elected [s 83 of the EAC (EP) (LC) Reg].

5.78 In the event that 2 or more lists have the equal largest number of remaining votes and the number of those lists exceeds the number of vacancies to be filled, the RO shall determine the result of the election by drawing lots at the central counting station. He shall use the means of contact of such candidates provided in their nomination forms to request them to be present at the central counting station for conducting the drawing of lots and such list of candidates shall comply as soon as possible. If the RO fails to contact such a list of candidates, the RO may draw lots on behalf of the list of candidates [see para. 2.25 for detailed procedures for drawing of lots]. He shall declare the candidate on whose list the lot falls as elected. He shall display a notice of the result of the election at a prominent place outside the central counting station and shall also publish the notice in the Gazette within 10 days of the declaration of the result.

### **(b) For FCs/SFCs**

5.79 When the counting of votes and re-counts, if any, are completed and a result obtained, the RO for the relevant constituency shall declare the successful candidate(s) elected for the constituency concerned. In respect of the 24 ordinary FCs, in the event that a vacancy is still to be filled for a

constituency and the most successful candidates have an equal number of votes, the RO will determine the result of the election by drawing lots at the central counting station. For the SFC, if the remaining candidates after the final stage of counting have an equal number of votes, the RO will determine the result of the election by drawing lots at the central counting station [see para. 2.25 for detailed procedures for drawing of lots]. He shall declare the candidate on which the lot falls as elected. The RO for the relevant constituency shall display a notice of result of the election of the constituency in a prominent place outside the central counting station. The result of the election will also be published in the Gazette within 10 days of the declaration of the result [s 83 and 84 of the EAC (EP) (LC) Reg]. *[Amended in July 2008]*

## **PART IX : DISPOSAL OF DOCUMENTS**

5.80 As soon as practicable after the PRO has ascertained the result of the poll in an election, he will seal all the relevant documents and ballot papers into packets. Candidates and their agents may observe the packaging, if they wish [s 85 of the EAC (EP) (LC) Reg].

5.81 These sealed packets of documents will be sent to the RO by the PRO. The RO will deposit these sealed packets together with the nomination forms, notices of appointment of agents, etc with the CEO for safe custody for 6 months before they are destroyed [ss 86 and 88 of the EAC (EP) (LC) Reg].

5.82 **Except pursuant to a court order** in relation to an election petition or a criminal proceeding, **no person may inspect any ballot paper in the custody of the CEO** [s 87 of the EAC (EP) (LC) Reg].

## **CHAPTER 6**

### **ELECTION PETITIONS**

#### **PART I : GROUNDS FOR LODGING AN ELECTION PETITION**

6.1           The result of the LegCo election may be questioned only by an election petition made on the following grounds:

- (a)   the ground that the person declared as elected by the RO in accordance with regulations in force under the EACO was not duly elected because:
  - (i)   he was not eligible to be, or was disqualified from being, a candidate at the election; or
  - (ii)   he engaged in corrupt or illegal conduct at the election; or
  - (iii)   corrupt or illegal conduct was generally prevalent at the election; or
  - (iv)   material irregularity occurred in relation to the election, the poll or the count; or
- (b)   a ground specified in any other enactment that enables an election to be questioned.

[S 61 of the LCO.]   *[Amended in October 2007]*

## **PART II : WHO COULD, AND WHEN TO, LODGE ELECTION PETITIONS**

6.2           An election petition may be lodged:

- (a)   by 10 or more electors entitled to vote in the relevant constituency; or
- (b)   by a person claiming to have been a candidate in the relevant constituency.

[S 62 of the LCO.]

6.3           An election petition questioning an election may be lodged with the Court of First Instance only during the period of 2 months following the date on which the RO has published the result of the election in the Gazette. An election petition is triable in open court and before one judge. At the end of the trial of an election petition, the Court must determine questions of the validity of a nomination or whether a person was or was not duly elected, as appropriate. The Court must certify the determination in writing. The determination as certified is final as to the matters at issue concerning the election petition [ss 64, 65 and 67 of the LCO]. *[Amended in October 2007]*

## **CHAPTER 7**

### **APPOINTMENT AND ROLES OF ELECTION AGENT, ELECTION EXPENSE AGENTS, POLLING AGENTS AND COUNTING AGENTS**

#### **PART I : GENERAL**

7.1 This chapter deals with the appointment of agents at an election and their roles.

7.2 The law and guidelines referred to in this chapter apply to candidates or a list of candidates in a GC election as they apply to a candidate of any other kind of constituency. Wherever there are special features applicable to a **GC list**, they will be expressed in the relevant context.

7.3 A candidate should think carefully before selecting any of his agents. He should choose persons suitable for the task. They will be viewed as his representatives and their conduct may affect the public's perception of him and his election.

#### **PART II : TYPES AND NUMBERS OF AGENTS**

7.4 If he so wishes, a candidate or a GC list may appoint the following agents to assist him/it in an election:

- (a) **1** election agent [s 23(1), (2) and (3) of the EAC (EP) (LC) Reg];

- (b) **any number** of election expense agents;
- (c) not more than **2** polling agents for **each polling station** in respect of the GC, the ordinary FC [FCs specified in s 20(1)(e) to (zb) of the LCO] or SFC [FCs specified in s 20(1)(a) to (d) of the LCO] for which he is nominated [s 42(3), (4) and (5) of the EAC (EP) (LC) Reg]; and
- (d) not more than such number of counting agents as will be specified by the EAC [s 66(2) of the EAC (EP) (LC) Reg].

### **PART III : QUALIFICATIONS OF AGENTS**

7.5 The election, polling and counting agents should be holders of Hong Kong identity card and have attained the age of 18 years [ss 23(5), 42(7) and 66(4) of the EAC (EP) (LC) Reg] while an election expense agent needs to be a person who has attained the age of 18 years [s 25(5) of the EAC (EP) (LC) Reg].

### **PART IV : CIVIL SERVANTS ACTING AS AGENTS**

7.6 Civil servants, other than Directorate Officers, Administrative Officers, Police Officers and Information Officers and those officers acting in the above grades and ranks with a view to substantive appointment thereto ie other than for temporary relief purpose, may act as agents or assist in electioneering activities provided that they are not already appointed as ROs, PROs, polling or counting staff, and that there is no conflict of interest with

their official duties, that no use of public resources is involved, and that no government uniform is worn. However, to avoid any unfairness or semblance of unfairness or conflict of interest, civil servants who work in a constituency or have extensive contacts with the public in a constituency are well advised not to accept appointment by a candidate in the constituency to be his agent. Civil servants who are allowed to participate in electioneering activities, including the seeking of election donations, for any candidates should not use or be seen to use any public resources in such activities. *[Amended in October 2007]*

## **PART V : ELECTION AGENT**

### **Appointment**

7.7 A candidate (or a GC list) may appoint **1** election agent to assist him and to act on his behalf in an election [s 23(1), (2) and (3) of the EAC (EP) (LC) Reg]. The appointment may be made at any time after a candidate hands in his own nomination form.

7.8 The candidate must give notice of such appointment to the RO for the relevant FC/SFC or GC for which the candidate is nominated [s 23(6) of the EAC (EP) (LC) Reg]. The notice must be in the specified form and signed by both the candidate and the agent (in the case of a GC list, the notice must be signed by all the candidates on the list and be given to the RO by any one of the candidates on the list) [s 23(9) of the EAC (EP) (LC) Reg]. The appointment will not be effective until the notice of appointment is received by the RO [s 23(7) of the EAC (EP) (LC) Reg].

7.9 However, before the notice of appointment is received, the acts of the election agent purported to be appointed by the candidate and the expenses incurred by any purported agent for promoting the election of the candidate or for prejudicing the election of another candidate or other candidates may be treated as the candidate's own acts and election expenses. It is **important** to note that it is an **illegal conduct** for any person other than a candidate or a candidate's election expense agent to **incur such expenditure** [s 23 of the ECICO].

### **Revocation**

7.10 The appointment of an election agent may be revoked by the candidate at any time. The candidate must also give notice of the revocation in writing to the RO. In the case of a GC list, a notice of revocation must be signed by all the candidates on the list and be given to the RO by any one of the candidates on the list. A revocation of an appointment of an election agent will not be effective until such notice is received by the RO [s 23(11), (12) and (13) of the EAC (EP) (LC) Reg].

7.11 If an election agent passes away or has his appointment revoked, the candidate may appoint another election agent. In such a case, the candidate must give notice of the replacement appointment in the specified form to the RO in accordance with para. 7.8 above. In the case of a GC list, all the candidates on the list may jointly appoint a replacement [s 23(14), (15) and (16) of the EAC (EP) (LC) Reg].

### **Notification**

7.12 Not later than 10 days after the expiration of the nomination period, and thereafter as required, each validly nominated candidate/GC list or his/its election agent will receive from the RO a notice containing the details of

all the election agents appointed by all candidates for the constituency concerned. In the case of a GC list, the RO can serve the notice to any one of the candidates on the list or the election agent of the list [s 24(1), (2), (4), (5) and (6) of the EAC (EP) (LC) Reg]. The RO must also display outside his office a notice of the particulars of the election agents [s 24(7) of the EAC (EP) (LC) Reg.]

### **Role of an Election Agent**

7.13 A duly appointed election agent ranks in a **most important position** amongst all kinds of agents of a candidate. He has the **authority to do everything a candidate is authorised to do** for the purposes of the election except:

- (a) anything a candidate is required to do in relation to his nomination;
- (b) to withdraw the candidate's candidature;
- (c) to incur election expenses save where he has been appointed as an election expense agent by the candidate; and
- (d) to authorise an election expense agent to incur election expenses.

[S 23(17) and (18) of the EAC (EP) (LC) Reg.] *[Amended in October 2007]*

### **IMPORTANT :**

An election agent is, along with the candidate, responsible for the management of the campaign. A candidate is responsible for all the acts of his or his list's election agent. If the election agent

fails in his duties, he may contravene the law, and in particular, the ECICO, and may commit criminal offences for which the candidate may also be liable, with serious consequences. An election agent will need to be authorised by a candidate to incur election expenses. If so authorised, the election agent becomes also an election expense agent. [See Part VI of this chapter.]

7.14 Candidates and their election agents are entitled to be present at the counting of the votes and are normally allowed admission to all polling stations in respect of the constituency concerned. However, the PRO of a polling station may regulate the number of candidates and their agents to be admitted to the polling station at any one time, for the purpose of maintaining order in the polling station and ensuring that polling is conducted smoothly. **Whilst inside a polling station or a counting station, the provisions to be observed by polling agents and counting agents are also applicable to candidates and their election agents.** They are therefore advised to familiarise themselves also with the guidelines set out in Parts VII and VIII of this chapter.

## **PART VI : ELECTION EXPENSE AGENTS**

### **Authorisation**

7.15 A candidate may authorise any number of election expense agents to incur election expenses on his behalf in an election. The authorisation will remain in force until the end of the election period, ie the end of the polling day or the last polling day if there is more than 1 polling day [ss 2 and 23 of the ECICO]. All the candidates on a GC list must jointly authorise the election expense agent to incur election expenses on behalf of the

list, for any expenditure incurred for promoting the election of any candidate on the GC list or for prejudicing the election of another candidate or list of candidates must necessarily be incurred for the promotion or benefit of all candidates on the whole list. Each candidate on the GC list must authorise the other fellow candidate(s) on the same GC list as his election expense agent(s), or otherwise none of the other fellow candidates can lawfully incur election expenses for him, or for the whole list which includes him [s 23 of the ECICO]. For details of the special features applicable to the GC list, see Part VII of Chapter 16. *[Amended in October 2007]*

7.16 The authorisation shall be in writing on a specified form and state the name, identity document number and residential address of the election expense agent, and must specify the maximum amount of election expenses the agent may incur [s 25(6) and (7) of the EAC (EP) (LC) Reg]. It should be signed by both the candidate and the agent (in the case of a GC list, the authorisation must be signed by all the candidates on the list) [s 25(8) of the EAC (EP) (LC) Reg]. A copy of any authorisation must be lodged with the RO for the constituency, or the CEO if the RO has not been appointed, by the candidate [s 25(9) of the EAC (EP) (LC) Reg].

7.17 The authorisation is not effective until it has been received by the RO or the CEO as the case may be [s 25(11) of the EAC (EP) (LC) Reg]. Before the authorisation is received, no election expense should be incurred by a person purported to be authorised in the authorisation as an election expense agent. It is also important to note that it is an illegal conduct for any person other than a candidate or a candidate's election expense agent to incur such expenses [s 23 of the ECICO]. The expenses so incurred may also be counted as the candidate's election expenses.

## **Revocation**

7.18 The authorisation of an election expense agent may be revoked by a candidate at any time. The candidate must give notice of the revocation as soon as possible in writing and in the specified form to the RO, or the CEO if the RO has not been appointed. In the case of a GC list, the notice must be signed by all the candidates on the list and be given by any one of the candidates on the list [s 25(14) and (15) of the EAC (EP) (LC) Reg]. The RO or the CEO, as the case may be, will only regard a revocation as effective when he receives the notice [s 25(16) of the EAC (EP) (LC) Reg]. The election expenses already incurred will still be counted as election expenses of the candidate/list of candidates. *[Amended in October 2007]*

## **Role of Election Expense Agents**

7.19 An election expense agent is authorised to incur election expenses on behalf of a candidate. He must not incur election expenses in excess of the amount specified in the form of authorisation; otherwise he commits a criminal offence [s 23(4) of the ECICO].

## **Candidate's Duty to know the Details of Election Expenses incurred by his Election Expense Agents**

7.20 Every candidate is under a **duty**, subject to criminal penalty for breach, to submit to the CEO a return and declaration of his election expenses and donations with supporting receipts and invoices not later than 60 days after the publication in the Gazette of the result of an election or not later than 60 days after the declaration of the termination of the election proceedings under the relevant electoral law, or not later than 60 days after the declaration of the failure of the election under the relevant electoral law [s 37 of the ECICO and Part IV of Chapter 16]. For the efficient and effective discharge of his duty,

the candidate should **make sure** that his election expense agents will keep account of all election expenses incurred on his behalf and will provide to him, as soon as practicable but not later than the same 60 days period, a detailed statement of expenditure in which each item of expenditure of \$100 or above has to be supported by an invoice and a receipt. If any item of expenditure incurred by the election expense agents is paid or defrayed or contributed to by a donation, the candidate should **make sure** that they will provide him with a statement stating the expenses. If an item is not explicit in monetary terms, it should be assessed at a reasonable value; and if any item is more than \$1,000 in value, it should be supported by a copy of the receipt issued to a donor (in a specified form signed by the donor). Without such statements and vouchers provided by the election expense agents, the candidate will no doubt have difficulty in discharging his duty to file the return and declaration of election expenses and donations, which **may render him liable for a criminal offence** under s 38 of the ECICO. A candidate and his election expense agents should familiarise themselves with Part VI of Chapter 16 if he is eligible to apply for financial assistance to partly offset his election expenses. *[Amended in October 2007]*

### **Public Inspection of Authorisation**

7.21 The RO or the CEO, as the case may be, will make available for public inspection all copies of authorisations submitted by candidates until the expiration of the period for which copies of the election return lodged by the candidates are available for inspection, ie up to the first anniversary of the date on which the result of the election is published [s 41 of the ECICO]. This offers the public and other candidates an opportunity to scrutinise the amount of election expenses [s 26 of the EAC (EP) (LC) Reg].

## PART VII : POLLING AGENTS

### Appointment

7.22 A candidate (or a GC list) may appoint **not more than 2 polling agents** for each polling station in respect of the constituency for which he is nominated [s 42(3), (4) and (5) of the EAC (EP) (LC) Reg].

7.23 The appointment should be made on a specified form. The candidate must give notice of such appointment in writing signed by him to the CEO at least **1 week** before the date of election [s 42(8) and (11) of the EAC (EP) (LC) Reg]. In the case of a GC list, the notice must be signed by all the candidates on the list and be given to the CEO by any one of the candidates on the list [s 42(11) of the EAC (EP) (LC) Reg]. Where a candidate appoints a polling agent after the above deadline, he is required to give notice of the appointment to the PRO of the polling station for which that agent has been appointed. Such notice must be given by the candidate (or in the case of a GC list, any one of the candidates on the list) or the election agent **personally** by delivering the notice of appointment to the PRO at the relevant polling station on polling day and before the agent concerned enters the polling station [s 42(9) of the EAC (EP) (LC) Reg]. The appointment will not be effective until the notice of appointment is received by the CEO or the PRO, as the case may be [s 42(10) of the EAC (EP) (LC) Reg].

### Revocation

7.24 The appointment of a polling agent may be revoked by the candidate at any time. The candidate (or in the case of a GC list, any one of the candidates on the list) must also give notice of revocation in writing and in the specified form, to the CEO before polling day or to the PRO on polling day

in the manner specified in the preceding paragraph [s 42(13) and (14) of the EAC (EP) (LC) Reg]. In the case of a GC list, a notice of revocation must be signed by all the candidates on the list [s 42(13) of the EAC (EP) (LC) Reg]. A revocation of an appointment of a polling agent will not be effective until notice thereof is received by the CEO or the PRO, as the case may be [s 42(15) of the EAC (EP) (LC) Reg].

### **Role of Polling Agents**

7.25 Polling agents are appointed **to assist a candidate in observing the conduct of the poll** to detect impersonation or irregularity at polling stations.

### **Provisions which the Polling Agents should be aware of**

7.26 Although 2 polling agents may be appointed by a candidate for each polling station, only 1 polling agent per candidate may be admitted at any one time to the polling station for which he has been appointed [s 44(6) of the EAC (EP) (LC) Reg]. He is required to stay and keep his movements within and not outside the area designated for observation of the poll. Where a candidate or his election agent is present within a polling station, a polling agent of that candidate will not be allowed to be present at the same time within the polling station [s 44(7) of the EAC (EP) (LC) Reg].

### **NOTE :**

The PRO of a polling station may regulate the number of candidates, election agents and polling agents to be admitted to the polling station at any one time, for the purpose of maintaining order in the polling station and ensuring that polling is conducted smoothly. A notice will be displayed outside each polling

station to inform all parties concerned about the capacity of the area designated inside the polling station for candidates and their agents to observe the poll. Admission will be on a first-come-first-served basis. In order that as many candidates, election agents and polling agents as possible will have a chance to attend at the polling station to observe the conduct of the poll, any candidate, election agent or polling agent who has been admitted to the polling station will only be allowed to stay in there for one hour. Thereafter he must leave the polling station unless the designated area is not yet full and no other candidate, election agent or polling agent is waiting to be admitted. The fact that a candidate, election agent or polling agent has left after attending at a polling station will not preclude him from being admitted to the polling station again, on a first-come-first-served basis and subject to the capacity of the designated area not being exceeded. Everyone admitted is required to sign in with the time of entry written down by him. Each person queuing outside the polling station will be issued with a number chit to record the order of his application to get into the designated area; and when the turn of his number is reached, the number will be called, but if he is not there at that time, he will be automatically discounted from the queue and he will have to get another number chit when he returns. The bearer of the chit with a number next after the absentee's number will be allowed to get in instead.

7.27 Before entering a polling station, every person, other than an elector/AR or a police officer or a member of the Civil Aid Service on duty, must make a Declaration of Secrecy on a specified form and observe the provisions governing the secrecy of voting [s 95 of the EAC (EP) (LC) Reg]. This is to make sure that, subject to penalty of making a false declaration, all

persons inside a polling station will observe the secrecy of the vote of the elector and, in particular, not to divulge which elector/AR has voted for which candidate or GC list.

7.28 On attending the polling station for which he has been appointed, a polling agent shall report to the PRO and produce his identity card and the Declaration of Secrecy completed by him for inspection [s 44(10) of the EAC (EP) (LC) Reg].

7.29 The following will occur before, during and after the poll on the polling day:

(a) Before

- (i) Before the commencement of the polling, the PRO will inform the candidates or their agents (either election agent or polling agent) if they are present, the number of ballot papers in his (the PRO's) possession, showing them the books of ballot papers not yet issued to any elector (“**UNISSUED** ballot papers”).
- (ii) The PRO will show such persons the empty ballot boxes before proceeding to lock and seal them.

(b) During

- (i) In the course of polling, the PRO will show to each candidate or his election or polling agent, who is present at the relevant time, any abandoned ballot papers that have been issued or any torn pieces of such ballot papers found lying anywhere in the polling station (“**UNUSED** ballot papers”). Such ballot paper will not be put into a ballot

box and will not be counted at the counting of votes [ss 61 and 80 of the EAC (EP) (LC) Reg].

- (ii) Where a person, representing himself to be a particular elector/AR entered on the register, applies for any ballot paper after a person has been issued with any ballot paper as such an elector/AR, he may be issued with a ballot paper with the word “**TENDERED**” endorsed on the front. Such ballot paper will not be counted at the counting of votes [ss 60 and 80 of the EAC (EP) (LC) Reg].
- (iii) Any elector/AR who has inadvertently torn or damaged any ballot paper or has made an error in marking any ballot paper issued to him may ask the PRO to exchange it for another ballot paper. Such spoilt ballot paper will be endorsed on the front with the word “**SPOILT**” and will be kept by the PRO. The spoilt ballot papers will not be counted at the counting of votes [ss 62 and 80 of the EAC (EP) (LC) Reg].

(c) After

- (i) The PRO will, in the presence of persons present, lock the flap on the lid of the ballot boxes and seal it. He will also inform each candidate or his agent who is present of the number of the following types of ballot papers in his possession: unissued ballot papers, unused ballot papers, and spoilt ballot papers.
- (ii) For GCs, candidates, their election agents, polling and counting agents, if present, may stay inside the polling

station to observe the conversion of the venue into a counting station. The count will commence upon the completion of the conversion. *[Amended in July 2008]*

- (iii) For FCs/SFCs, up to 2 persons being candidates competing in the FCs/SFCs (or their respective agents), if they so wish, will be allowed to accompany the PRO in the delivery of the ballot boxes from the polling station to the central counting station under police escort. Where there are more than 2 persons with such intention remaining at the polling station, the PRO will draw lots to determine which 2 candidates or their respective agents will participate in the delivery. Other FC/SFC candidates and their agents are allowed to remain in the polling station only until they see that the police escort for the delivery is available. Thereafter, all of them may either leave the polling station or stay to observe the count in the public area.

7.30 Generally speaking, a polling agent may observe all proceedings in the polling station and record his observations but shall not do anything that may interfere with the conduct of the poll. A polling agent **MAY**:

- (a) leave the polling station at any time during the poll in which case his place may be taken by a candidate, an election agent or another polling agent appointed to attend at the polling station [see para. 7.26 above];
- (b) observe the locking and sealing of empty ballot boxes before the poll commences and the locking and sealing of the ballot boxes at the close of the poll;

**NOTE :**

A polling agent who signs the sealing certificate of a ballot box as witness is required to write his name in block letters beneath his signature for easy identification. Candidates are advised to keep a list of their own polling agents to facilitate checking when the sealing certificate is broken at the counting station.

- (c) observe the issue of ballot papers to electors and ARs and the crossing out of the relevant entries from the copy of the register of electors, subject to the condition that they cannot interfere with the work of the polling staff;
- (d) where there is reasonable ground for questioning the bona fides of an elector/AR, ask the PRO to put the following prescribed questions (subject to necessary modifications) to that person at the time of his application for a ballot paper (but not afterwards):
  - (i) Are you the person registered in the final register of electors now in effect for this GC and/or FC/SFC (as appropriate), as follows (reads the whole of the relevant entry in the register)? *[Amended in October 2007]*
  - (ii) Have you already voted for this or any other GC and/or FC/SFC (as appropriate) in this election?

**NOTE :**

The person will not be issued with any ballot paper unless he has answered the questions to the satisfaction of the PRO [s 51(3) and (4) of the EAC (EP) (LC) Reg].

- (e) where there is reasonable cause to believe that a person who has applied for a ballot paper has engaged in impersonation, declare it to the PRO for appropriate action before that person leaves the polling station. This may possibly lead to the arrest of the person. The polling agent must however undertake in writing to substantiate the charge in a court of law [s 52 of the EAC (EP) (LC) Reg].

7.31 Inside a polling station, a polling agent **MUST NOT**:

- (a) interfere with or attempt to influence any elector/AR;
- (b) speak to or communicate with any elector/AR if the RO, the ARO, the PRO, or any polling officer has given direction to him not to do so, or interfere with or attempt to interfere with any ballot boxes, ballot papers, the marked copy of the register or other relevant election materials. In this regard, a polling agent should station within the designated area demarcated by red adhesive tape, and must not enter, or move close to, the restricted zone delineated with yellow tapes about 1 metre, or 2 metres if the configuration allows, around the voting compartments. Moreover, it is most improper for a polling agent to ask an elector/AR about his identity card number, let alone check an elector/AR's identity card;
- (c) attempt to obtain information, or disclose any knowledge acquired, concerning the vote of any elector/AR. A polling agent should read and observe carefully the provisions governing the secrecy of voting issued with the form of Declaration of Secrecy;

- (d) exhibit or leave or distribute any campaign material;
- (e) without reasonable excuse, display any propaganda material, eg any badge, emblem, clothing or head-dress, which:
  - (i) may promote or prejudice the election of a candidate or candidates at the election; or
  - (ii) makes direct reference to a body any member of which is standing as a candidate in the election or a prescribed body the registered name or registered emblem of which has been printed on any ballot paper for the election; or  
*[Amended in October 2007]*
- (f) use a mobile telephone or any telephone or paging machine or any other form of electronic communication device if the RO, the ARO, the PRO or any polling officer has given direction to him not to do so.

[S 45 of the EAC (EP) (LC) Reg.]

7.32 A polling agent must not misconduct himself in or in the vicinity of a polling station or fail to obey any lawful order of the RO or the PRO; otherwise he commits an offence punishable with a fine and imprisonment and may be ordered by such officer to leave the area. If he fails to leave immediately, he may be removed by a police officer or by any other person authorised in writing by the RO or the PRO to remove him. The person so removed may not re-enter the polling station during that day except with the permission of the RO or the PRO [s 46 of the EAC (EP) (LC) Reg].

### **Other Useful Information for Polling Agents**

7.33 Most of the persons admitted to a polling station will be wearing identifications (eg badges). Candidates, their election agents and polling agents will be required to wear an identification device issued by the RO or PRO for identification. If in doubt, a polling agent may enquire with the PRO as to the identities of the persons inside the polling station. No attempt, however, should be made to obtain information as to the identity of any elector/AR who is about to vote or has voted [s 44 of the EAC (EP) (LC) Reg].

7.34 There may be electors with a disability who have been permitted to vote in the polling station specifically designated for the constituency for the purpose. Candidates or their agents can make inquiries with the RO for information.

7.35 Only the PRO, the Deputy PRO or an Assistant PRO may, in the presence of one of the polling officers as a witness, help an elector who claims he is unable to read or write or incapacitated by visual deficiency or other physical cause to mark a ballot paper to indicate the choice of the elector [s 59 of the EAC (EP) (LC) Reg]. The responsible officer should inform the candidates or their agents who are present when such a request for assistance is received. A candidate or his polling agent in the polling station may request the PRO, the Deputy PRO or an Assistant PRO to choose a particular polling officer who is not working at the issuing counter as the witness, but the final decision as to which polling officer should be the witness remains with the PRO, Deputy PRO or Assistant PRO. An incapacitated elector's relatives, friends and any other persons are in no circumstances allowed to accompany the elector in the course of voting.

7.36 In each polling station designated for an election in respect of a GC or an FC, a number of **templates** are made available for the use of the

visually impaired elector, if he chooses, to facilitate him to mark his vote on the ballot paper [s 59(3) of the EAC (EP) (LC) Reg]. The template contains the following features:

- (a) the template for each constituency is of the same width and length as the ballot paper;
- (b) the template contains embossed numbers or numbers in braille starting with the first numeral (or code + numeral) in a sequence assigned to the candidates or list of candidates of the constituency on the top followed downwards by other numerals in that sequence, and on the right hand side against each of the number is a round hole;
- (c) the **left hand top corner** of the ballot paper and the template is cut so as to enable the elector to place the template on top of the face of the ballot paper in the proper direction; and
- (d) when the template is placed properly over the ballot paper, each embossed or brailled number corresponds with the candidate number or the GC list number in the constituency; and each of the holes on the template corresponds with the circle on the ballot paper against the candidate/list number. The number of candidates/lists in the constituency equals the number of holes under which there is ballot paper.

In the case of an election in respect of a GC or an ordinary FC which adopts the “list system of proportional representation” or “first past the post voting system”, the visually impaired elector should apply the chop (with a “✓” sign) provided on the circle through the hole on the template against the candidate/list number(s). In the case of an election for one of the 4 SFCs

which adopts the “preferential elimination system”, the visually impaired elector should mark numbers starting from 1 on the ballot paper through the hole against the candidate numbers of his choice, in descending order of preference. Whenever it is necessary, the polling staff will help the visually impaired elector to identify the different ballot papers before the elector proceeds to mark his vote.

7.37 No person may canvass or display any election propaganda material relating to any candidates/GC lists or the election within a polling station. Candidates and their agents should not bring electioneering literature into the polling station or leave them there and should remove any promotional badges, emblems, clothing and head-dress before entering. A person must not use a sound amplifying system or device for any purpose within the NCZ; nor should he use such system or device or conduct any activities (eg lion dance), for canvassing, so that the sound emitted by it can be heard in the NCZ. Also a person must not stay or loiter in the NSZ without the express permission of the PRO [s 41 of the EAC (EP) (LC) Reg]. Any person who undertakes photographing, filming and video or audio recording within a polling station without the express permission of the PRO, or the RO for the constituency, or a member of the EAC, commits an offence and will be liable to a fine at level 2 (up to \$5,000) and imprisonment for 6 months [s 45(2) of the EAC (EP) (LC) Reg]. Normally such permission is only granted to members of the media or government photographers for publicity purposes. Polling agents should also read Parts I-VI of Chapter 5 on all matters relating to polling and in particular, paras. 5.38 to 5.41 for activities that are prohibited, and the consequences of conducting such activities, in a polling station. *[Amended in October 2007]*

7.38 If a candidate or his election or polling agent has any complaint about whatever happens inside a polling station, he should follow the procedures laid down in para. 20.9 of Chapter 20.

## **PART VIII : COUNTING AGENTS**

### **Appointment**

7.39 A candidate (or a GC list) may appoint not more than such number of counting agents as will be specified by the EAC to attend at the count [s 66(1) and (2) of the EAC (EP) (LC) Reg]. The same persons may, but need not, be appointed also as polling agents.

7.40 The appointment should be made on a specified form. In the case of a GC list, the appointment must be made jointly by all the candidates on the list [s 66(7) of the EAC (EP) (LC) Reg]. The candidate (or in the case of a GC list, any one of the candidates on the list) must give notice of such appointment in writing to the RO at least **1 week** before the date of election [s 66(5) of the EAC (EP) (LC) Reg]. Where a candidate appoints a counting agent after the above deadline, the notice of the appointment must be given by the candidate (or in the case of a GC list, any one of the candidates on the list) or the election agent **personally** by delivering the notice of appointment to the PRO (or the RO in the central counting station) during the period from the commencement of the poll to the conclusion of the count, but before the agent concerned enters the counting station [s 66(6) of the EAC (EP) (LC) Reg]. The appointment will not be effective until the notice of appointment is received by the RO or the PRO, as the case may be [s 66(8) of the EAC (EP) (LC) Reg].

### **Revocation**

7.41 The appointment of a counting agent may be revoked by the candidate (or in the case of a GC list, all the candidates on the list) at any time. The candidate (or in the case of a GC list, any one of the candidates on the list)

must also give notice of revocation in writing and in the specified form to the RO [s 66(9) and (10) of the EAC (EP) (LC) Reg]. Any such notice given after the commencement of the poll shall be given by the candidate (or in the case of a GC list, any one of the candidates on the list) or his election agent **personally** by delivering the notice to the PRO (or the RO in the central counting station) [s 66(11) of the EAC (EP) (LC) Reg]. A revocation of an appointment of a counting agent will not be effective until notice thereof is received by the RO or the PRO, as the case may be [s 66(12) of the EAC (EP) (LC) Reg].

### **Role of Counting Agents**

7.42 Counting agents are appointed to attend at the counting station **to observe the breaking of the seals on the ballot boxes, the sorting, separation and counting of ballot papers and the counting of votes recorded on the valid ballot papers.** This arrangement ensures the transparency of the counting process and is conducive to openness and fairness.

### **Provisions which the Counting Agents should be aware of**

7.43 Before the counting commences, every person authorised to be present at a counting station, other than the police officers and members of the Civil Aid Service on duty, must make a Declaration of Secrecy on a specified form and observe the provisions governing the secrecy of voting [s 95 of the EAC (EP) (LC) Reg]. This is to make sure that, subject to penalty of making a false declaration, all persons inside a counting station will observe the secrecy of the vote of the elector and, in particular, not to divulge which elector has voted for which candidate or GC list. Members of the public present within the area designated by the PRO or the CRO or the RO will not be required to make a Declaration of Secrecy.

7.44 On attending the counting station, a counting agent shall report to the relevant PRO in the case of a GC, and the relevant RO in the case of an FC/SFC and produce his identity card and the Declaration of Secrecy completed by him for inspection [s 68(4) of the EAC (EP) (LC) Reg].

7.45 Generally speaking, counting agents are entitled to be present throughout the count to observe the relevant counting proceedings. They will be allowed by the PRO or the RO to stay close to, and round the counting tables to monitor the count. Nonetheless, they must not handle any ballot papers. A counting agent **MAY**:

- (a) observe the opening of the ballot boxes for the relevant constituency by the PRO, RO or AROs;
- (b) inspect any papers other than ballot papers taken from the ballot boxes before they are disposed of;
- (c) observe the conduct of the count by counting officers including how ballot papers relating to a constituency are separated from those relating to other constituencies and how individual votes are counted; and
- (d) observe, where he wishes, the packing of ballot papers by the counting officers and PRO or the RO, as the case may be, at the conclusion of the count.

7.46 A counting agent **MUST NOT**:

- (a) handle, separate or arrange ballot papers; and
- (b) misconduct himself in or in the vicinity of a counting station or

fail to obey any lawful order of the PRO or the CRO or the RO, as the case may be, otherwise he commits an offence punishable with a fine and imprisonment and may be ordered by the PRO or the CRO or the RO to leave the area. If he fails to leave immediately, he may be removed by a police officer or by any other person authorised in writing by the PRO or the CRO or the RO to remove him. The person so removed may not re-enter the counting station except with the permission of the PRO or the CRO or the RO, as the case may be [s 69 of the EAC (EP) (LC) Reg].

7.47 Counting agents should read Part VII of Chapter 5 on all matters relating to counting and in particular, paras. 5.49 to 5.52 for activities that are prohibited and the consequences of conducting such activities, within the counting station. *[Amended in October 2007]*

## **CHAPTER 8**

### **ELECTION ADVERTISEMENTS**

#### **PART I : WHAT CONSTITUTES AN ELECTION ADVERTISEMENT**

8.1 EA means:

- (a) a publicly exhibited notice; or
- (b) a notice delivered by hand or electronic transmission; or
- (c) a public announcement made by radio or television or by video or cinematographic film; or
- (d) any other form of publication,

published for the purpose of promoting or prejudicing the election of a candidate or candidates at the election [s 2 of the ECICO].

#### **IMPORTANT :**

“Candidate” includes a person who has publicly declared an intention to stand for an election at any time before the close of nominations for the election, whether or not he has submitted a nomination form [s 2 of the ECICO]. The reference of “candidate” in this chapter includes a GC list to which the list voting system of proportional representation applies.

8.2 EA includes the following if it is published for the purpose of promoting or prejudicing the election of any candidate or candidates in an election:

- (a) any address, notice, bill, placard, poster, board, banner, roll-up banner, flag, standard, colour, sign, message, sound, image or picture and any article, thing or material; *[Amended in July 2008]*
- (b) audio/video cassette tapes, discs, diskettes, electronic messages, websites, facsimile transmissions, balloons, badges, emblems, carrier bags, head-dress and clothing; or *[Amended in October 2007]*
- (c) any thing or material published by any person or any organisation, including political organisation, professional or trade organisation, owners' corporation, mutual aid committee, tenants' association, owners' committee, etc (irrespective of whether or not the candidate concerned is an office bearer or a member) showing his or its support for any candidate or GC list or advertising the platform or services of such an organisation with reference to a candidate or GC list by name or photograph or in any other form or manner.

8.3 EA also includes:

- (a) publicity materials containing the name or photograph of a candidate or GC list issued or displayed during the election period (ie the period beginning with the nomination day for the election and ending with the polling day for the election) even though the content of the publicity material is not, on the face of it, election related. Examples include surveys, questionnaires,

posters publicising functions like vegetarian meals, tours, courses, offer of free legal or medical or other professional service, etc; and

(b) any performance report published or distributed **during** the election period by:

- (i) a serving member of the LegCo; or
- (ii) a serving member of a DC; or
- (iii) a serving member of the Heung Yee Kuk; or
- (iv) a serving chairman or vice-chairman or member of the Executive Committee of a Rural Committee; or
- (v) a serving village representative (“VR”),

who is running as a candidate for the LegCo election. These persons are termed “incumbent candidates” under the ECICO. A performance report means a document giving details of activities organised, services rendered or work done by such an incumbent candidate [ss 33 and 34(9) of the ECICO].

8.4 For the avoidance of doubt, a performance report whether in the format of a website or a printed document published or distributed by an incumbent candidate **during** or **before** the election period will also be regarded as an EA **if it is published for the purpose of promoting or prejudicing the election of a candidate or candidates at the election.** It is important to note that a performance report referred to in this paragraph and para 8.3(b) above must comply with all the requirements for an EA. *[Amended in October 2007]*

8.5 If the incumbent members distribute performance reports before they submit their nomination forms or publicly declare their intention to stand as candidates, they are not candidates at the time when their performance reports are being distributed. On such basis, the expenditure incurred in the distribution of such reports before the submission of nomination or public declaration of their intention to stand as candidates would not be counted as their election expenses.

8.6 A candidate in an election may put up and display EAs in accordance with these guidelines which summarise the relevant law and regulations.

### **Election Advertisements Prejudicing the Election of a Candidate**

8.7 There are occasions that candidates or a third party may publish EAs for the purpose of prejudicing the election of a candidate at the election. The concept of “promoting” and “prejudicing” the election of someone can be relative. To publish a document which is designed to persuade electors not to vote for one candidate would have the effect of improving the chances of success of other candidate(s) and could therefore be said to promote the latter’s election.

- (a) If candidate A criticises candidate B in his own EAs with a view to prejudicing B’s candidature at the election, candidate A has to include the expenditure incurred in his election expenses.
- (b) If a third party criticises candidate B in an EA and that the EA has the effect of indicating support for candidate A, that person must obtain candidate A’s prior consent for incurring the production expenses before he produces that EA. The expenditure incurred will have to be included in candidate A’s election expenses.

- (c) If the third party publishes an EA as described in (b) above without the prior consent of candidate A, he will be breaching s 23 of the ECICO as only a candidate or a person who has been duly authorised by a candidate as his election expense agent may incur election expenses. The EA should be regarded as the EA for candidate A. It would only be fair to candidate A that the third party needs to obtain candidate A's consent before publishing such EA since candidate A is ultimately responsible for his own election expenses. It would also prevent candidate A from circumventing the law by asking the third party to publish materials prejudicing candidate B without having to account for the expenses of those materials.

8.8 Materials published by any person, including a candidate, for the purpose of prejudicing a candidate or candidates are treated as EAs, if reference could be made from the materials to identify the candidate(s) being prejudiced.

8.9 The **election expenses** allowed by law to be incurred by a candidate include the expenses he incurs for the preparation and publication of EAs, and he should therefore be careful in planning how much he should spend on this score. [For the definition of election expenses, see s 2 of the ECICO.]

8.10 Subject to the maximum amount that can be incurred by a candidate for election expenses [s 24 of the ECICO], there is no restriction as to the quantity of EAs employed by him. The maximum amounts allowed for the elections of GCs and FCs are specified in the Maximum Amount of Election Expenses (Legislative Council Election) Regulation. [See para. 16.8 of Chapter 16.]

8.11 A candidate must ensure the correctness and accuracy of all factual statements in his EAs. [For criminal sanctions, see ss 25, 26 and 27 of the ECICO.]

## **PART II : PERIOD AND AREA OF DISPLAY**

8.12 With the necessary **written permission or authorisation**, a candidate may display EAs on government or private land and property [s 104A of the Public Health and Municipal Services Ordinance (Cap 132) and s 4 of the Land (Miscellaneous Provisions) Ordinance (Cap 28)].

8.13 Display spots are classified into two types:

- (a) **designated spots** which are spots on government land/property and sometimes even at the premises owned or occupied privately that have been made available to the Government for allocation to candidates of the 5 GCs and the 28 FCs; and
- (b) **private spots** which are spots on private land/property in respect of which written permission or authorisation for display has been obtained from the owner or occupier concerned by the candidate himself.

### **Government or Private Land/Property - Designated Spots**

8.14 Designated spots on government land for the use of contested candidates to display their EAs will be designated by the RO for the GC in which the spots are situated. Some of the government land and property have been allocated to some public authorities, such as the Housing Authority, and are under their respective control. The RO for the GC (who in most cases will be one of the District Officers of the Districts encompassed by the GC) will designate public spots in coordination with the said authorities and the ROs for the other constituencies. The designated spots will be allocated to candidates by reference to and on the basis of lists, as the list system of proportional

representation applies to the GC election. **Each GC list** will be as far as practicable allocated **the same number of designated spots**.

8.15 There may be certain places on government or private land/property where candidates of the 24 ordinary FCs, to which the first past the post voting system applies, may wish to display their EAs, because those places are frequented by members of their electorate. These display spots will be designated by their respective ROs.

8.16 The display spots for the 4 SFCs, which have a relatively small electorate, will also be designated by their respective ROs, taking into account their particular circumstances.

8.17 Prospective candidates as well as political organisations are welcome to suggest locations of display in which they are interested. The ROs concerned will take into consideration such suggestions in drawing up the list of “**designated spots**”, with absolute discretion to decide whether to adopt the suggestions.

**NOTE :**

Suggestions must reach the CEO not later than **8 weeks before the polling day**. *[Amended in July 2008]*

**Other Land/Property - Private Spots**

8.18 Candidates who wish to display their EAs on land/property other than government land/property and other than the designated spots must obtain the **prior written permission or authorisation** of the owner or occupier [s 104A of Cap 132]. The obtaining of written permission or authorisation from the private owner or occupier is a matter for private arrangement between

the candidate and the owner or occupier, and they are therefore called “**private spots**”. A copy of the written permission or authorisation must be deposited with the RO for the relevant GC or FC before display. [Please also see para. 8.23 below.] Any consideration, fee or money incurred or agreed to be paid by or on behalf of the candidate to the owner or occupier for display of his EAs forms part of his election expenses. If a commercial advertising space for rent is allowed by the private owner or occupier to be used free of charge by a candidate for display of his EAs, a reasonable market value for the use of that space will have to be accounted for by the candidate as an election donation and counted as election expenses. Such a provision is to ensure that the candidate concerned will not have unfair advantage over the others who do not have access to such facilities. If the private spot for displaying the EA is normally used for commercial purpose, the actual rent charged or the usual rent or market rent that would normally be charged should be counted as the election expenses of the candidate concerned, irrespective of whether it is owned by the candidate or whether the owner of it allows the candidate to use it free of charge (in which case it would be a donation of the rent). Where a space provided by a particular private owner or occupier for a candidate to display EAs is not used for commercial advertising, but similar space belonging to other owners or occupiers is available for commercial advertising, the market value of the space should also be accounted for. The provision of this kind of rent-free space should be regarded as donation. For details on how the estimated value should be assessed, please refer to para. 16.21 of Chapter 16. If a space is not normally used by any private owners or occupiers for commercial advertising, there is no need for the candidate to account for its value.

8.19           The EAC appeals to owners and occupiers of private premises to give all candidates and GC lists competing in the same constituency **fair and equal treatment** in the display of EAs. [For details, please see Chapter 9 : Electioneering at the Living or Working Places of Electors, Premises of Organisations to which Electors belong and Buildings which Electors Frequent.]

8.20 Candidates should note that public corporations may have their own rules for display of EAs, eg the Mass Transit Railway Corporation Limited has its own set of rules for such display in residential estates under its management.

### **General Principle in Allocating Designated Spots**

8.21 About two-thirds of the designated spots within a GC will be for allocation to lists of candidates of that GC. The remaining one-third of the designated spots will be for allocation amongst candidates of the 24 ordinary FCs and 4 SFCs.

8.22 The RO for each constituency will allocate the designated spots, as the case may be, to candidates of the constituency either in accordance with the mutual consent of the candidates or by the drawing of lots after the close of nominations, when the number of candidates contesting in the constituency will have been ascertained. **No display of EAs will be allowed on any designated spots before the allocation.** [Also see the requirements in para. 8.28 and Part V below.] Any EAs displayed by the candidates on Government land/property other than designated spots are unauthorised and will be removed, save those EAs displayed in connection with electioneering activities conducted on Government land/property with approval by the authorities concerned. A candidate will be provided with a list of the designated spots allocated to him, together with a set of standardised map or maps to help identify the locations. *[Amended in July 2008]*

### **Written Permission or Authorisation**

8.23 The RO will have already obtained prior approval from the relevant authorities under s 104A of Cap 132 and s 4 of Cap 28 for candidates to display their EAs at designated spots. Immediately after the allocation of designated spots is made, a copy of the necessary written permission or

authorisation under the relevant legislation will be provided to the candidates by the RO of the constituency concerned [see Part III below]. For any display on private premises, written permission or authorisation of the private owner or occupier will have to be obtained by the candidates themselves. A person displaying an EA without the necessary written permission or authorisation commits an offence punishable by a fine of up to \$10,000 and, where the offence is a continuing offence, by an additional daily penalty of \$300 for each day during which it is proved to the satisfaction of the court that the offence has continued [s 104A of Cap 132]. The fines so incurred will also be treated as election expenses. **A copy of the written permission or authorisation must be deposited by the candidate with the RO before display** [s 102(10) of the EAC (EP) (LC) Reg]. *[Amended in July 2008]*

### **No-Display Areas**

8.24 No EA may be displayed within the boundaries of a polling station (including the outer walls of the premises) or within any **NCZ** [see Chapter 14: Prohibition Against Canvassing Activities Outside Polling Stations], except for static displays that are authorised by the RO or the PRO of the relevant polling station. Where there are private premises situated within the NCZ, the ROs should issue a notice in advance to all the candidates in the constituencies concerned asking them to remove all of their EAs, if any, posted up at the private premises within the NCZ which can be seen by electors on their way to the polling stations on the polling day. If the candidates fail to remove the EAs as requested by the ROs, the ROs may issue a warning to them to remove the offending EAs immediately. If the candidate or GC list fails to do so, the EAC may issue a censure or reprimand. The RO for the constituency for which a candidate/GC list stands will provide the candidate/GC list with one set of sketch maps or plans showing the boundaries of all polling stations in respect of the relevant constituency and all NCZs outside those polling stations.

8.25 EAs on display must not distract motorists or interfere with the sight lines of motorists and pedestrians, obscure any traffic sign or traffic light signal, or obstruct the circulation of pedestrians. Thus, there will be no public spots or designated spots on or over flyovers, bridges including footbridges, lamp posts, road signs and railings at corners of road junctions or at or near pedestrian crossings, bus stops and bus termini.

### **PART III : ALLOCATION OF DESIGNATED SPOTS**

8.26 The RO for a constituency will make known to each candidate/GC list of the constituency at the time of receipt of the nomination form the following information:

- (a) the general locations of the designated spots, which may include unleased government land and premises managed by the Housing Department and the Hong Kong Housing Society, and private premises available for allocation to the candidates for a particular FC. The size and number of spots for allocation will be finalised by the RO, taking into account the number of candidates in the constituency, **after** the close of nominations. In order to allow all contested candidates to display their EAs at all locations, particularly popular ones, the size of each spot may vary from location to location; and
- (b) the date and time for conducting the allocation of designated spots, which would normally be held within three days following the close of nominations. The RO will invite representatives from the relevant authorities relating to government land/property, save those who have already given a blanket approval, to be

present to give the necessary written authorisation for the spots allocated.

8.27 The ROs for the FCs will need to know the exact number of candidates in each constituency who wish to display EAs at designated spots within a particular GC area, so that he can finalise the number of designated spots and their size for allocation. Therefore, candidates concerned **must contact the relevant RO to register their interest in writing** within the nomination period. Similarly, the same arrangements apply to the lists of candidates in a GC election, but on the basis of the lists. *[Amended in October 2007]*

8.28 Designated spots are allocated by agreement of the representatives of all the contested candidates of a constituency or GC lists or by the drawing of lots. After allocation of the spots and the necessary authorisations have been obtained from the relevant authorities [s 104A of Cap 132 and s 4 of Cap 28] and after complying with the requirements set out under Part V, the candidate/GC list may display EAs at such spots allocated to him/it.

8.29 A copy of all the permissions or authorisations obtained by a candidate himself, as opposed to those provided to him by the RO, must be provided by him to the relevant RO **before he displays an EA** [s 102(10) of the EAC (EP) (LC) Reg]. *[Amended in July 2008]*

8.30 Designated spots allocated are not transferable. Nor are they exchangeable with other spots. Where a candidate of a particular constituency no longer wishes to use one or more designated spots allocated to him, he should inform the RO of that constituency in writing within one week after the allocation of those spots. Upon request by any other candidate of the same constituency, the RO, if he considers appropriate, will re-allocate by agreement or by the drawing of lots the designated spots amongst all candidates of the same constituency except the one first mentioned. In such a case, paras. 8.28 and 8.29 above apply. *[Amended in July 2008]*

**NOTE :**

In some cases, designated spots allocated in the first round of allocation are left unused for various reasons. The RO may re-allocate such spots to the relevant candidates by mutual consent or the drawing of lots. Candidates may wish to plan accordingly their resources in respect of EAs.

8.31 Authorisation to display will generally not be given to a GC list of a GC in respect of spots outside the constituency in which the GC list stands, save in exceptional circumstances, as directed or decided by the CEO. The CEO may in principle agree to display outside a particular constituency generally or upon application by a GC list of candidate(s). A GC list who wishes to apply for display outside its constituency should write to the CEO to state the reasons for its application as soon as possible after its nomination form has been handed in, so that (if the CEO agrees in principle) there may be sufficient time for the RO for the constituency to include spots outside the constituency in an allocation exercise.

8.32 An EA advertising 2 or more lists of candidates of different GCs jointly publishing it is, however, allowed to be displayed on the designated spots in the respective GCs allocated to such lists. Similarly, an EA advertising 2 or more FC candidates or both FC candidates and GC lists jointly publishing it is allowed to be displayed on the designated spots allocated to the candidates/lists concerned. Nevertheless, it is important to ensure that the total number of spots as well as the total area of all the spaces actually occupied for joint advertisements and for advertising each one of the joined candidates/lists of candidates (ie measured by the dimension of EAs) do not exceed the total number of spots as well as the total area of the designated spots allocated to each of the candidates/lists of candidates, and subject to the size restrictions specified in para. 8.36 below. Through joint advertisement, the

candidates concerned promote themselves at the election, and so each of the candidates would benefit from the joint advertisement. The expenses incurred for the joint EAs will therefore have to be borne by the candidates concerned in equal or unequal shares as their respective election expenses, to be calculated by the proportion of the size of the portion advertising each [see also para. 18.9 of Chapter 18 : Namedropping]. In this connection, it is important to note that only a candidate himself or his election expense agent may incur election expenses on his behalf [s 23 of the ECICO]. **Joint EAs should not, however, be displayed in the common parts of private premises**, in order to prevent confusing electors or causing them to make mistakes as to the identity of the candidates running for the constituency concerned, or to prevent dilution of the principle of fair and equal treatment of candidates. *[Amended in October 2007]*

## **PART IV : CONDITIONS AND LIMITATIONS ON DISPLAY**

### **Name of the Constituency**

8.33 To avoid possible confusion to electors, EAs of all candidates of the GCs and all the FCs must bear the name of the constituency for which the candidate concerned is standing. Similarly, in respect of joint EAs, the name of the constituency (be it functional or geographical) should be stated clearly in relation to each of the candidates advertised. Either the full name of the constituency or its abbreviated name (to be advised by the RO for the constituency) may be used, dependent on the choice of the candidate for the constituency.

8.34 Likewise, all candidates should make known to the electors the name of their respective constituencies when they conduct joint canvassing activities.

### **Re-use of Old Publicity Boards**

8.35 A candidate may re-use old publicity boards used at a previous election. However, any information in relation to the previous election, eg the candidate number, name of constituency, party affiliation and names of persons who supported the candidate at that election, should be fully obliterated before any old publicity board is re-used. This would not only avoid confusion to electors but would also help the candidate to avoid laying himself open to allegations of false claim of support of persons who might not have consented to support him at the current election. The cost incurred in refurbishing the old publicity boards will be counted towards the candidate's election expenses.

### **Size**

8.36 As a general rule, EAs displayed at railings and fences should not exceed 1 metre high and 2.5 metres long. Before displaying EAs, candidates are reminded to ensure that the EAs must not distract motorists or interfere with the sight lines of motorists and pedestrians, obscure any traffic sign or traffic light signal, or obstruct the circulation of pedestrians. For the rules on display of joint advertisement, see para. 8.32 above. *[Amended in October 2007 and July 2008]*

### **Mounting and Installation**

8.37 The mounting and display of EAs must not cause any risk to life or property.

8.38 Permanent fixing devices, such as nails or insoluble glue, should not be used.

8.39 Use “tie-on” posters (rather than “stick-on” posters) to facilitate subsequent removal.

8.40 Do not stick posters on painted or varnished surfaces as their subsequent removal will cause damage or leave irremovable marks.

8.41 Do not erect any structure on pavements, eg nailing boards to the ground.

8.42 Owners or occupiers of a property including a government authority may specify the way in which EAs are to be displayed, and may require an indemnity against any claim or damage arising from the display of such materials.

### **Dismounting**

8.43 All candidates should remove all their EAs displayed on government land/property **within 10 days** following an election. Failure to do so may result in prosecution being brought against the offending candidate and such advertisements removed and seized by the relevant authority. The **cost of removal** will be recovered from the candidate concerned and will be construed as **election expenses**. Relevant authorities will issue demand notes for the removal costs to the candidates concerned within 21 days after the election results have been published in the Gazette. This is to allow sufficient time for the candidates to include all these costs in their election returns which must be submitted not later than 60 days after the publication in the Gazette of the election results, or not later than 60 days after the declaration of the termination of the election proceedings under the relevant electoral law, or not

later than 60 days after the declaration of the failure of the election under the relevant electoral law [s 37 of the ECICO]. *[Amended in October 2007]*

## **PART V : SERIAL NUMBERING, DECLARATIONS AND COPIES**

### **Serial Numbering**

8.44 Save where the exemption applies, all copies of each type of all EAs intended to be displayed or distributed by a candidate must be marked distinctly and legibly on the face with **consecutive serial numbers** starting from “1” [s 102(1) and (2) of the EAC (EP) (LC) Reg]. Printed materials are exempted from the requirement of serial numbering if each of them:

- (a) is of or smaller than A4 size, ie 30 cm x 21 cm;
- (b) is contained in a single sheet of paper; and
- (c) bears upon it the printer’s name and address, number of copies printed and date of printing.

Examples of the above may include handbills, leaflets and simulated ballot papers. EAs printed in a registered local newspaper/magazine or sent to electors through the free postage service [see Part IX below] or transmitted by electronic means (eg facsimile, electronic mail, computer network, electronic display boards) and balloons, badges and carrier bags, head-dress and clothing, or of such other class or types as the EAC may specify by notice published in the Gazette are exempted from the requirement of serial numbering [s 102(15A) and (16) of the EAC (EP) (LC) Reg]. *[Amended in October 2007 and July 2008]*

8.45 The size of the number marked on each type of EAs which are not larger than 60 cm x 42 cm (A2 size) must not be smaller than 2 cm in diameter, and the size of the number marked on those which are larger must not be smaller than 4 cm in diameter.

### **Declarations**

8.46 **Before display, distribution or otherwise use of any EA**, a candidate must make a **declaration in a specified form** to the RO for his constituency (or to the CEO, if the RO has not yet been appointed) declaring the **quantity**, with the **serial numbers** (save those covered by the exemption referred to in para. 8.44 above), of each type of all EAs displayed, distributed or otherwise used and **the date of printing/publication**. Such declaration should also show all the **intended places** of display (designated spots or private spots) which may be identified by reference to the permissions or authorisations obtained by the candidate [s 102(3), (4) and (5) of the EAC (EP) (LC) Reg]. A candidate can submit as many declarations as circumstances may from time to time require. A candidate must ensure the correctness and accuracy of all the details contained in his declarations. *[Amended in October 2007]*

8.47 Where an EA is to be distributed by facsimile transmission and where the exemption referred to in para. 8.44 applies (which includes EAs sent to electors through the free postage service detailed in Part IX below or transmitted by electronic means), it will not be necessary to state the serial numbers in the declaration. Only the quantity of the EA is to be stated in the declaration.

8.48 A candidate must ensure that every time the contents of his website are changed or updated, he must make a new declaration to the RO and deposit 2 copies of the modified pages with the RO accordingly [see also para. 8.49(a)(iii) below].

### **Copies**

8.49 **Before display, distribution or otherwise use of any EA**, a candidate must deposit with the RO for his constituency (or with the CEO if the RO has not yet been appointed):

- (a) in respect of election advertisements
  - (i) 2 copies of all printed advertisements in original colours bearing in Chinese or English, the name and address of the printer together with the date of printing and the number of copies printed (“printing details”); *[Amended in July 2008]*
  - (ii) 2 identical copies of any video/audio tapes or discs or diskettes containing EAs;
  - (iii) 2 copies of any electioneering message sent by electronic means (including 2 copies of any modified webpages if the contents of the website are changed or updated); and
  - (iv) 2 identical postcard sized colour photographs of each type of EAs which cannot be practically or conveniently photocopied;

[s 102(6), (7) and (9) of the EAC (EP) (LC) Reg]

For the avoidance of doubt, for printed EAs, by depositing 2 copies with the RO for the constituency prior to the display, distribution or otherwise use of such EAs as stated above, the candidate would have complied with both the requirement in s 102(6), (7) and (9) of the EAC (EP) (LC) Reg (which requires prior deposit) and that in s 34(4) of the ECICO (which requires deposit not later than 7 days after publication). Details of the relevant section of the ECICO and the reasons for the two different requirements under the two legislation are provided in paras. 17.16 – 17.17 of Chapter 17. *[Amended in October 2007]*

(b) in respect of permissions or authorisations for display

a copy of all permissions or authorisations for display obtained for the purposes of s 104A(1) of Cap 132 [s 102(10) of the EAC (EP) (LC) Reg]; and *[Amended in July 2008]*

(c) in respect of consent of support

a copy each of all consents of support referred to in s 27(1) or (2) of the ECICO, as the case may be [s 102(10A) of the EAC (EP) (LC) Reg]. *[Amended in July 2008]*

8.50 If a candidate has difficulty in depositing with the RO for his constituency an original copy of a declaration and 2 copies of an EA before its display, distribution or otherwise use, he may first send to the RO for the constituency by fax the declaration together with a copy of each EA or by e-mail with an image or a digital photo of each EA. The candidate should ensure that any submissions sent by fax or e-mail should reach the RO for the constituency properly. The candidate must, within 24 hours during weekdays (ie Monday to Friday) or within 48 hours during weekends (ie Saturday to Sunday) after sending the fax or e-mail, submit to the RO for the constituency

the original copy of the declaration form and 2 copies of each such EA.  
*[Added in October 2007]*

8.51           Speeches orally delivered by a candidate during election meetings or ad hoc visits will not be treated as EAs unless copies of the speech are provided to the audience or media. If the candidate would like to create certain impact by talking first before providing copies of the speech to the audience or media, he could, after delivering the speech, send a copy of the speech, together with the declaration, to the RO by fax or e-mail prior to distributing them to the audience or media. The candidate should ensure proper submissions by fax or e-mail to the RO for the constituency. The candidate should submit to the relevant RO the original copy of the declaration form and 2 copies of each speech within 24 hours during weekdays (ie Monday to Friday) or within 48 hours during weekends (ie Saturday to Sunday) after sending the fax or e-mail. Since copies of the speeches distributed to the audience are regarded as printed EAs, the candidates concerned are also required to comply with s 34 of the ECICO and the provisions on serial numbering in paras. 8.44 and 8.45. *[Added in October 2007]*

8.52           In the rare circumstances where candidates contesting different constituencies use identical copies of an EA, the RO of the relevant constituency may exercise his discretion to accept a joint declaration by all the candidates concerned and a joint submission of 2 copies of the EA.

8.53           Where a Declaration of EAs under s 102 of the EAC (EP) (LC) Reg made by a candidate and deposited with the relevant RO contains a mistake or where the candidate's declared intention as to the number of any type of EAs to be displayed or the location of display, etc has changed, the candidate should make a corrective declaration to correct the mistake or record the change. All such corrective declarations must be deposited with the relevant RO at the **latest by 12 noon on the day preceding the polling day**. If no corrective declaration has been so deposited, then the declaration of EAs

will be used as one of the bases for examining and checking the candidate's return and declaration of election expenses and donations, and as the basis for removal of unauthorised or offending displays.

8.54 No EAs shall be displayed apart from those referred to in the declarations made by the candidate and as shown by the copies or on the photographs.

8.55 A candidate must not display his EAs other than at the places set out in his declaration.

8.56 The RO for each constituency will make available a copy of the declarations, EAs, photographs, permissions or authorisations and consents at a specified address for inspection by the public as soon as practicable after such documents and photographs have been furnished until the expiration of the same period as declarations of election returns lodged by candidates are available for inspection under s 41 of the ECICO, ie until the first anniversary of the date on which the result of the relevant election is published [s 102(11) of the EAC (EP) (LC) Reg].

## **PART VI : REQUIREMENTS RELATING TO PRINTED ELECTION MATERIALS**

### **Printing Details**

8.57 S 34 of the ECICO requires all printed EAs, with the exception of those printed in a registered local newspaper, to bear printing details, ie they must bear, in Chinese or English, the name and address of the printer together with the date of printing and the number of copies printed ("printing details").

It applies to all materials reproduced by any method of multiplying copies (eg printing machines, duplicators or photocopiers). The following are some suggested formats:

- (a) Printed by ABC Printing Works,  
XX XZY Street, HK  
On (date) in (number) copies

or

- (b) Printed by own office machine  
XX XZY Street, HK  
On (date) in (number) copies

### **Election Advertisements Placed in Print Media**

8.58 Where an EA is placed in the print media and takes the form of a news report or any other form which does not clearly show that it is an EA, the words “**Election Advertisement**” or “**選舉廣告**” must be stated in the advertisement, to avoid misunderstanding by readers that it is not an EA.

## **PART VII : NON-COMPLIANCE AND CONSEQUENCES**

### **Inadvertent Omission of Printing Details**

8.59 A candidate who has inadvertently omitted the printing details from his printed EAs can make a statutory declaration giving the omitted details, and deposit such declaration with the relevant RO **not later than 7 days after** the publication of the offending EA [s 34(3) of the ECICO].

Having taken this remedial step, he will not be prosecuted for contravention of s 34(1) of the ECICO. The statutory declaration will be retained by the relevant RO for 6 months after the result of the election is published [s 34(7) of the ECICO].

### **Enforcement and Penalties**

8.60 A candidate who fails to provide the printing details or deposit copies of printed EAs with the relevant RO commits an offence punishable by a fine of up to \$200,000 and imprisonment for up to 3 years [s 34(6) of the ECICO]. However, he may apply to the court for an order allowing the publication of the above EAs be excepted from the relevant requirements and relieving him from the penalties, provided that the court is satisfied that the non-compliance was due to inadvertence, an accidental miscalculation or any reasonable cause and was not due to bad faith [s 35 of the ECICO]. Non-compliance with the requirements of s 102 of EAC (EP) (LC) Reg is punishable with a fine at level 2 (up to \$5,000) and imprisonment for up to 6 months.

8.61 Each candidate must observe and comply with the conditions imposed by the permissions or authorisations for the display of EAs. Any EAs displayed in contravention of these guidelines may be removed or seized. Candidates and their supporters should report any non-compliance to the RO and should not take removal action themselves.

8.62 Any unauthorised or offending EAs displayed may be seized, disposed of, destroyed, covered or obliterated by the RO or any person authorised by him as he thinks fit [s 102(15) of the EAC (EP) (LC) Reg]. The candidate or his election agent responsible may also be prosecuted and if convicted, may be liable to a fine or imprisonment [s 102(14) of the EAC (EP) (LC) Reg]. The cost of removal, being a civil debt, will be counted as

election expenses. Such civil debt must be reported to the CEO in the candidate's return and declaration of election expenses. The seized articles may be kept as evidence and will be disposed of or returned upon application, in accordance with the Public Health and Municipal Services Ordinance or the Housing Ordinance (Cap 283), as the case may be, and the procedures of the relevant authority [s 104C of Cap 132 and s 24 of Cap 283]. *[Amended in October 2007 and July 2008]*

8.63 Each candidate must observe and comply with the conditions agreed between him and the owner or occupier of private land or property for the display of EAs, and any additional charges or damages that a candidate is liable to pay to the owner or occupier may be construed as election expenses.

8.64 Complaints should be made to the relevant RO. Upon complaints being received, the EAC may also issue public statements in such manner as it deems fit to censure or denounce any non-compliance with these guidelines. Although a censure may be a further detriment to the candidate in addition to his liability for removal expenses and criminal liability, the EAC will not hesitate to publish one in an appropriate case.

## **PART VIII : ADVERTISEMENTS OF POLITICAL, PROFESSIONAL/ TRADE BODIES OR OTHER ORGANISATIONS**

8.65 Any thing or material published by any organisation, including political organisation, professional or trade organisation, owners' corporation, mutual aid committee, tenants' association, owners' committee, etc (irrespective of whether or not the candidate concerned is its officer or member) which advertises its platform or services during or **even before the election**

**period with reference to the candidate** by name or photograph or otherwise may be treated as EA put up by, or on behalf of, or on account of the candidate. The expenses for doing so may be construed as election expenses incurred by or on behalf of the candidate. It is therefore a prudent step for the relevant organisations to suspend their advertising activities. However, if the material published by the organisation concerned, as opposed to the candidate himself, advertises only a particular activity, which:

- (a) is organised from time to time either as part of the organisation's normal functions, and/or according to the local tradition;
- (b) is not related to the election; and
- (c) does not explicitly or implicitly promote or prejudice the election of a candidate in the election,

then the appearance in the published material of the name and/or photograph of a candidate who is involved in organising the activity should not be regarded as an EA.

8.66 It is an offence for anyone to incur election expenses unless he is a candidate or an election expense agent of a candidate [s 23 of the ECICO].

8.67 Candidates should protect their own interest by advising their political bodies or their organisations of these guidelines as soon as they have any intention or plan to run for an election.

8.68 To sum up the important points, where any organisation, including a political organisation, publishes an EA promoting a candidate:

- (a) the expenses incurred will be treated as the candidate's own election expenses;

- (b) the officer-in-charge of the organisation needs to be authorised by the candidate to be the candidate's election expense agent, or else it or the responsible person commits an offence under s 23 of the ECICO;
- (c) such advertisement must comply with the requirements of s 34 of the ECICO and s 102 of the EAC (EP) (LC) Reg; and
- (d) such advertisement can only be displayed at the spots authorised to the candidate.

## **PART IX : FREE POSTAGE FOR ELECTION ADVERTISEMENTS**

### **Conditions for Free Postage**

8.69 A list of candidates for a GC or any FC candidate who is validly nominated in the notice of nomination published in the Gazette in accordance with regulations made under the EACO is permitted to post free of postage **one** letter to each elector in the constituency for which the list/or the candidate is nominated [s 43 of the LCO]. However, before the publication of the notice of nomination, a candidate wishing to exercise his right to free postage may be required to furnish the Postmaster General with a security for the payment of postage in the event that his name is not subsequently shown in the notice [s 6(2)(a) of the Post Office Regulations].

8.70 The purpose of the free postage is to enable the candidate or candidates on the list to mail EAs to promote or advertise himself/themselves and in relation to that election to electors in the constituency. The free

postage, which is the privilege of the candidate(s), cannot and should not be used for any other purpose or any other election or for promoting or advertising any other person. *[Amended in July 2008]*

8.71 Specifically, the letter must:

- (a) be posted in Hong Kong;
- (b) contain materials relating only to the candidature of the candidate or candidates on the list, at the election concerned;
- (c) not exceed 50 grams in weight; and
- (d) be not larger than 175 mm x 245 mm and not smaller than 90 mm x 140 mm in size.

**It is important to note that under s 101A(3)(a) of the EAC (EP) (LC) Reg, the candidate or all the candidates on the list sending postage-free mail items to electors in bulk is or are liable for payment of postage for all items in that bulk if any item in the bulk does not meet requirement (a), (b), (c) or (d) above.**

*[Amended in October 2007 and July 2008]*

### **Postal Requirements Stipulated by the Post Office**

#### **Make-up**

8.72 The letter may take the form of envelope, lettergramme, card or folder. Items in roll form or enclosed in plastic wrappers are **not** acceptable.

8.73 Cards and folders must be made of ordinary cardboard or paper not less than 0.25 mm thick, and must be rectangular in shape.

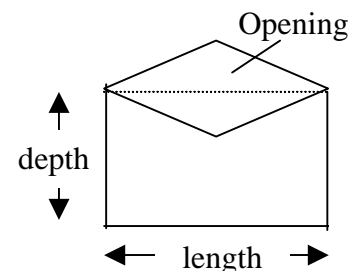
8.74 When a wrapper is used, it must extend over the full length of the item which it encloses. Envelopes must not be fastened with staples or with paper fasteners with sharp edges or points, but they may be closed by means of an adhesive flap or tape.

8.75 Envelopes, folders and lettergrammes having an opening large enough to entrap smaller letters are prohibited. **Unsealed mail item** contained in envelopes with ordinary tuck-in flaps may be used up to the following size limits [s 6 of the Post Office Guide]:

Not over 90 mm in depth – opening not over 150 mm in length

Not over 100 mm in depth – opening not over 140 mm in length

Over 100 mm in depth – opening not over 115 mm in length

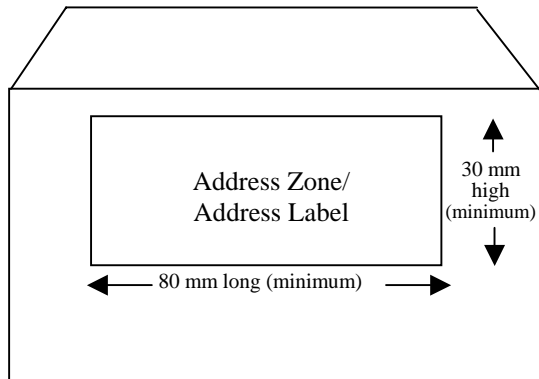


8.76 Folders of A4 size with openings should be closed by means of adhesive flap or tape so as to avoid entrapping smaller letters. All open edges must not be longer than 90 mm in width. Otherwise, adhesive tapes should be applied to the midpoints of the open edges to reduce the width. For details, please refer to the illustration in **Appendix E**. *[Amended in July 2008]*

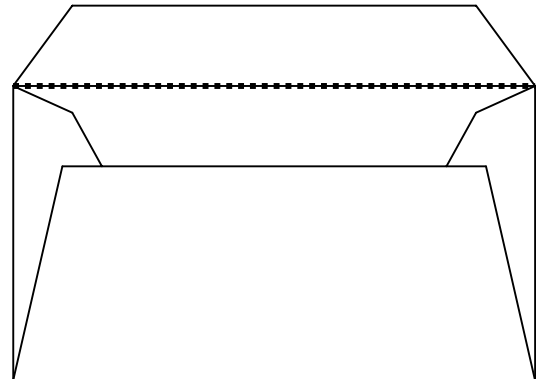
8.77 The characters “選舉郵件” or “選舉廣告” or words “Election Mail”, or “Election Advertisement” must be printed on the address (front)

side of the election item, or the address side of the folder (unenvveloped mail). The layout of the election items is as follows:

**Address Side of an Election Item**



**Back Side of an Election Item**



*[Amended in October 2007 and July 2008]*

**Addressing**

8.78 To avoid delay or misdelivery, the full postal address should be typed or legibly written on the front of the envelope in four rows as follows:

Name of addressee  
 Floor and flat number and name of building  
 Street number, name of street  
 Name of district

8.79 Addressing slips may be used for the mailing of EAs provided that they are legible and **securely pasted** onto the election items. *[Amended in October 2007]*

8.80 The name(s) of the candidate(s) and other propaganda slogans, including photographs, should appear on the back or the front (address) side of the item. An address zone of at least 80 mm long and 30 mm high, preferably at the right-hand half or at the centre of the front (address) side for the address of an elector, should be reserved exclusively for the address. If an adhesive address label is used, it should not be less than 80 mm long and 30 mm high.

The address label should only contain the name and address of elector(s) and be affixed to the address zone. The whole address zone and address label should be free of advertisement and should appear on the front side of the item. The address zone and address label should be in white background colour while the characters of the postal address should be in black. [Please refer to para. 8.77 for better illustration.] *[Amended in October 2007 and July 2008]*

8.81 No postage-free EA bearing an address outside Hong Kong will be accepted. Specifically, only one address of elector(s) should be shown on the postage-free election mail. *[Amended in July 2008]*

### **Posting Arrangements**

8.82 In order to allow adequate time for the Post Office to process the election mail during the election period, candidates are advised to make their postage-free EA postings **before the posting deadline as designated by the Post Office**. Candidates and their agents are therefore **reminded** that **postings made after the posting deadline may fail to reach the addressees before the polling day**. *[Amended in October 2007]*

8.83 At least **1 clear working day's notice** must be given to the respective Manager of the Post Office before the postings are made. Candidates should present 3 unsealed specimens of their EAs, together with a Notice of Posting of Election Mail in duplicate (which will be provided by the REO at the time of candidates submitting their nominations), for inspection 1 clear working day before the postings are made. *[Amended in October 2007 and July 2008]*

8.84 When handing in the specimens, the candidates may indicate any one of the posting offices to be designated by the Post Office where they intend to make their postings. In this connection, the Manager concerned will arrange and confirm the requests after approving the specimens. *[Amended in October 2007]*

8.85 The postings should be made up in bundles of 50 or 100 each for easy counting. All election mail should face the same direction. To facilitate handling of huge volume of postings within a tight time schedule, **candidates of GCs** are required to segregate election mail by District Council Constituency Areas when presenting their postings. *[Amended in October 2007 and July 2008]*

8.86 With each posting, the candidate or his representative must present a signed declaration **in duplicate** (original to be kept by the Post Office and the duplicate copy duly signed by the Post Office official and kept by the candidate or his representative as acknowledgement of the posting):

- (a) stating the quantity of packets in the posting and the name of the candidate;
- (b) declaring that the posting is his postage-free mail;
- (c) declaring that each packet contains material relating to the candidature of the candidate or candidates on the list to the election only; is identical to the unsealed specimen submitted by the candidate/the list or his/their representative for inspection and retention by the Post Office; and is addressed by name to a duly registered elector in respect of the constituency for which the candidate/the list has been nominated; and *[Amended in July 2008]*
- (d) declaring that not more than one postage-free mail has been or will be sent to any of the electors. *[Amended in October 2007]*

The declaration form will be provided to the candidates by the REO at the time of their submission of nominations. It is important to note that under s 101A(3)(b) of the EAC (EP) (LC) Reg, a candidate sending postage-free mail items to electors in bulk is liable for payment of postage for all the items in that

bulk if the declaration made by him or his representative is false in any particular. *[Amended in October 2007]*

8.87 If a candidate makes posting in more than one batch, the same declaration form should be presented at the same posting office on each occasion.

8.88 Government reserves the right to charge a candidate postage where any of the requirements under s 101A in Cap 541D is not met or the free postage arrangements are abused in any way [s 101A(3) of the EAC (EP) (LC) Reg]. The charge counts towards the candidate's election expenses and must be included in his return and declaration of election expenses and donations to be sent to the CEO. The EAC may also issue public statements in such manner as it deems fit to denounce any abuse of the free postage arrangements. *[Amended in July 2008]*

8.89 **The postal requirements stated in the above guidelines (paras. 8.72 – 8.88) are quoted for general reference only. Candidates should comply with the latest requirements issued by the Post Office at the time of the election concerned.** *[Added in July 2008]*

### **Enquiries**

8.90 For general enquiries concerning the posting of EAs, please contact:

Senior Manager (Retail Business)  
1/F, 650 Cheung Sha Wan Road,  
Kowloon

Telephone: 2921 2305 / 2926 1161  
Fax: 2868 1442

*[Amended in October 2007 and July 2008]*

## CHAPTER 9

### ELECTIONEERING AT THE LIVING OR WORKING PLACES OF ELECTORS, PREMISES OF ORGANISATIONS TO WHICH ELECTORS BELONG AND BUILDINGS WHICH ELECTORS FREQUENT

#### PART I : GENERAL

9.1 There are occasions when candidates may wish to target their electioneering activities at an individual elector or a group of electors at:

- (a) his/their living/working place(s);
- (b) the premises of the organisation(s) to which the elector(s) belong;  
or
- (c) the building(s) which the elector(s) frequent.

These electioneering activities include visits to, personal contact with people, using amplifying devices to advertise in the common parts of the building, display or distribution of EAs and holding of election meetings at, the places mentioned above. **Appendix F** gives some kind of reference as to what activity is to be regarded as an electioneering activity. This chapter explains the general guidelines to be observed by candidates in conducting electioneering activities, the rights of all concerned and appeals to the electors, the management bodies of the organisations to which the electors belong and the management bodies of the buildings which the electors frequent to **provide fair and equal treatment** to all candidates so as to ensure that elections are conducted fairly. *[Amended in October 2007]*

9.2 Candidates are reminded that different organisations may have their own guidelines to allow or disallow the conduct of electioneering activities on the premises under their management. To ensure the smooth conduct of electioneering activities in public or private places, it is always desirable for candidates to consult the relevant authorities or management in advance and to obtain permission from them for the conduct of electioneering activities in the places within their jurisdiction, if required. *[Added in October 2007]*

9.3 The general guidelines to be observed for conducting electioneering activities at the living and working places of electors, premises of organisations to which electors belong and buildings which electors frequent are set out in Part III below. The specific guidelines to be observed for conducting electioneering activities in the premises managed by the Housing Department and the Hong Kong Housing Society are set out in **Appendix G**. *[Added in October 2007]*

9.4 For the purpose of ensuring fair treatment and equal opportunity of access to all candidates in conducting electioneering activities and to avoid causing undue disturbance to the public, Part IV below provides the owners/management of premises and organisations with some guidelines in handling applications for conducting electioneering activities in the premises under their control. *[Added in October 2007]*

## **PART II : RIGHTS OF TENANTS AND OWNERS**

### **Tenant's Right - His House, Flat, Office or Factory**

9.5 The tenant who has exclusive possession of a house, flat, office

or factory, and not the owner, has the right to allow or deny access by anyone to the place.

### **Owners' Right - the Common Parts**

9.6 The **common parts** of a building (those parts to which exclusive rights of use or occupation do not belong to a particular owner or tenant) are usually under the control and management of the owners of the various units in the building. Where there is an owners' corporation of the building incorporated under the former Multi-storey Buildings (Owners Incorporation) Ordinance or the present Building Management Ordinance (Cap 344), the control and management of the common parts are exercised by the owners' corporation representing all the owners of the building.

9.7 The carrying out of the powers and duties and the acts of an owners' corporation do not affect the rights of the tenants of the individual flats, offices or factories in the building except in relation to matters concerning the common parts. Candidates and tenants should note that as **a tenant** has exclusive possession of the unit that he occupies, he **has the right to invite anyone to visit his unit for any lawful purpose**, including electioneering, but he has no right to allow the invitee to approach other tenants' units, such as knocking on other people's doors, or to do anything in the common parts of the building, except for accessing and leaving his unit or for the purposes allowed by the owners.

### **Owners' Committees**

9.8 In some buildings, no owners' corporation has been established, but instead an owners' committee is formed. While an owners' committee generally operates in the same manner as an owners' corporation, its powers vis-à-vis the rights of the individual owners are not standardised and may differ from case to case.

### **Management Companies**

9.9 Very often, the management of the common parts of a building has been delegated by the owners or owners' corporation or owners' committee to a management company. Management companies are only managing the common parts on behalf of the owners and unless specifically empowered to do so, have no independent right or power to decide whether electioneering by candidates in the common parts should or should not be allowed.

### **Tenants' Associations, Residents' Associations, Mutual Aid Committees**

9.10 Sometimes there are tenants' associations or residents' associations or mutual aid committees representing tenants' interests in buildings. As against the owners, they have no right to control or manage the common parts. If they are given the authority by the owners, then they are entitled to control and manage the common parts on behalf of the owners.

## **PART III : GUIDELINES TO BE OBSERVED BY CANDIDATES IN THE CONDUCT OF ELECTIONEERING ACTIVITIES**

### **Visits to Living and Working Places of Electors**

9.11 Candidates should note that electors have the right to allow or deny access by anyone, including the candidates, to their own living or working places. In other words, electors are free to invite, or accept the request from, a particular candidate(s), but not the others, to visit them at their living or working places.

9.12 However, access to a private office may require the approval of the management of the office building or the companies which employ the electors, and such management when making a decision should have due regard to the fair and equal treatment principle mentioned in Part IV below. In conducting electioneering activities at the common parts of the living or working places of electors, candidates should observe the general guidelines set out in paras. 9.14 to 9.20 below. *[Added in October 2007]*

9.13 Any government offices, which are working places of electors, will be treated in the same manner as the premises referred to in this chapter. Government offices may allow or disallow electioneering activities as they wish, but such decision should comply with the fair and equal treatment principle mentioned in Part IV below. *[Amended in October 2007]*

### **Respect for the Decision and Privacy**

9.14 After a candidate/GC list has been notified of the decision relating to electioneering, he should ensure that he and his supporters comply with the decision and should not avail himself of or obtain any unfair advantage over any other candidate/GC list. *[Amended in October 2007]*

9.15 If a decision to disallow electioneering in an organisation or a building has been made, the candidate or his followers should conduct no electioneering activity in such places. If the candidate concerned acts against the decision of the organisation or building and electioneers in whatever manner, then he commits trespass and the organisation or building management can simply stop him from doing the contravening act or carry out the decision to exclude the candidates concerned. If the candidate refuses to leave, it would be wise in such circumstances for the organisation or building management, as the case may be, to report the matter to the Police in the first instance and then to the EAC or its Complaints Committee which may publish a **reprimand** or **censure** against the candidate concerned. *[Amended in October 2007]*

9.16 A candidate and his supporters should respect the decisions of the organisation or building management, and it is unwise to enter into **arguments** with members of the organisation or the building residents who obstruct the candidate's electioneering inside the premises of the organisation or the building. Such arguments may affect the candidate's reputation or image with members of the organisation or the residents of the building. Any dissatisfaction with the decision or act of the organisation or the building should more properly be made a subject of a complaint as soon as possible to the EAC or its Complaints Committee which will decide whether the decision or act is fair or unfair. *[Amended in October 2007]*

9.17 **Privacy of the electors should be respected.** A guidance note on personal data privacy in respect of electioneering activities, prepared by the Office of the Privacy Commissioner for Personal Data, is at **Appendix H**. It serves as a general reference on compliance with the requirements of the Personal Data (Privacy) Ordinance (Cap 486) ("PD (P) O") in relation to electioneering activities that may involve the collection and use of personal data of an individual. Candidates are supplied by the REO with an extract of the Final Register which contains the name, gender, and residential address of electors of the relevant constituency, but not their telephone numbers. Some members of the public do not like or detest being called over the **telephone**, the **entrance intercom system** and some do not like their names being called out aloud. Many electors consider canvassing messages sent to them through **short message service (SMS)** annoying. Their disapproval may be reflected in their choice of candidates on the polling day. It is therefore unwise to telephone or send messages by SMS to electors who find such approaches objectionable or to act in any other way that may antagonise them. As a matter of good practice, candidates and their supporters should maintain a list of electors that they know finding such electioneering telephone calls or messages or visits objectionable and avoid approaching these electors again. On the other hand, electors who receive the objectionable telephone calls or messages can just disconnect them. If the caller or sender does not desist from calling or sending messages and causes a nuisance, the elector should report the matter as soon as possible to the **Police** who may take action against the caller or sender. *[Amended in October 2007 and July 2008]*

9.18 Some candidates or their supporters may use **loud-hailers** to assist their campaign. They should exercise restraint in the use of loud-hailers so as not to create a nuisance to the persons in the vicinity, including those who live in the buildings nearby. Candidates should **NOT** use loudspeakers in electioneering **between 9 pm and 9 am**. If the EAC comes to know that a candidate/GC list has breached the time restriction, it may make a reprimand or censure against the candidate/GC list. Excessive noise will amount to an offence and the Police may be called. Anyway, it is unwise to create a nuisance through the use of loud-hailers, for the annoyance of the electors will obviously be reflected in their choice of candidate. [See also Chapter 12 on “Use of Sound Amplifying Device and Vehicles”.] *[Amended in October 2007]*

9.19 Canvassing through the use of the **entrance intercom system** in a building is prohibited unless it is expressly allowed by the building management. *[Amended in October 2007 and July 2008]*

### **Identification of Canvassers**

9.20 For security reasons and for prevention of abuse, the EAC advises that each candidate should provide some forms of identification to his canvassers for them to enter the premises of an organisation or a building for electioneering purposes. The EAC suggests that the candidate should devise an authenticated identification document containing the name and photograph of his canvasser who should produce his identification document together with his identity card for inspection to gain entry into the premises of an organisation or a building. Candidates should note that the production costs of this kind of identification document will be counted as election expenses. *[Amended in October 2007]*

**PART IV: GUIDELINES TO BE OBSERVED BY OWNERS,  
MANAGEMENT AND ORGANISATIONS FOR  
HANDLING APPLICATIONS FOR CONDUCT OF  
ELECTIONEERING ACTIVITIES ON THE PREMISES  
WITHIN THEIR JURISDICTION**

**Electioneering at Premises of Organisations to which Electors Belong and  
Buildings which Electors Frequent**

9.21 The premises of the organisations to which the electors belong and the buildings which electors frequent usually do not belong to a particular elector or group of electors. They are usually under the control of the management bodies of the organisations or the buildings concerned.

9.22 On the polling day or even quite some time before, candidates and their supporters may wish to carry out canvassing or electioneering activities at the premises mentioned above. Such activities mainly consist of the following:

- (a) distribution of election leaflets or advertisements by delivering them into the flats themselves, or into mail boxes of the flats, or placing them in the common parts of the building for collection, or handing them out to residents or people in the common parts of the building (but not distribution by post which is not subject to the control of the private premises);
- (b) display of posters, banners, placards, boards and any other EAs, etc at any of the places within the common parts of the building;

**NOTE :**

Candidates who are allowed to display or distribute EAs at the premises mentioned above must comply with the guidelines set out in Chapter 8 : Election Advertisements. *[Amended in October 2007]*

- (c) personal contact with people or using amplifying devices to advertise in the common parts of the building; and
- (d) household or home visits to occupiers of flats.

9.23        **A tenant's right to invite lawful visitors to his own flat or office or factory cannot be lawfully restrained by any decision made by the owners or owners' corporation.** If he invites a candidate and his supporters into his own place, the owners or owners' corporation have no right to stop or obstruct it.

**Decision to be Made at a Meeting with Tenants**

9.24        During election time, there may be tenants wishing to entertain the approaches by candidates and their followers, but different tenants may invite different candidates to their units, and there may be arguments as to which candidate should be allowed to electioneer in the building. It is therefore advisable for owners or owners' corporations to make a decision on whether to allow candidates and their followers to conduct electioneering activities in the building, so that arguments relating to who is allowed and who is not allowed to do so will be resolved for the benefit of all concerned. It is also advisable for owners or owners' corporations to invite all the tenants to attend the meeting held for discussing this matter so that tenants' views will be heard before any decision to allow or deny electioneering activities in the building is taken.

9.25 As a motion on whether or not electioneering should be allowed in a building concerns the rights of tenants and occupiers more than those of owners, it is advisable for owners or owners' corporations to allow occupiers who are not owners to vote on the motion and a secret ballot is always the fairest way of voting on such a controversial subject. If approval or consent has been obtained from the owners having the control of the common parts of the building or the owners' corporation, the building management organisation may conduct a questionnaire survey to collect the views of the occupiers of each flat and act according to the majority view relating to matters covered by and in accordance with this chapter.

9.26 Candidates in an election see electioneering as a form of freedom of expression whereby they express to electors their platforms and the electors have a corresponding right to receive such information. Electors can only make a proper choice when casting their votes if they know the platforms of each of the contesting candidates.

9.27 If a decision is made to allow electioneering by all candidates, the decision can also set out the hours of access and other conditions, such as not causing annoyance to occupiers, and the maximum number of persons allowed for home visits, etc for the candidates to comply [see also **Appendix I**].  
*[Amended in October 2007]*

### **Decision Must Provide Fair and Equal Treatment**

9.28 The EAC appeals to all management bodies of the organisations or buildings concerned to provide **equal opportunity** to all candidates or GC lists competing in the same constituency for the purposes of electioneering. However, if it is decided **not** to allow a particular candidate/GC list to conduct electioneering activities at the premises of the organisation or in the common parts of the building, no other candidate/GC list in the same constituency

should be allowed to do so, for **it is important to provide fair and equal treatment for all candidates/GC lists** so as to ensure that the election is conducted fairly. Discriminatory treatment of candidates may also lead to unequal treatment of tenants, and have the undesirable effect of giving rise to dissatisfaction and discord amongst neighbours in the same building.

9.29 Whatever organisation it is in such a building, be it an owners' corporation, owners' committee, mutual aid committee, tenants' association, residents' association, management company or managers of the building, the decision that it makes relating to electioneering activities of candidates in the common parts of the building, including the office premises of the organisation and all private streets, etc, **must comply with the fair and equal treatment principle.**

9.30 The organisation concerned should make a decision that applies equally and fairly to all candidates/GC lists of each constituency instead of dealing with each application from them separately. This will avoid having to convene a meeting to deal with each application upon its receipt, sometimes incurring delay in dealing with some applications. The EAC may treat such delay as a device to avoid compliance with the fair and equal treatment principle and may issue a reprimand or censure.

9.31 Even though such an organisation or any member of it may have reasons to exclude a particular candidate from the building, it should still adhere to the principle of fair and equal treatment for all candidates/GC lists competing in the same constituency without any discrimination.

### **Notification of Decision**

9.32 The management bodies of organisations and buildings are urged to notify the relevant RO in writing as soon as possible of their decision on

electioneering by candidates, so as to equip the RO with the correct information to be provided to the candidates who may make inquiries with him. A **form** of notification to the RO can be obtained from the REO. **Where no notification is received by the RO after the expiration of the nomination period, he may assume that there is no objection from the organisation regarding electioneering by candidates in the building.** Enquiries may be made with the District Office or sub-offices of the District in which the building is located. Nevertheless, candidates are advised to note that some buildings may not be able to make a decision on electioneering by candidates before the close of nominations and therefore have not given the notification to the RO as required. When candidates come across these buildings, they should respect the interim decision of these buildings not to allow electioneering.

### **Display of Election Advertisements**

9.33 The management bodies of the organisations or buildings concerned should avoid handling applications by candidates/GC lists for display of EA on a first-come-first-served basis as this may create unfairness. For example, if one candidate/GC list knows the decision and applies to put up posters and banners on all available spots in the common parts of the building, no space will be left for other candidates/GC lists who apply after him. To ensure fairness, management bodies are advised to:

- (a) ascertain all the available spots at the premises for candidates/GC lists to display posters and banners;
- (b) decide on the maximum size of posters and banners to be allowed;  
*[Added in October 2007]*
- (c) after the close of nominations of candidature, find out from the RO how many candidates/GC lists are contesting in the

constituency/constituencies concerned;

- (d) divide all the available spaces according to quality and quantity to ensure equality as far as possible into portions equivalent to the number of candidates/GC lists in the constituency/constituencies concerned; and
- (e) when one of the candidates/GC lists of the constituency concerned applies for display, allow him to draw lots to obtain a portion of the spots still available at the time of his application.

9.34 If a building has any spaces in the common area to **let** to candidates for them to display EAs or conduct other electioneering activity, the building shall ensure that such spaces are equally available to let to all the candidates contesting the same constituency, and give reasonable notice to all such candidates accordingly. Letting a space to only one of the candidates but not the others will be considered to be offering an unfair advantage to the candidate concerned and operating unfairly towards the other candidates. Candidates should not take any such unfair advantage.

9.35 Where a decision has been made, notice of its contents together with the conditions should be posted up at the entrance so that candidates or their agents will be able to know. This openness will help prevent misunderstanding and complaint.

9.36 Whenever a decision has been taken by a building, insofar as the decision does not offend against the fair and equal treatment principle regarding electioneering activities of all candidates/GC lists of the same constituency, and such decision is not carried out unfairly towards any of the candidates/GC lists, the EAC will not intervene.

9.37 An owners' corporation or other organisation or person should be very careful not to incur any election expenses for promoting a candidate/GC list, such as putting up a banner to show support for a candidate/GC list, because it is an illegal conduct at an election for a person, other than a candidate or a candidate's election expense agent, to incur election expenses at or in connection with the election [s 23 of the ECICO].

9.38 All persons who put up any publicity materials, including those which do not look election-related, in the nomination period on private premises should declare to the management body concerned in writing whether they are candidates or intend to stand as candidates in the election. This is to prevent prospective candidates to make use of such device to promote themselves. The management body is also advised to exercise its own judgement whether the publicity materials are serving electioneering purposes and then make a decision with due regard to the fair and equal treatment principle.

## **PART V: CONDUCT OF ELECTIONEERING ACTIVITIES IN PREMISES UNDER THE MANAGEMENT OF HOUSING DEPARTMENT AND HONG KONG HOUSING SOCIETY**

9.39 The specific guidelines to be observed by candidates and their agents in the conduct of electioneering activities in premises under the management of the Housing Department and Hong Kong Housing Society are set out in **Appendix G**. *[Amended in October 2007]*

## PART VI: SANCTION

9.40 If the EAC receives a complaint of unfair or unequal treatment of candidates by any organisation or building or a person acting or purporting to act on behalf of such organisation or building, and is satisfied that the complaint is justified, it may make a **reprimand** or **censure** in a public statement which will include the names of the candidates/GC lists favourably and unfavourably treated. Candidates should therefore advise the organisation management or building owners whom they approach of these guidelines. On the other hand, however, if it is proved that a person has made a false, unfounded or unreasonable allegation of unfair treatment by an organisation or a building, the EAC may issue a reprimand or censure in a public statement against that person. *[Amended in July 2008]*

9.41 Candidates should also refrain from accepting any unfair advantage over other candidates in the same constituency even though such may be ready on offer by an organisation or a building. The EAC may publish a public **reprimand** or **censure** against the candidate who contravenes the guidelines in this chapter or whose act or behaviour results in any unfair or unequal treatment by organisation or buildings towards any other candidate.

## CHAPTER 10

### ELECTION MEETINGS

#### PART I : GENERAL

10.1 An **election meeting** is a meeting held to promote or prejudice the election of a particular candidate or particular candidates [s 12(5) of the ECICO]. For the avoidance of doubt, election forums organised for all candidates in the same constituency are not treated as election meetings [see Part IV: Election Forums of Chapter 11]. During the election period, a candidate may attend any other meetings as part of his normal activities which are **not election-related**. Insofar as such meetings are **not** held for the purpose of promoting or prejudicing the election of a particular candidate or candidates, they will not be regarded as election meetings. *[Amended in October 2007]*

10.2 Expenses incurred before, during or after the LegCo election on account of an election meeting organised for any of the purposes stated above are **election expenses**. There may be cases where a meeting is not organised for any of the above purposes, but has nevertheless been used for such purposes by a candidate or any other person on his behalf. In that event, it will be for the candidate to assess the expenses which have been incurred for the said purposes. [See s 2 of the ECICO and the guidelines on Election Expenses and Donations in Chapter 16.] The person who uses the meeting for promoting the candidate may also be liable for prosecution for his failure in obtaining the candidate's prior authorisation to appoint him as the candidate's election expense agent for incurring election expenses on behalf of the candidate [see s 23 of the ECICO].

10.3 Candidates should refer to the part on “Treating” in Part IV of Chapter 17, regarding the serving of drinks and meals at or incidental to an election meeting.

10.4 In addition to the election expenses incurred, candidates are responsible for the election meetings or public processions which they organise, including the keeping of order and safety, controlling noise level, cleanliness and other liabilities.

10.5 An election meeting may take place in a public place or at private premises. A public procession for election campaigning purposes is a form of election meeting, as is an exhibition organised with a view to promoting or prejudicing the election of a particular candidate or particular candidates.

10.6 Candidates are reminded that individual government departments and management authorities may have their own guidelines to allow or disallow the conduct of election meetings on the premises under their control. To ensure the smooth conduct of election meetings in public or private places, it is always desirable for the candidates to consult the relevant authorities concerned in advance and to obtain any requisite permission from them for the conduct of election meetings on the premises within their jurisdiction, if necessary. *[Added in October 2007]*

10.7 The requirements of the Hong Kong Police Force and the Housing Department/Hong Kong Housing Society with regard to the organisation of the election meetings in public places and private premises within their jurisdiction are set out in paras. 10.8 – 10.21 below. *[Added in October 2007]*

## PART II : ELECTION MEETINGS IN PUBLIC PLACES

10.8 Any person who organises an election meeting in a public place must notify the Commissioner of Police in writing **not later than 11 am on the same day (if a general holiday, the first day preceding that day which is not a general holiday) of the week in the preceding week as the day on which the meeting is intended to be held** [s 8(1) of the Public Order Ordinance (Cap 245)]. “Public place” means any place to which for the time being the public or any section of the public are entitled or permitted to have access, whether on payment or otherwise, and, in relation to any meeting, includes any place which is or will be, on the occasion and for the purposes of such meeting, a public place [s 2 of Cap 245].

10.9 The written notification shall be **handed in** to the officer in charge of any police station. It should contain the following particulars:

- (a) the name, address and telephone number of the person organising the meeting, any society or organisation promoting or connected with the holding of the meeting and a person able to act, if necessary, in place of the organiser;
- (b) the purpose and subject matter of the meeting;
- (c) the date, location, time of commencement and duration of the meeting;
- (d) an estimate of the number of people expected to attend the meeting;
- (e) the number and names of persons proposed as platform-speakers for the meeting;

- (f) the sound amplification devices, if any, intended to be used at the meeting; and
- (g) the nature, form and contents of the advertisements, printed matter, posters or banners intended for publication, distribution or display in respect of the meeting.

[S 8(4) of Cap 245.] *[Amended in October 2007]*

A **form** of notification for a public meeting or procession together with guidance notes provided by the Police will be given to a candidate upon his submission of nomination. The Police has advised that the use of the form will speed up processing time.

10.10 Notification to the Commissioner of Police of an election meeting is not required if the meeting is to be:

- (a) attended by not more than 50 persons; or
- (b) held at the private premises where the number of persons attending will not exceed 500 persons; or
- (c) held in a school, college, university or other educational establishment with the approval of an accredited society or similar body of such school, college or educational establishment **and** consent of the governing body of the establishment concerned.

[S 7(2) of Cap 245.]

Where in doubt, a candidate should seek advice from the Police.

10.11 The Commissioner of Police may prohibit the holding of any public meeting notified (referred to in paras. 10.8 and 10.9 above) where he reasonably considers such prohibition to be necessary in the interests of national security or public safety, public order or the protection of the rights and freedoms of others, and if so, he shall give notice of the prohibition to the person who gave the notification not later than 48 hours prior to the time of commencement of the meeting [s 9 of Cap 245]. On the other hand, the Commissioner of Police may give notice to the organisers and impose conditions for the meeting to take place, and the organisers must comply with such conditions and comply forthwith with any direction given by a police officer for ensuring compliance with or the due performance of the conditions and the requirements referred to in para. 10.12 below [s 11 of Cap 245].  
*[Amended in October 2007]*

10.12 At every public meeting:

- (a) there shall be present throughout the meeting either the organiser, or if he is not present, a person nominated by him to act in his place;
- (b) good order and public safety shall be maintained throughout the meeting; and
- (c) the control of any amplification device that is used in such a manner that it causes a noise that would not be tolerated by a reasonable person, shall if so required by a police officer, be surrendered to the police officer for the duration of the meeting.

[S 11(1) of Cap 245.]

10.13 A guidance note on safe conduct of election-related activities, issued by the Commissioner of Police, is at **Appendix I**. It serves as a general advice to candidates and organisers of election-related activities, to enable them to conduct such activities safely. *[Added in October 2007]*

### **Public Processions**

10.14 A public procession for election campaigning purposes may be held without notification to the Commissioner of Police:

- (a) where it consists of not more than 30 persons; or
- (b) where it is held at a place other than a public highway, public thoroughfare or public park.

[s 13(2) of Cap 245.]

10.15 In all other cases, written notification of a public procession, including a vehicle procession, must be given by the person organising the procession to the Commissioner of Police (which may be handed in to the officer in charge of any police station) **not later than 11 am on the same day (if a general holiday, the first day preceding that day which is not a general holiday) of the week in the preceding week as the day on which the procession is intended to be held** containing the following information [s 13A(4) of Cap 245]:

- (a) the name, address and telephone number of the person organising the procession, any society or organisation promoting or connected with the holding of the procession and a person able to act, if necessary, in place of the organiser;

- (b) the purpose and subject matter of the procession;
- (c) the date, precise route, time of commencement and duration of the procession;
- (d) in respect of any meeting to be held in conjunction with the procession, the location, time of commencement and duration of the meeting; and
- (e) an estimate of the number of people expected to attend the procession.

A notification **form** mentioned in para. 10.9 should be used.

10.16 The Commissioner of Police shall issue a notice of no objection for the public procession, or alternatively issue a notice of objection to the procession if he reasonably considers that the objection is necessary in the interest of national security or public safety, public order or the protection of the rights and freedoms of others. If the Commissioner of Police so objects to the public procession, he shall issue a notice of objection to the organiser not later than 48 hours before the commencement time of the procession, otherwise he is taken to have issued a notice of no objection for the public procession. The Commissioner of Police may give notice to the organisers and impose conditions for the procession to take place, and the organisers must comply with such conditions and comply forthwith with any direction given by a police officer for ensuring compliance with or the due performance of the conditions and the requirements referred to in para. 10.17 below [ss 14 and 15 of Cap 245].  
*[Amended in October 2007]*

10.17 At every public procession:

- (a) there shall be present throughout the procession either the organiser of the procession, or if he is not present, a person nominated by him to act in his place;
- (b) good order and public safety shall be maintained throughout the procession; and
- (c) the control of any amplification device that is used in such a manner that it causes a noise that would not be tolerated by a reasonable person, shall if so required by a police officer, be surrendered to the police officer for the duration of the procession.

[S 15(1) of Cap 245.]

### **PART III : ELECTION MEETINGS AT PRIVATE PREMISES**

10.18 Any person who organises an election meeting at private premises is advised to consult the owner, occupier, owners' corporation, building management or the mutual aid committee etc concerned in advance and to obtain permission from them, if required. Insofar as the decision regarding election meetings by candidates in the common areas of a building accords fair and equal treatment to all candidates, the EAC will not intervene. Specific guidelines for conducting election meetings in the premises managed by the Housing Department and the Hong Kong Housing Society are set out in **Appendix G**. *[Amended in October 2007]*

10.19 Notification in writing to the Commissioner of Police will need to be given, in accordance with the procedure set out in paras. 10.8 and 10.9 above, if at the proposed meeting the attendance will exceed 500 persons.

## **PART IV : MOBILE EXHIBITIONS**

### **General**

10.20 A candidate may hold an exhibition for election campaigning purposes. If such an exhibition is to be held, the candidate should consult the relevant management authorities of the premises concerned in advance, and to obtain prior permission from the Housing Manager, owner, occupier, owners' corporation, building management or the mutual aid committee, etc concerned, as appropriate, if required. Relevant guidelines in the other parts in this chapter should also be observed, in addition to compliance with regulations and conditions imposed by other relevant authorities. *[Amended in October 2007]*

### **Premises under the Purview of the Housing Department and the Hong Kong Housing Society**

10.21 Where approval has been given by a Housing Manager for such an exhibition in housing estates managed by the Housing Department and the Hong Kong Housing Society, the display of EAs at the venue of the exhibition will normally be subject to the conditions that they are displayed in connection with the activity in question and for a temporary duration of less than a day. The guidelines in Chapter 8: Election Advertisements are applicable to such displays and must be observed by the candidate concerned. The Housing Manager should send a copy of the letter of approval to the relevant RO for record and for public inspection. Please also see **Appendix G** for reference. *[Amended in October 2007]*

## **PART V: FUND RAISING ACTIVITIES AT ELECTION MEETINGS**

10.22        A permit is required for organising, providing equipment for, or participating in any collection of money or sale of badges, tokens or similar articles or exchange the same for donations in a public place [s 4(17) of the Summary Offences Ordinance (Cap 228)]. Any person who wishes to raise funds at an election meeting for non-charitable purposes should apply to the Secretary for Home Affairs. A copy of the administrative guidelines and licensing conditions for the issue of such permits with application form is at **Appendix J** for general information.

## **CHAPTER 11**

### **ELECTION BROADCASTING, MEDIA REPORTING AND ELECTION FORUMS**

#### **PART I : GENERAL**

11.1 This chapter deals with election broadcasting through electronic means (which covers all programmes including those on current affairs and news reporting on the radio and television), media reporting on election-related matters and the holding of any election forum.

#### **IMPORTANT :**

“Candidate” includes a person who has publicly declared an intention to stand for election at any time before the close of nomination for the election, whether or not he has submitted a nomination form [s 2 of the ECICO]. It also includes a list of candidate(s) in a GC list to which the list voting system of proportional representation applies.

#### **PART II : ELECTIONEERING ON TELEVISION AND RADIO**

11.2 Commercial broadcasters, including operators of television and radio channels, which are the licensees under the Broadcasting Ordinance (Cap 562), are generally not allowed to accept advertisements of a political nature. Other service providers which are not licensable under the Broadcasting

Ordinance are allowed to carry EAs territory wide. *[Amended in October 2007]*

11.3 For current affairs or other programmes on TV and radio which are not election-related, candidates/GC lists may take part as guests in these programmes insofar as their participation is pertinent. Otherwise, the “equal time” principle will apply. “Equal time” means **equal time for each of the candidates/GC lists contesting in the same constituency.**

11.4 **No unfair advantage** should be offered to or obtained by any candidate/GC list over others regarding election campaigning.

11.5 When inviting a candidate/GC list to attend a programme whose entire or partial theme is on the election, broadcasters should include in the invitation a notice to the invitee that a similar invitation has been or will be made to other candidates/GC lists of the same constituency, so as to give the invitees an equal opportunity to appear. **A record should be kept by the broadcaster of the date, time and contents of the invitation and the notice until 3 months after the election.**

11.6 The principles stated in paras. 11.3, 11.4 and 11.5 above apply equally to political parties or political organisations of which the candidate or candidate(s) in a GC list are members as they apply to the candidate(s) himself/themselves and to the prescribed body the registered name or registered emblem of which has been printed on any ballot papers for the election.

11.7 During the election period (ie the period beginning with the commencement of the nomination for the election and ending with the polling day for the election), broadcasters should ensure that the “equal time” principle as well as the “no unfair advantage” principle are applied to all political parties

or political organisations which have members contesting the LegCo election and the said prescribed bodies, whether or not contesting the same constituency. If a political party or political organisation whose members contest as candidates in the election is invited to take part in a current affairs or any other programme whose entire or partial theme is on the election, then all political parties or political organisations which have members contesting the LegCo election or a prescribed body the registered name or registered emblem of which has been printed on any ballot papers for the election, whether or not contesting the same constituency, should also be invited.

11.8 The EAC appeals to broadcasters to treat all candidates/GC lists competing in the same constituency fairly and equally when making comment on or reference to the candidates in any of their programmes. Comments made for the purpose of promoting or prejudicing a candidate or candidates are treated as EAs, if reference could be made from the materials to identify the candidate(s) being promoted or prejudiced [see also para. 8.8 of Chapter 8 : Election Advertisements]. Moreover, if such comments are determined by the EAC as EAs, the EAC will refer the matter to the Broadcasting Authority for appropriate action. If there is fair and equal treatment to all candidates of the same constituency, the editorial line of the broadcaster or personal opinions of the programme presenter on each of the candidates can be freely expressed, insofar as they are fair comments and based on true facts. The guidelines do not seek to impose any shackle on the expression of such ideas. However, broadcasters should ensure that in the expression of such ideas, no unfair advantage may result towards any candidate over another or any political parties or organisations to which contesting candidates belong.

### **Candidates Appearing on TV/Radio/Movie as Presenters, Regular Contributors, Actors, Musicians, Singers or Other Entertainers**

11.9 A presenter, including a guest presenter, or a regular contributor should not appear in any programme in his normal programme role after he has

publicly declared his intention to stand for the election or during the election period if he becomes a candidate. This is to avoid unfair extra publicity for him at the critical time. A presenter or a regular contributor may, of course, appear as a candidate in election forums referred to in Part IV below.

11.10 A person who has contracted to appear as presenter, regular contributor, actor, musician, singer or any other form of entertainer in any performance scheduled to be shown before his declaration of intention to stand for the election or before and after the election period may always do so and continue to do so. However, such a person should make his utmost endeavour to request the person(s) responsible not to broadcast his appearance in any media after his declaration of intention to run for the election or during the election period if he becomes a candidate.

### **Candidates Appearing in Commercial Advertisements**

11.11 A person should not participate in the making of an advertisement in which his image, name or voice appear ("the relevant advertisement") and which he knows will be broadcast on TV/radio/cinema after his declaration of intention to stand for the election or during the election period if he becomes a candidate.

11.12 If, after the relevant advertisement has been made, the person then decides to run in the election, and it comes to his attention that the relevant advertisement will appear in TV/radio/cinema after his declaration of intention to stand for the election or after the nomination period has commenced if he becomes a candidate during that period, he should make his utmost endeavour to request the person(s) responsible not to broadcast the relevant advertisement after his declaration of intention to stand for the election or during the election period.

### PART III : ADVERTISING THROUGH THE PRINT MEDIA

11.13 A candidate is at liberty to advertise in the print media to promote his candidature. Where such an advertisement is placed in the print media and takes the form of a news report or any other form which does not clearly show that it is an EA, the words “**Election Advertisement**” or “**選舉廣告**” must be stated in the advertisement, to avoid misunderstanding by readers that it is not an EA [see para. 8.58 of Chapter 8 : Election Advertisements.] The expenses so incurred must be accounted for in the return and declaration of election expenses and donations. EAs printed in a registered local newspaper would be exempted from the requirement of bearing printing details [see also para. 8.57 of Chapter 8 for details]. *[Amended in October 2007]*

11.14 No unfair advantage should be offered by any publisher to a candidate. Nor should a candidate obtain from a publisher any unfair advantage regarding election campaigning. Any free publications (e.g. special newspaper editions or leaflets) which serve to promote or prejudice the election of a particular candidate/candidates may be construed as EAs for the candidate(s) concerned and are subject to the requirements for EAs and election expenses as stipulated in Chapters 8 and 16. A publisher is therefore likely to contravene the relevant legislation if the requirements for publishing and distributing EAs are not complied with prior to distributing such free publication. Candidates and publishers should consult their legal advisors if they have doubt as to whether a free publication should be treated as EAs and counted towards election expenses. The EAC appeals to members of the print media to provide **fair and equal treatment** to all candidates or GC lists competing in the same constituency in the reporting of them or their electioneering activities. How fair and equal treatment is to be applied in practice is set out in **Appendix K**. *[Amended in July 2008]*

11.15 A regular columnist should not contribute articles to the print media after he has publicly declared his intention to stand for the election or during the election period if he becomes a candidate. This is to avoid unfair extra publicity for them at the critical time. A regular columnist may, of course, appear as candidate in election forums referred to in Part IV below.

## **PART IV : ELECTION FORUMS**

11.16 During the election period, broadcasters may organise election forums in their programmes. Broadcasters should ensure that the “equal time” principle as well as the “no unfair advantage” principle are applied to all candidates/GC lists. If a candidate/GC list is invited to take part in the election forum, then all candidates/GC lists of the same constituency should also be invited to be present at such forums so as to give the candidates/GC lists an equal opportunity to appear.

11.17 Any organisations, such as professional or trade organisations, academic institutions and schools, etc, may also organise election forums for civic education or other purposes. In line with the fair and equal treatment principle, the EAC appeals to all these organisers to invite all candidates/GC lists of the same constituency to be present at such forums, so that no unfair advantage will be accorded to or obtained by any candidate/GC list over others regarding election campaigning.

11.18 The EAC also appeals to all candidates/GC lists to use their best endeavours to take part in election forums in order to enable electors and the public to be apprised of their platforms.

## **PART V : SANCTION**

11.19 If the EAC comes to know of unfair or unequal treatment of candidates by any broadcaster, publisher or forum organiser, it may make a **reprimand** or **censure** in a public statement which will include the names of the candidates favourably and unfavourably treated and the broadcaster, publisher or forum organiser concerned. The EAC may also notify the relevant authorities for appropriate action to be taken. *[Amended in July 2008]*

## **CHAPTER 12**

### **USE OF SOUND AMPLIFYING DEVICE AND VEHICLES**

#### **PART I : GENERAL**

12.1 The law relevant to this chapter can be found in the Public Order Ordinance (Cap 245), the Summary Offences Ordinance (Cap 228), the Noise Control Ordinance (Cap 400) and the Road Traffic Ordinance (Cap 374).

12.2 Candidates are reminded that some members of the public find the sound or noise emitted by loudspeakers annoying and intrusive. When using loudspeakers, candidates should particularly bear in mind possible annoyance caused to people in hospitals, homes for the elderly, kindergartens, nurseries, schools and dwelling houses. Electors' choice of candidate in casting their votes may be affected as a result of any noise nuisance caused by candidates or their followers.

#### **PART II : USE OF LOUDSPEAKERS AND VEHICLES**

12.3 With effect from July 1995, the Commissioner of Police ceases issuing loudspeaker permits under s 4(29) of the Summary Offences Ordinance. Candidates are therefore **NOT** required to submit any application for a permit. However, this does not exempt candidates from complying with the requirements of the law and the conditions imposed by the Commissioner of Police when any amplification device is used in an election meeting or

procession. An amplification device includes a loudspeaker and any device which can emit or amplify sound. [Please refer to Chapter 10 : Election Meetings for details].

12.4 Although no permit is now required, any person using a loudspeaker should ensure that the noise emitted through the loudspeaker does not cause a nuisance to any other person. Under s 5(1)(b) of the Noise Control Ordinance, making a nuisance by using a loudspeaker, megaphone, or other device or instrument for magnifying sound from which the noise emitted is a source of annoyance either at any domestic premises or public place at any time of the day is an offence, and this includes use of loudspeakers attached to vehicles. In order to reduce the nuisance caused to members of the public, candidates are required **NOT** to use loudspeakers in electioneering **between 9 pm and 9 am**. If the EAC comes to know that a candidate/GC list has breached the time restriction, it may make a **reprimand** or **censure** against the candidate(s)/GC list. Candidates should note that some members of the public may find the noise emitted from loudspeaker on vehicles disturbing. They should therefore seriously consider the public's tolerance over the noise level and try to keep the noise volume at a reasonable level. *[Amended in October 2007 and July 2008]*

12.5 Should any complaint be received by the Police concerning the volume of the loudspeaker, the volume of sound should be reduced on the instructions of any police officer. If verbal warning or instruction by the police officer is ignored, prosecution may be instituted.

12.6 All vehicles used for and in connection with canvassing activities must comply with the provisions and regulations of the Road Traffic Ordinance. Drivers of such vehicles are obliged to obey all directions given by uniformed police officers and traffic wardens. Additionally, drivers of all vehicles must comply strictly with all the stopping and parking regulations of the Ordinance.

Deliberate slow driving may constitute “careless driving” as it could be deemed as driving “without reasonable consideration for other persons using the road”.

12.7 Paraphernalia attached to a vehicle must also comply with the Road Traffic (Construction and Maintenance of Vehicles) Regulations of the Road Traffic Ordinance, ie not to interfere with the working or safety of the vehicle. For display of advertisements including EAs on public light bus, owners/operators of public light bus should obtain prior written approval from the Transport Department (“TD”) and ensure the display of EAs be in compliance with the conditions as stipulated by TD in the approval letter, including in particular the following conditions:

- (a) no EAs should be displayed on the windows (in particular the front/rear windscreens or in any position that can obstruct the sight-line of the driver), at the areas above the windows and at the exterior roof panel;
- (b) no illumination should be used for the EAs; and
- (c) no EAs should obstruct any statutory label/markings required to be shown on the vehicle body.

According to the TD’s performance pledge, it normally takes no more than 7 working days to process an application for display of an EA on public light buses and taxis.

*[Amended in October 2007 and July 2008]*

12.8 Candidates and their supporters are reminded that they should observe the statutory requirements of the Road Traffic (Safety Equipment) Regulations and Road Traffic (Traffic Control) Regulations under the Road Traffic Ordinance, including those relating to seating requirement, the wearing of seat belts and the permission to carry passengers in a vehicle. Standing up in

moving vehicles would be **illegal** for both the drivers and standees except on trams, single-decked public service buses and the lower deck of double-decked buses. Passengers can also stand up on a vehicle used as a float if approved by the Commissioner for Transport. Candidates should apply to the Licensing Office of the TD for exemption of the vehicles from carriage of standing passengers. *[Amended in October 2007]*

12.9 Any vehicle modified to a float configuration for display or canvassing purposes must be approved by the Commissioner for Transport. Application procedures for approval of float design are included at **Appendix L**.

12.10 Candidates should also note that the use of loudspeakers will not be permitted within the NCZ outside the polling station, nor will it be permitted in the vicinity where the sound emitted can be heard within the NCZ. [See also Chapter 14 : Prohibition Against Canvassing Activities outside Polling Stations.]

### **PART III : SANCTION**

12.11 If the EAC comes to know that any candidate is in breach of the guidelines in this chapter, apart from notifying the relevant authorities for actions to be taken, it may make a **reprimand** or **censure** in a public statement which will include the name of the candidate concerned. The censure may be in addition to the criminal liability for offences inside the NCZ, punishable with the maximum penalties of \$5,000 fine and imprisonment for 3 months [s 45 of the EAC (EP) (LC) Reg]. Candidates should also remind their supporters to observe these guidelines when they are campaigning on behalf of the candidates. *[Amended in October 2007 and July 2008]*

## **CHAPTER 13**

### **ELECTIONEERING ACTIVITIES CONDUCTED IN SCHOOLS OR PARTICIPATED BY SCHOOL PUPILS**

#### **PART I : GENERAL**

13.1 Candidates, school supervisors, principals and teachers are requested to take note of these guidelines when considering allowing the conduct of electioneering activities in their schools or seeking the assistance of pupils in electioneering activities.

13.2 Involvement of school pupils in electioneering activities has always been a matter of public concern. Anybody in authority must **NOT** use his position to exert undue influence on youths of school age under his charge to recruit them for electioneering activities. If the EAC comes to know that a person has abused his position by involving youths of school age under his charge in electioneering activities, it may make a reprimand or censure against the person. For use of force or duress on a person's voting preference, see s 13 of the ECICO.

#### **PART II : SCHOOL PUPILS**

13.3 While it is for the promotion of civic education that school pupils are encouraged to take an interest in community affairs, including elections, it is considered undesirable for them to be involved in electioneering activities at too young an age. Unattended young children can cause control problems and,

particularly where large numbers are involved, or in overcrowded situations, can create a danger to themselves and others. The EAC therefore advises strongly against any pre-primary or primary school pupil taking part in electioneering activities.

13.4 Distribution of EAs is a form of electioneering activity. There may be school supervisors, principals or teachers who may support a particular candidate/GC list in a GC. While they are free to support any candidate or GC list they prefer, they should not distribute or help distribution of EAs of any candidate or GC list to the parents of pre-primary, primary or secondary pupils using the pupils as conduits. Moreover, they must not ask such pupils to request their parents to vote for any particular candidate or GC list. The same applies to candidates who are themselves school supervisors, principals or teachers. This guideline is based on the same principle stated in para. 13.2 above, and could avoid any semblance of undue influence on young children under the charge of these persons in authority in the school.

13.5 The EAC adopts the advisory circular issued by the Secretary for Education to all schools for general guidance, emphasising the following points:

- (a) participation by pupils in electioneering activities must be **entirely voluntary**;
- (b) the **written consent** of a parent or guardian must be obtained beforehand;
- (c) in no circumstances should pre-primary or primary school pupils be asked to take part in such activities;
- (d) there should be no disruption of the pupils' education, and in no

circumstances should normal lessons be interrupted to enable pupils to take part in such activities; and

- (e) in no circumstances should pupils be asked to take part in activities in areas where they may be subject to various elements of danger, including those created by traffic.

*[Amended in October 2007]*

13.6 Pupils who take part in canvassing activities should pay attention to their own school regulations, and in particular those regarding the wearing of school uniform in such activities.

13.7 The EAC recognises that school pupils who are 18 years of age or over are by law old enough to be responsible for their own acts and make election-related decisions for themselves.

### **PART III : ELECTIONEERING ACTIVITIES IN SCHOOLS**

13.8 During the election period, school supervisors, principals or teachers may invite or be approached by candidates to give talks on topical issues to students in their schools. The topic to be covered by such a talk may or may not have direct reference to an election. In any case, the presence of the candidate delivering it and the copies of the speech which may be circulated to students and brought home to their parents may have the effect of promoting or advertising that candidate or his GC list and should, therefore, be regarded as his electioneering activity. [See also para. 13.4 above.]

13.9 In line with the **fair and equal treatment** principle, the EAC appeals to all school supervisors, principals and teachers to provide equal opportunity to all candidates/GC lists of the same constituency for the purpose of electioneering. If a school authority has decided to allow a particular candidate or GC list to conduct electioneering activities in the school, other candidates or GC lists of the same constituency should be informed and given the opportunity to do the same, so that no unfair advantage will be accorded to or obtained by any candidate over others regarding election campaigning. Information on the name and address (and contact numbers if the candidate has no objection to releasing the same) of candidates and GC lists can be obtained from the REO.

#### **PART IV : SANCTION**

13.10 If the EAC comes to know that any candidate or school or a person is in breach of the guidelines in this chapter, it may make a **reprimand** or **censure** in a public statement which will include the name of the candidate, the school and person concerned, and may also refer the case to the Education Bureau. Candidates should therefore apprise the school or person concerned who offers them assistance of these guidelines. *[Amended in October 2007 and July 2008]*

## **CHAPTER 14**

### **PROHIBITION AGAINST CANVASSING ACTIVITIES OUTSIDE POLLING STATIONS**

#### **PART I : GENERAL**

14.1 This chapter deals with the ban on canvassing activities **outside** polling stations on the polling day.

14.2 A “No Canvassing Zone Scheme” is employed for the purpose of prohibiting canvassing activities outside polling stations on the polling day in order to maintain free and safe passage for electors, and to ensure that electors are not unduly harassed on their way to a polling station.

#### **PART II : DECLARATION OF A NO CANVASSING ZONE AND NO STAYING ZONE**

14.3 The RO for a GC must determine, in respect of each polling station designated for the GC and 28 FCs/SFCs an area outside the polling station to be a NCZ. In so doing, he will take into account the location of the polling station and the local geographical conditions. He must also determine an area within the NCZ outside the entrance/exit of the polling station as a NSZ. These 2 zones are to be determined with reference to a map or plan [s 40(1) of the EAC (EP) (LC) Reg]. *[Amended in October 2007]*

14.4 The RO who made the determination of declaring a NCZ or NSZ in respect of a polling station must, at least **7 days** before the polling day, give notice of the declaration to the candidates of his own constituency and to the ROs of other constituencies for which polling will be held in the polling station; and thereafter each of the ROs of these other relevant constituencies must give notice of the declaration to the candidates of his own constituency as soon as practicable [s 40(3), (4), (6), (7), and (8) of the EAC (EP) (LC) Reg].

14.5 The notice will be given in writing, either in person or by post or by facsimile transmission to the candidates (or in the case of a multiple candidates list, to the candidate ranking first in priority on the list) or to the election agents or to the polling agents of the candidates [s 40(3) and (14) of the EAC (EP) (LC) Reg]. *[Amended in October 2007 and July 2008]*

14.6 Where the circumstances so warrant, the RO who has made a determination may vary the NCZ or NSZ. Notice of the variation must be given as soon as practicable after the variation in the same manner as a notice referred to in para. 14.5 above. However, a notice of variation need not be given to the candidates if it is not reasonably practicable to do so before the close of poll [s 40(13) of the EAC (EP) (LC) Reg].

14.7 A notice of the determination or the variation, together with indication of the boundaries of the NCZ or the NSZ, need to be displayed, on the polling day, at or near the relevant polling station, in order to make the determination or variation effective [s 40(10), (11) and (12) of the EAC (EP) (LC) Reg].

14.8 The RO who is empowered to determine NCZ and NSZ may authorise his ARO or the PRO of the relevant polling station to exercise the power to vary the determination and to perform the associated duties on the polling day [s 40(11A) of the EAC (EP) (LC) Reg]. *[Amended in July 2008]*

### **PART III : CONDUCT INSIDE THE NO CANVASSING ZONE AND NO STAYING ZONE**

14.9 Door-to-door canvassing and for the purpose of such canvassing, the display of propaganda material, eg any badge, emblem, clothing or head-dress which may promote or prejudice the election of a candidate or candidates at the election, or makes direct reference to a body any member of which is standing as a candidate in the election or to a prescribed body the registered name or registered emblem of which has been printed on any ballot paper for the election, will be allowed on the storeys above or below street level in a building within a NCZ other than a building in which there is a polling station provided that permission has been obtained for entry to the building for canvassing votes, and that obstruction is not posed to electors and no sound amplifying device is used [s 40(16) of the EAC (EP) (LC) Reg]. Apart from this, no other canvassing activities (including suggesting not to vote for any candidate) will be allowed within a NCZ except for static displays of EAs that are authorised by the RO or the PRO of the relevant polling station. Where there are premises situated within the NCZ, the ROs should issue a notice in advance to all the candidates in the constituencies concerned asking them to remove all of their EAs, if any, posted up at the premises within the NCZ which can be seen by the electors on their way to the polling stations on the polling day. If the candidates fail to remove the EAs as requested by the ROs, the ROs may issue a warning to them to remove the offending EAs immediately. If the candidate or GC list fails to do so, the EAC may issue a censure or reprimand. Canvassing activities may take many different forms. A list of common canvassing activities which are forbidden in a NCZ is at **Appendix F**. *[Amended in October 2007]*

14.10 On the polling day, the PRO will use his best endeavour to ensure that no person carries out any activity other than those permitted activities

described in para. 14.9 above in the NCZ in respect of his polling station to persuade or induce any elector to vote or not to vote. Any unauthorised display of EAs in the area will be removed by the RO or other persons authorised by the RO [s 102(15) of the EAC (EP) (LC) Reg]; and any person found to have conducted canvassing activities prohibited in the area will be asked to leave the area [s 41 of the EAC (EP) (LC) Reg]. *[Amended in October 2007]*

14.11 The use of loudspeakers or loud-hailers will not be permitted within the NCZ, nor will any such device or any activity (eg lion dance) be permitted in the vicinity so that the sound emitted can be heard within the NCZ [s 41 of the EAC (EP) (LC) Reg]. Save for canvassing activities allowed in para. 14.9, candidates and their supporters are not allowed to pass, let alone shout, appeal message to persons while inside the NCZ. [See Part II of Chapter 12 regarding the use of loudspeakers.]

14.12 Within the NCZ but immediately outside the entrance/exit of each polling station (and sometimes the entrance is also the same as the exit), there will be a **NSZ**, in which no person is allowed to stay or loiter, except where a person has been expressly permitted to do so by the PRO [s 41 of the EAC (EP) (LC) Reg]. This is for the purpose of securing safe and smooth passage of electors into and out of polling stations. *[Amended in October 2007]*

14.13 A person shall not obtain or attempt to obtain (in any manner) information as to which candidate an elector of the relevant polling station is about to vote for or has voted for, in a NCZ or in a NSZ without the express permission of the PRO who should have regard to exit pollsters who have complied with the requirements set out in Chapter 15 : Exit Poll.

14.14 Any person who misconducts himself or carries out any forbidden activity in a NCZ or NSZ, or fails to obey a lawful order of the RO (who has made the determination in respect of that NCZ or NSZ) or the PRO, commits an offence punishable with a fine and imprisonment and may be ordered by such officer to leave the NCZ or NSZ [ss 45(4) and 41(2) of the EAC (EP) (LC) Reg]. If he fails to leave immediately, he may be removed from the relevant zone by a police officer or by any other person authorised in writing by the RO or the PRO [s 41(3) of the EAC (EP) (LC) Reg]. The person so removed may not re-enter the NCZ or NSZ during that day except with the permission of the RO or the PRO [s 41(4) of the EAC (EP) (LC) Reg].  
*[Amended in October 2007]*

14.15 Nevertheless, the RO or the PRO shall not exercise their powers to remove an elector from the NCZ or NSZ so as to prevent him from voting [ss 41(5) and 44(14) of the EAC (EP) (LC) Reg].

#### **PART IV : PENALTY**

14.16 Any canvassing within a NCZ except those exempted and any conduct prohibited under paras. 14.12 and 14.14 above will each be an offence under s 45(7) of the EAC (EP) (LC) Reg, punishable by a fine at level 2 (up to \$5,000) and imprisonment up to 3 months. Any attempt to obtain information as described in para. 14.13 above without the necessary permission will be an offence under s 96 of the EAC (EP) (LC) Reg, punishable by a fine at level 2 (up to \$5,000) and imprisonment of up to 6 months. *[Amended in October 2007]*

## CHAPTER 15

### EXIT POLL

#### PART I : GENERAL

15.1 This chapter sets out the guidelines for the conduct, publication and broadcast of exit polls to avoid unfair interference with the election process by unduly influencing electors. The aim is to ensure that elections are conducted honestly and fairly.

15.2 **The EAC appeals to the media and organisations concerned for self-regulation, goodwill and voluntary cooperation in the conduct of exit polls, and the publication and broadcast of the result of exit polls so that elector behaviour will not be unduly affected.**

#### PART II : SECRECY OF THE VOTE

15.3 **The ballot is secret.** It is an elector's right to keep his vote secret. An elector does not have to disclose his choice of candidate/GC list if he does not want to. **It is a criminal offence for a person, without lawful authority, to require, or purport to require, an elector or authorised representative of a corporate elector to disclose the name of, or any particular relating to, the candidate/GC list for whom the elector/ authorised representative of a corporate elector voted at an election** [s 60 of the LCO and s 96 of the EAC (EP) (LC) Reg]. **Those who conduct exit polls must respect the electors' right and wish not to be disturbed.** The

interviewers should inform the electors being interviewed that their participation in the exit poll is voluntary prior to the conduct of exit poll. *[Amended in October 2007 and July 2008]*

15.4 Any announcement of results of exit polls or predictions, particularly in relation to any individual candidate or GC list, during the polling hours may affect elector behaviour and have an impact on election results. **The EAC, therefore, reminds the media and organisations concerned that they should not announce the results of exit polls or make specific remarks or predictions on the performance of individual candidate or GC list before the close of poll.** *[Amended in July 2008]*

15.5 Broadcasters' attention is invited to the provisions of the Television and Radio Code of Practice on Programme Standards which require news and current affairs programmes to be fair, objective and impartial.

### **PART III : CONDUCT OF EXIT POLLS**

15.6 Exit polls may be conducted by any person or organisation. For the purpose of better control of the conduct of exit poll, persons or organisations intending to conduct exit polls must provide the following to REO at **the latest 10 days before the polling day:** *[Amended in July 2008]*

- (a) the name and address of the person or organisation intending to conduct exit poll on the polling day;
- (b) the identity document number and name of the person responsible together with his telephone number(s) for contact, especially for the polling hours; and

- (c) a list showing the number of persons who will be employed for the conduct of the exit poll at each polling station on the polling day together with the identity document number and name of each of all the persons who will be so employed.

15.7 On the receipt of the application, the REO will consider the application and issue approval to the concerned person or organisation as appropriate. Before the grant of approval, the person or organisation allowed to conduct exit poll will be required to sign an **undertaking** to abide by the guidelines governing the conduct of exit poll. If a person or an organisation who/which fails to comply with the terms of the undertaking and the guidelines set out in this chapter, the approval to conduct exit poll on the polling day or during the polling hours may be revoked. The EAC may also make a reprimand or censure in a public statement which will include the name of the person or organisation who/which fails to comply with the terms of the undertaking/guidelines. A list of persons or organisations allowed to conduct exit poll together with their contact telephone numbers will be released to the public prior to the polling day for the reference of the public and candidates. Such a list will also be displayed at the respective polling stations. *[Amended in July 2008]*

15.8 Interviews are not allowed inside polling stations. Interviewers should note that canvassing activity is prohibited under criminal sanction within the NCZ except door-to-door canvassing activities on the storeys above or below street level in a building other than one in which there is a polling station provided that permission has been obtained for entry to the building for canvassing votes, and that obstruction is not posed to electors and no sound amplifying device is used. Interviewers must therefore be extremely careful in conducting exit poll so as not to give rise to any suspicion that they are canvassing electors inside the NCZ. Interviewers, like any other person, are not allowed to stay or loiter in the areas designated as the NSZ (within the NCZ

but immediately outside the entrance/exit to each polling station) [s 41 of the EAC (EP) (LC) Reg]. Interviewers are also not allowed to accost electors in the NSZ. All these measures are for the purpose of securing safe and smooth passage of electors into and out of polling stations. The PRO of a polling station may, if circumstances require, designate an area outside the exit of the polling station so that interviewers may only conduct exit poll within that area. *[Amended in October 2007]*

#### **PART IV : IDENTIFICATION OF INTERVIEWERS**

15.9           There had been occasions where exit poll interviewers were mistaken to be government officials or polling staff. Such interviewers are therefore required to display prominently an identification device showing the identity of the organisation/person conducting exit poll so that electors will not be misled into thinking that they are appointed by Government. In addition, the interviewers are required to make known to the electors that any response is entirely voluntary. Arrangements should be made for electors to be aware of the name of the organisation/person conducting the interview and the fact that the exit poll is not commissioned by the Government. *[Amended in July 2008]*

15.10          After receipt of the information referred to in para. 15.6 above, the REO will notify the organisation or person concerned to collect a number of identification device bearing the name of the organisation/person that is required to be displayed prominently by each of the persons included in the list in para. 15.6(c) above when conducting an exit poll. Any person not displaying prominently such a device will not be allowed to conduct an exit poll outside any polling station. *[Amended in July 2008]*

## **PART V : SANCTION**

15.11        Apart from the criminal sanction provided in the LCO, if the EAC comes to know that any broadcaster or organisation has failed to heed or comply with the guidelines in this chapter, it may make a **reprimand** or **censure** in a public statement which will include the name of the broadcaster or the organisation concerned. *[Amended in July 2008]*

## CHAPTER 16

### ELECTION EXPENSES AND DONATIONS

#### PART I : WHAT CONSTITUTES ELECTION EXPENSES

16.1 Provisions relating to election expenses can be found in the ECICO.

16.2 **Election expenses** mean expenses incurred or to be incurred **before, during or after an election**, by a candidate or his election expense agent on his behalf for the purpose of promoting his election, or prejudicing the election of another candidate or other candidates and include the value of election donations consisting of goods and services used for that purpose [s 2 of the ECICO]. The term “candidate” relating to election expenses (and donations) therefore includes a person **who has publicly declared an intention to stand for election** in respect of a constituency at any time before the close of nominations for the election, regardless of whether he has submitted his nomination form or after submission of the nomination form, his nomination is ruled invalid by the RO [s 2 of the ECICO]. A prescribed person who has applied under PCBP (LC & DC) Reg to have his emblem registered should not, by that act alone, be treated as having publicly declared an intention to stand for election. As the list voting system of proportional representation applies to the election of the GCs, where GC lists instead of individual candidates will contest the election, a candidate who is on a GC list should pay attention to the special features applicable to the GC lists as set out in Part VII, although the law and guidelines in this chapter referable to candidates apply generally to the GC lists. *[Amended in October 2007]*

16.3 A candidate may receive **donations** for the purpose of meeting the costs of his election expenses. Donation, in relation to a candidate or candidates at an election, means any of the following donations:

- (a) any money given to or in respect of him for the purpose of meeting or contributing towards meeting his election expenses; or
- (b) any goods given to or in respect of him for the purpose of promoting his election or of prejudicing the election of another candidate or other candidates and includes any goods given incidental to the provision of voluntary service; or
- (c) any service provided to or in respect of him for the purpose of promoting his election or of prejudicing the election of another candidate or other candidates, but does not include voluntary service.

[S 2 of the ECICO.]

A donation to a candidate on a GC list will necessarily be a donation to all the individual candidates on the list jointly [see Part VII of this chapter]. All such donations, whether in cash or in kind, when spent or used, are counted as election expenses. [For details, see Part III of this chapter.]

16.4 There is no defined time as to when expenses are incurred whereby they will or will not be counted as election expenses. It is a question of fact in each case. For as long as an expense is incurred either for the purpose:

- (a) of promoting the election of a candidate; or

- (b) of prejudicing the election of another candidate or other candidates;

it will be an election expense, irrespective of when it is incurred, either before, during or after the election, and regardless of the source of funding.

16.5 A list of common expenditure items which may be counted towards election expenses is at **Appendix M**. The list is only illustrative and should not be considered as having precedence over the legislation. Whether a particular item of expenditure should be regarded as an election expense is a question of fact to be answered in the circumstances of each case. Each case should be determined by reference to the purpose behind the expenses, taking account of the nature, circumstances and context of the expenditure. Personal expenses incurred in the normal course of a candidate's daily life are not election expenses. Use of staff and other resources which are available to a candidate in his official capacity or at work for the purpose of promoting his candidature in the election should be counted as election expenses. Candidates should consult their legal advisers if they have doubt as to whether an expenditure item should count as an election expense. Any legal fees incurred as a result will not themselves be counted as election expenses.

16.6 A candidate should not use any public resources for the purpose of promoting his election or prejudicing the election of another candidate or other candidates at the election. However, any security, transportation, secretarial and living quarters services to which he is entitled to use for his private purposes by virtue of his post or job are not treated as public resources in this context.

## **PART II : WHO MAY INCUR ELECTION EXPENSES AND THEIR LIMIT**

### **Maximum Amount of Election Expenses**

16.7           The maximum amount of election expenses for elections for the different constituencies is prescribed by the Maximum Amount of Election Expenses (Legislative Council Election) Regulation to limit the maximum amount of expenses a candidate/GC list may incur on account of the election. These expense limits control the extent of election campaigns and serve to prevent candidates with ample financial resources from having an unfair advantage. *[Amended in October 2007 and July 2008]*

16.8           The election expense limits are set out in the following table. For ascertaining the number of registered electors referred to in items (c), (d) and (e), inquiry can be made with the RO for the constituency concerned.

Constituencies	Election Expense Limits <sup>5</sup>
(a) for a GC election:	
(i) for a list in Hong Kong Island GC	\$2,100,000
(ii) for a list in Kowloon East and Kowloon West GCs	\$1,575,000
(iii) for a list in New Territories East and New Territories West GCs	\$2,625,000

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<sup>5</sup> These election expense limits will take effect upon the commencement of operation of the Maximum Amount of Election Expenses (Legislative Council Election) Regulation on 18 July 2008.

Constituencies	Election Expense Limits <sup>5</sup>
(b) for an election for one of the following 4 SFCs, viz, Heung Yee Kuk, Agriculture and Fisheries, Insurance, and Transport FCs	\$105,000
(c) for an election for an FC other than those in (b) above with not more than 5,000 registered electors	\$168,000
(d) for an election for an FC with between 5,001 and 10,000 registered electors	\$336,000
(e) for an election for an FC with over 10,000 registered electors	\$504,000

*[Amended in July 2008]*

16.9 A candidate must not incur any election expenses in excess of the maximum amount prescribed [s 24 of the ECICO]. Candidates on a GC list must not jointly or severally incur any election expenses in excess of the maximum allowed for each list for that GC, lest they will commit an illegal conduct.

### **Persons Authorised to Incur Election Expenses**

16.10 Only a candidate or a person (including a fellow candidate on the same list in a GC election) who has been duly authorised by a candidate as the candidate's election expense agent may incur election expenses [s 23 of the ECICO]. The authorisation should follow the procedures specified in Part VI of Chapter 7.

16.11 **Negative campaigning** (ie canvassing against other candidates). Before incurring expenses in carrying out any negative campaigning for or for the benefit of a candidate, a person will need the authorisation of the candidate to be the election expense agent of the candidate. Such expenses will be counted towards election expenses of the candidate. If the negative campaign includes EAs, all the requirements of the ECICO and of the EAC (EP) (LC) Reg made by the EAC must also be complied with. *[Amended in October 2007]*

16.12 Candidates should advise the organisations with which they are associated and which may incur expenses to support them of these guidelines as soon as they have any intention or plan to run for an election, to avoid any offences being committed by these organisations out of ignorance.

16.13 A candidate will be responsible for the overall amount of his election expenses. In the event the total amount incurred by him and/or on his behalf is above the limit prescribed or above the limit he has authorised his election expense agent to expend, he will be liable for contravening the law, unless he can prove that the excess was incurred without his consent, beyond his authorisation, or not due to any negligence on his part. The election expense agent, on the other hand, should not incur an amount of election expenses which exceed the limit authorised by the candidate, lest the agent will contravene s 23 of the ECICO [ss 23 and 24 of the ECICO].

## **PART III : DONATIONS**

### **General Provisions**

16.14 A person who has made known his intention to stand as a candidate in an election may receive donations for the sole purpose of meeting his election expenses.

16.15 Donations can only be used for meeting, or contributing towards meeting, a candidate's election expenses, or in the case of an election donation consisting of goods or services, for the purpose of promoting the election of the candidate or of prejudicing the election of another candidate or other candidates [s 18 of the ECICO].

16.16 Donations can be in cash or in kind, and include any money's worth, any valuable security or other equivalent of money and any valuable consideration. All spent or used donations, whether in cash or in kind, which may be received before, during or after an election, are counted towards the total election expenses which are subject to the maximum amount prescribed.

16.17 Any unspent or unused donations must be given to charitable institution(s) or trust(s) of a public character chosen by the candidate(s). Any amount of donations that exceeds the upper limit of election expenses must also be given to such charitable institution(s) or trust(s) [s 19 of the ECICO].

16.18 Since election donations can only be lawfully spent for meeting or contributing towards meeting election expenses, donations and expenses are often corresponding to each other. For every item of election expense which is avoided or reduced by obtaining the goods supplied or services rendered free of charge or at a discount, there should normally be a corresponding item of

donation. The only exception is voluntary services obtained that are not treated as donations (any goods given incidental to the provision of a voluntary service will however be counted as an election donation). These points are elaborated in the paragraphs under Donations in Kind of this chapter.

16.19 On receiving a donation, of money or in kind, of more than \$1,000 in value, a candidate must issue to the donor a receipt which specifies the name and address of the donor (as supplied by the donor). A standard form of receipt is obtainable from the REO and will be provided to a candidate or GC list at the time of his submitting the nomination form. While it is not uncommon that some donors would like to be anonymous, if a donation, in cash or in kind, is more than \$1,000 in value, then only where the donor's name and address (as supplied by the donor) are shown as required by the standard form of donation receipt can it be used as election donation. Donations exceeding \$1,000 or, in the case of an election donation consisting of goods, of more than \$1,000 in value received from anonymous donors must not be used for election expenses and must be given to a charitable institution or trust of a public character chosen by the candidate(s) [s 19(2) of the ECICO].  
*[Amended in October 2007]*

### **Donations in Kind**

16.20 Donations in kind include goods and services obtained free of charge or at a discount. Unless the discount is generally available to all customers, the difference between the market/regular price and the price charged is a donation and must be declared and included as such and correspondingly as an election expense in the form of return. The same principle applies to loans obtained at no interest or at an interest rate lower than usual. Unless the facility is generally available to others, the interest not charged must be declared and included as a donation and election expense in the form of return. For premises provided free of charge to a candidate for his

election campaign, a reasonable amount should be assessed as the deemed rental for the premises and such be included as a donation and election expense in the form of return.

16.21 For services or goods obtained free of charge, a candidate must include in the return their estimated value as if the expenses had been incurred. Where the services or goods are furnished by a person who deals in similar services or goods with the public, their estimated value should be assessed at the lowest price at which the person offers his services or goods to the public at the time when they are furnished. Where such services or goods are furnished by persons who do not deal in similar services or goods with the public, their estimated value should be assessed at the lowest market retail price at the time when they are furnished.

16.22 **Voluntary service** is the only service rendered free of charge which may be excluded from being counted as election expenses. In addition to being free of charge, the service must be provided by a natural person, voluntarily and personally, in his own time for the purpose of promoting the election of the candidate or candidates, or of prejudicing the election of another candidate or other candidates [s 2 of the ECICO]. Otherwise, the service provided should be treated as a donation and counted towards election expenses at a fair estimated value. *[Amended in October 2007]*

#### **PART IV : RETURN AND DECLARATION OF ELECTION EXPENSES AND DONATIONS**

16.23 A candidate must keep an accurate account of all election expenses incurred and donations (whether in cash or in kind) received, and submit to **the CEO a return and declaration of election expenses and**

**donations in a standard form** (which will be given to a candidate upon his submission of nomination) **not later than 60 days after the publication in the Gazette of the result of the election, or not later than 60 days after the declaration of the termination of the election proceedings under the relevant electoral law, or not later than 60 days after the declaration of the failure of the election under the relevant electoral law** [s 37 of the ECICO].  
*[Amended in October 2007]*

16.24 The return must cover all the election expenses incurred by the candidate or the person(s) so authorised by him, services or goods obtained free of charge or at a discount and any unpaid claims. It must be submitted with supporting invoices and receipts for all payments each of \$100 and above. The copies of receipts issued by the candidate for any donations of more than \$1,000 and those issued by charitable institutions or trusts of a public character for the collection of any unspent or excessive donations should also be attached [s 37 of the ECICO].

16.25 At the time of his submitting his nomination form, a candidate will be given:

- (a) the standard form for making return and declaration of election expenses and donations mentioned in para. 16.23 above, together with a standard form of receipt for donations mentioned in para. 16.19 above;
- (b) the standard form for advance return of donations [see para. 16.28 below];
- (c) a specimen of the standard form with examples showing how the return and declaration can be completed; and

- (d) explanatory notes on how to complete the returns.

A candidate should read the explanatory notes carefully in completing the return, and make reference to the specimen whenever necessary.

### **Omissions and Mistakes**

16.26 If a candidate is unable or fails to send to the CEO the return and declaration of all election expenses and donations before the end of the permitted period or omits an item in it or makes a mistake in it, and such inability, failure, omission or error was due to his own illness or absence from Hong Kong or of the absence from Hong Kong, death, illness or misconduct of any agent or employee of the candidate or by reason of inadvertence or accidental miscalculation or any reasonable cause (but not by reason of want of good faith of the candidate), he has the right to make an application to the Court of First Instance for an order to send in the return and declaration late, or to correct the omission or mistake [s 40 of the ECICO]. When the candidate finds himself in such a situation, it would be wise of him to make the application to the Court and inform the REO as soon as possible. The legal costs so incurred will not be regarded as his election expenses. It is a corrupt conduct if a candidate who, in an election return lodged under s 37 of the ECICO, makes a statement that he knows or ought to know is materially false or misleading [s 20 of the ECICO]. *[Amended in October 2007]*

## **PART V : ADVANCE RETURN OF DONATIONS**

16.27 Any candidate who is an incumbent public servant under the POBO, eg a serving member of the LegCo or a DC, etc, may give advance disclosure to the CEO of any donations received. This may enable such

incumbent member to avoid any inadvertent contravention of the provisions of the POBO relating to the acceptance of “advantages”. The donations so disclosed must also be incorporated in the return and declaration of all election expenses and donations to be submitted to the CEO not later than 60 days after the publication in the Gazette of the result of the election, or not later than 60 days after the declaration of the termination of the relevant proceedings under the relevant electoral law, or not later than 60 days after the declaration of the failure of the election under the relevant electoral law [s 37 of the ECICO]. The general provisions regarding donations in Part III must be observed.  
*[Amended in October 2007]*

16.28 Any **advance return of donations** must be made on the standard form mentioned in para. 16.25 above.

16.29 Depending on the time and the number of donations received, a candidate may submit any number of advance returns of donations to the CEO.

## **PART VI : FINANCIAL ASSISTANCE**

16.30 Under the Financial Assistance Scheme for candidates and lists of candidates standing in LegCo elections in respect of election expenses, candidates or lists of candidates who get elected or who have received 5% of valid votes or more and are not disqualified will be eligible for financial assistance as follows:

- (a) in respect of a candidate or a list of candidates in a contested GC or FC, the amount payable is the lower of the following:
  - (i) the amount obtained by multiplying the total number of valid votes cast for the candidate or list of candidates by the specified rate at \$11 per vote<sup>6</sup>; *[Amended in July 2008]*

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<sup>6</sup> This specified rate will take effect upon the commencement of operation of the Legislative Council Ordinance (Amendment of Schedule 5) Order 2008 on 18 July 2008.

- (ii) 50% of the declared election expenses of the candidate or list of candidates;
- (b) in respect of a candidate or a list of candidates in an uncontested GC or FC, the amount payable is the lower of the following:
  - (i) the amount obtained by multiplying 50% of the number of registered electors for the constituency by the specified rate at \$11 per vote<sup>6</sup>; *[Amended in July 2008]*
  - (ii) 50% of the declared election expenses of the candidate or list of candidates.

The amount of election donations received by a candidate or a list of candidates will not be taken into account in calculating the amount of financial assistance payable to the candidate. As election donations will not be netted off in calculating the amount of financial assistance payable to a candidate or a list of candidates, the amount of financial assistance payable to a candidate or a list of candidates in some cases may be greater than the amount of his or their net election expenses<sup>7</sup>. The broad procedural and documentary requirements for making a claim, and general conditions for payment to be made are provided in Part VIA of the LCO. The EAC (FA) (APP) Reg sets out the detailed implementation procedures for the Scheme. *[Amended in October 2007]*

### **Making Claims and their Submissions**

#### **Requirements to be complied with when making claims**

16.31 A claim for financial assistance shall be made by a candidate or a

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<sup>7</sup> This may occur if the candidate or list of candidates secures donations which exceed 50% of his or their total election expenses.

list of candidates in a specified form (which will be provided by the REO at the time when candidates submit their nominations). It will be signed by an eligible candidate, or in respect of an eligible list of candidates by all candidates on the list (or if there is only one candidate on the list, by that candidate). The claim form will be accompanied by:

- (a) an election return made under s 37 of the ECICO; and
- (b) an auditor's report which confirms that an auditor has audited the account of the declared election expenses by conducting a reasonable assurance engagement in accordance with the Hong Kong Standards on Assurance Engagements, and states the auditor's opinion as to whether the election return complies with s 37(1)(a) and (2)(b)(i) and (v) of the ECICO in all material respects.

[S 3 of the EAC (FA) (APP) Reg.] *[Amended in October 2007]*

16.32 A set of guidance notes will be prepared by the REO with assistance by the Hong Kong Institute of Certified Public Accountants ("HKICPA") for auditors who are engaged by candidates to perform the auditing task. These notes will be issued by the HKICPA to its members prior to the LegCo election. *[Amended in October 2007]*

16.33 Since the auditing fee is not incurred for the purpose of promoting candidature or prejudicing another candidate, it should not be regarded as an election expense. Accordingly, an elected candidate could accept an advantage to meet the auditing fee incurred and he would not be required to report the acceptance in his election return. S 4 of the POBO does not prohibit the acceptance of such an advantage *per se*, but if an elected candidate decides to accept such an advantage, he should ensure that the acceptance is not in breach of the relevant provisions in s 4 of the POBO.

### Submission of claims

16.34 The claim form, together with the accompanying documents, shall be submitted in person at the office of the CEO by the candidate or one of the candidates of a GC list (or if there is only one candidate on the list, by that candidate) who has signed the claim form, or his agent, within 60 days after the publication in the Gazette of the result of the election [s 4 of the EAC (FA) (APP) Reg]. *[Amended in October 2007]*

### **Verification of Claims**

#### Verification by CEO

16.35 On receiving a claim, the CEO will check the eligibility for financial assistance of the candidate or the list of candidates. He will also verify that the claim conforms to the requirements set out in the EAC (FA) (APP) Reg.

#### Requirement for further information

16.36 The CEO may require the claimant, through a written request, to provide further information to verify the claim. The claimant must provide the information within 14 days or within the period provided for in ECICO for lodging an election return, whichever is later. If the claimant fails to provide the information within the period, the CEO may stop processing the claim without any prior notice.

[S 5 of EAC (FA) (APP) Reg.]

### Part processing of claims

16.37 If an auditor's report states that only part of the election return complies with the requirements set out in the relevant sections of the ECICO, the CEO may process that part of the return that complies with those requirements and may stop processing the part of the return that does not comply with those requirements [s 6 of the EAC (FA) (APP) Reg]. *[Amended in October 2007]*

### **Withdrawal of Claims**

16.38 A claim may be withdrawn before a payment of financial assistance is made by submitting a notice of withdrawal in person at the office of the CEO by the candidate, or by one of the candidates in the case of a claim made by an eligible list of candidates (or if there is only one candidate on the list, by that candidate), or his agent. The notice of withdrawal must be in a specified form and signed by the candidate, or by all the candidates in the case of a claim made by a list of candidates [s 7 of the EAC (FA) (APP) Reg]. *[Amended in October 2007]*

### **Payment of Claim after Verification**

#### Payment to be made by the Director of Accounting Services ("DAS")

16.39 After verifying the claim, the CEO will certify the amount of financial assistance payable on the claim and notify the DAS of the amount payable and the person to whom it is to be paid. As soon as practicable after receiving the notification, the DAS must make the payment in accordance with the notification. In the case of an eligible list of more than one candidate, the payment is to be made to the candidate who is nominated in the claim form to receive the payment on behalf of the candidates on the list [s 8 of the EAC (FA) (APP) Reg].

### **Recovery of Payment**

16.40 Where a payment of financial assistance is made and the recipient is not entitled to receive the whole or part of the amount paid, the CEO is required to send a written notice under s 60H(1)(a) of the LCO by registered post to the recipient requiring repayment. The recipient may make the repayment, in person, at the office of the CEO or send the repayment by post [s 12 of the EAC (FA) (APP) Reg].

## **PART VII : SPECIAL FEATURES APPLICABLE TO THE LIST OF CANDIDATES IN A GEOGRAPHICAL CONSTITUENCY ELECTION**

16.41 The guidelines in this chapter and the provisions of the ECICO apply generally to each and every candidate who is on a GC list. This Part draws attention of those candidates and their agents to the special features that are applicable to the GC list.

16.42 As stated in item (a) of para. 16.8, a particular ceiling of election expenses applies to each of the GC lists in respect of a particular GC. The election expenses to be incurred by all the candidates on the GC list, or a single candidate on the GC list, cannot exceed the applicable ceiling, or else the candidate(s) on the GC list will be guilty of an illegal conduct under s 24 of the ECICO.

16.43 Any election expenses incurred by or on behalf of a candidate on a GC list for promoting the election of the candidate or list of candidates, or for prejudicing the election of another candidate or list of candidates, or any one of such candidates [see para.16.2 above] will necessarily be election expenses incurred for the whole GC list, because they are not only incurred for a

particular candidate, but for promoting or benefiting the election of the GC list in its entirety, regardless of the candidate's rank of priority on the GC list. An authorisation to an election expense agent, be he one of the candidates on the GC list or otherwise, to incur election expenses for a candidate on the GC list, therefore, must necessarily be an **authorisation** to incur election expenses for all the candidates on the GC list, and thus it needs to be **signed by all the candidates on the list**, and not just by the candidate alone. By the same reason, each candidate on the same GC list must authorise the other fellow candidate(s) to be his election expense agent(s), or otherwise none of the other fellow candidates can lawfully incur election expenses for him, or for the whole list which includes him. The election expenses incurred by any candidate on a GC list individually, whether before or after the formation of the list, form part of the election expenses capped by the applicable ceiling and must be counted towards the maximum amount allowed.

16.44 In order to ensure that each of the candidates on a GC list will cross-authorise one another as his election expense agent(s), such candidates will be required to sign a **return and declaration of election expenses already incurred and cross-authorisation form (which will be given to a candidate upon his submission of nomination)** and submit it to the relevant RO or the CEO, as the case may be, for the following purposes:

- (a) to declare the amount of election expenses each of them has already incurred for himself up to the time when the declaration is made;
- (b) to declare the amount of election expenses each of them and of the election expense agents is authorised to incur for the list for the election campaign which, taking into account the expenses already incurred as referred to in (a) above, should not exceed the

election expense ceiling applicable to the GC; and

- (c) to cross-authorise each other and the election expense agents for the spending of the amounts to be incurred declared in (b) above.

All the candidates on the GC list must sign the declaration on the last page of the return before a Commissioner for Oaths or other authorised persons. It is important to note that the authorisation is not effective until it has been received by the relevant RO or the CEO, as the case may be. So long as the sum total of the amounts in (a) and (b) above does not exceed the applicable ceiling for the GC, the candidates on the GC list can decide the exact amount each is to expend for their campaign. However, candidates are advised that it would be wise to reserve a comfortable cushion below the ceiling when making the initial decision. The reason is that if any one of them wishes to expend above the amount to be incurred as declared in (b), this further expenditure could be covered by the cushioned amount. Moreover, since each candidate on a GC list is an election expense agent, he cannot by himself delegate to any third party to incur election expenses for the GC list. Any election expense agent must receive a written authorisation from **all** the candidates on the GC list **before** he can incur such expenses without contravening s 23 of the ECICO.

16.45 If there is any proposed alteration of the amount of election expenses any one of the candidates on a GC list has been authorised to incur under the cross-authorisation referred to in para. 16.44(b) above, all candidates of the GC list are required to sign another declaration form for the purpose and submit it to the relevant RO or the CEO, as the case may be. If there is any proposed alteration of the amount of election expenses that any election expense agent has been authorised by all the candidates on a GC list to incur, the same procedure applies.

16.46 The reasoning set out in para. 16.43 above applies similarly to election donations. **All candidates** on a GC list are required to **sign a form of return and declaration of election expenses and donations** after the election. In the form, donations must include the amount of contribution each of them has made and donations from other sources for the election campaign for the promotion of the GC list. A particular section is included in the form specially with application to a GC list of candidates, who are required to complete and sign the form together. All the candidates on the GC list must sign the declaration on the last page of the return before a Commissioner for Oaths or other authorised persons. However, each candidate on the GC list is responsible for the amount of election expenses he has incurred and authorised by the other fellow candidates to incur, which must be stated in the return with supporting receipts.

16.47 Candidates from the FCs/SFCs need to complete a different form on return and declaration of election expenses and donations.

## **PART VIII : ENFORCEMENT AND PENALTY**

### **Enforcement**

16.48 The returns will be made available at the REO for public inspection up to the first anniversary of the date on which the result of an election is published. Copies of the returns will be furnished to any person upon request subject to payment of copying fee at a fixed rate [s 41 of the ECICO].

16.49 Any complaint or report of breach of these guidelines may be made to the relevant RO, the REO or to the EAC or its Complaints Committee

direct. The EAC or its Complaint Committee may, after consideration, refer the cases to the relevant authorities for investigation and prosecution.

16.50 The REO will check all returns of election expenses and donations. Irregularities detected will be reported to the relevant authorities for investigation.

### **Penalties**

16.51 It is an illegal conduct for a candidate to incur election expenses in excess of the maximum amount prescribed. It is also an illegal conduct for a person, other than a candidate or a candidate's election expense agent, to incur election expenses. An election expense agent engages in illegal conduct if he incurs election expenses in excess of the amount authorised. Such illegal conduct is punishable by a fine of up to \$200,000 and imprisonment of up to 3 years [ss 22, 23 and 24 of the ECICO].

16.52 A candidate who uses any donation for any purpose other than for meeting his election expenses, or fails to dispose of unspent or excessive donations in accordance with s 19 of the ECICO commits a corrupt conduct punishable by a fine of up to \$500,000 and imprisonment of up to 7 years [ss 6, 18 and 19 of the ECICO].

16.53 A candidate who fails to submit the return and declaration of election expenses and donations by the prescribed date or who fails to provide an accurate account of all expenses incurred and all donations received with the required supporting documents commits an offence, punishable by a fine of up to \$200,000 and imprisonment of up to 3 years [s 38 of the ECICO].

16.54 A candidate who knowingly makes a materially false or misleading statement in his return and declaration of election expenses and

donations or any advance return of donations commits a corrupt conduct punishable by a fine of up to \$500,000 and imprisonment of up to 7 years [ss 6 and 20 of the ECICO].

16.55 A candidate, who having been elected to the LegCo, acts in the office or participates in the affairs of the LegCo without filing the return and declaration of election expenses and donations before the end of the permitted period commits an offence, punishable by a fine of \$5,000 for every day after such expiration on which he so sits or votes in such body [s 39 of the ECICO].

16.56 A person convicted of a **corrupt conduct or illegal conduct** within the meaning of the ECICO will, in addition to the penalties set out in paras. 16.51-16.55 of this chapter, be disqualified:

- (a) for 3 years from voting in the CE, EC subsector, LegCo, DC or VR election from the date of conviction [s 26(d) of the Chief Executive Election Ordinance (Cap 569) (“CEEEO”), s 30 of the Schedule to the CEEEO, s 53 of the LCO, s 30 of the District Councils Ordinance (Cap 547) (“DCO”) and s 14 of the Village Representative Election Ordinance (Cap 576) (“VREO”)];
- (b) for 5 years from being nominated as a candidate for the election of, or elected as, the CE, a member of the LegCo or DC or a VR from the date of conviction [ss 14 and 20 of the CEEEO, s 39 of the LCO, s 21 of the DCO and s 23 of the VREO]; and
- (c) for 3 years from being nominated as a candidate for the election of, or from being nominated or elected as, an Election Committee (“EC”) member from the date of conviction [ss 9 and 18 of the Schedule to the CEEEO].

*[Amended in October 2007]*

## CHAPTER 17

### CORRUPT AND ILLEGAL CONDUCT

#### PART I : GENERAL

17.1 This chapter sets out the guidelines against corrupt and illegal conduct in conducting election-related activities. It is important that candidates are aware of the common pitfalls in election activities, which may involve corrupt and illegal conduct, and take appropriate preventive measures to guard against committing offences out of oversight.

17.2 Provisions relating to corrupt and illegal conduct can be found in the ECICO. To help candidates and their agents to get acquainted with the major provisions of the Ordinance, the ICAC has prepared a Handbook on the Ordinance, which is at **Appendix N** for easy reference.

17.3 The ECICO and the guidelines in this chapter apply generally to the elections in respect of the FCs/SFCs, and the GCs. For the special features applicable to the system of the list of candidates in the GC election, please also see Part VII of Chapter 16.

17.4 A person who engages in:

- (a) a **corrupt conduct** will be liable to a fine of up to \$500,000 and imprisonment for up to 7 years and to pay to the court the amount or value or such part as specified by the court of any valuable consideration he or his agents received in connection with the conduct [s 6 of the ECICO]; and

- (b) an **illegal conduct** will be liable to a fine of up to \$200,000 and imprisonment for up to 3 years [s 22 of the ECICO].

In addition to these penalties, a convicted person will be disqualified from being registered as an elector or nominated as a candidate in elections, as appropriate. For details, please see para. 17.34 below.

## **PART II : CORRUPT CONDUCT RELATING TO NOMINATION AND WITHDRAWAL OF CANDIDATURE**

### **Offences relating to Candidature**

17.5 Any act to affect a person's candidature by bribery, force, duress or deception is prohibited. Candidature includes standing as a candidate, not standing as a candidate, or withdrawal of nomination. It will be a corrupt conduct if a person corruptly:

- (a) offers an advantage to another person as an inducement or reward to affect his candidature or for not using his best endeavours to promote his election;
- (b) offers an advantage to another person as an inducement or reward to affect the candidature of a third person or get the third person not to use his best endeavours to promote his election;
- (c) solicits or accepts an advantage from another person as an inducement or reward to affect the candidature of himself or for not using his best endeavours to promote his election; or

- (d) solicits or accepts an advantage from another person as an inducement or reward to affect the candidature of a third person or get the third person not to use his best endeavours to promote his election.

[S 7 of the ECICO.]

17.6 Similarly, a person engages in corrupt conduct if he uses force or duress against another person to affect the candidature of that person or a third person. The use of deception to induce another person to affect the candidature of that person or a third person is also a corrupt conduct [ss 8 and 9 of the ECICO].

17.7 It will also be a corrupt conduct if a person defaces or destroys a nomination paper with intent to prevent or obstruct another person from standing for election [s 10 of the ECICO].

### **PART III : ILLEGAL CONDUCT RELATING TO ELECTIONEERING**

#### **False Statement that a Person is or is not a Candidate**

17.8 A person must not publish any statement that a candidate is no longer a candidate at an election if he is a candidate, or that another person who has been nominated as a candidate is no longer a candidate at the election, or that he or another person is a candidate at an election, knowing that the statement is false [s 25 of the ECICO].

### **False or Misleading Statement about a Candidate**

17.9 A person must not publish any materially false or misleading statement of fact about a particular candidate or particular candidates for the purpose of promoting or prejudicing the election of the candidate or candidates. Similarly, a candidate must not publish any materially false or misleading statement of fact about himself or any other candidate for the purpose of promoting the election of himself or prejudicing the election of another candidate or other candidates. Any such publication will amount to an illegal conduct. It should be noted that materially false or misleading statements about a candidate or candidates include, but are not limited to, statements concerning the character, qualifications or previous conduct of the candidate or candidates, eg a person who makes a materially false or misleading statement contradictory to what a candidate has previously said, thereby calling into question the integrity and honesty of that candidate, may contravene the above provision [s 26 of the ECICO].

### **False Claim of Support**

[Please also see Chapter 18: Namedropping.]

17.10 A candidate must obtain **prior written consent** from a person or an organisation before using the name or logo of that person or organisation, or a pictorial representation of that person in any of his EAs or activities as an indication of support from that person or organisation. Oral consent is **not** sufficient [s 27 of the ECICO]. The EAC provides a standardised consent form for this purpose. Any indication of support in EAs, be it a text, a photograph or any other material, must be covered by a written consent from the person or organisation concerned. A copy of the consent form must be deposited with the relevant RO **prior to display, distribution or otherwise use of the EAs** [s 102(10)(b) of the EAC (EP) (LC) Reg]. It is important to note that it is still an offence even if such an EA contains a statement to the

effect that it does not imply support from the person or organisation concerned [s 27(4) of the ECICO]. It is also an offence for a person to give information which he knows or ought to know is materially false or misleading to a candidate or candidates for promoting or prejudicing the election of a candidate or candidates [s 27(6) of the ECICO]. *[Amended in October 2007 and July 2008]*

17.11 A person or an organisation may give support to a GC list, to one or more of the candidates on a GC list, or to a single candidate on a GC list. Support can be also given to two or more candidates or GC lists, even if they are competing in the same constituency, although that may cause confusion. This should be specified in the written consent. A standardised consent form is at **Appendix O**. Candidates should take care to ensure that their EAs make clear where support is claimed whether it is for the whole GC list or for individual candidate(s) on the GC list. Candidates are reminded that it is an offence to make a false claim of support [see Chapter 18 : Namedropping].

17.12 Candidates on a GC list must be very careful in their EAs to describe **precisely** the support obtained by them or only one of them from supporters (as evidenced by a completed form of consent of support) to ensure that there is no false claim of support [see also para. 16.12 of Chapter 16].

17.13 Consent given can be revoked. In case of a revocation, in order to avoid dispute, it is advisable for the person or organisation who has revoked the consent to send a notice or copy of the revocation to the candidate concerned and to the relevant RO. Every candidate is required to deposit a copy of the completed consent form with the relevant RO and to notify the RO in writing of any revocation of consent.

17.14 S 28 of the ECICO provides for an injunction order by the Court to restrain the publication of any materially false or misleading statement or

false claim of support. An application for such an injunction order may be made by a candidate in the same constituency, his election agent, an elector in the same constituency and the person or body to whom or which the false information is related.

### **Requirements relating to Printed Election Advertisements**

17.15 Insofar as electioneering is concerned, it is an offence if a candidate does not comply with the requirements relating to printed EA. [For details of the requirements, please refer to Chapter 8 on Election Advertisements in particular Parts I, VI and VII thereof.]

17.16 A person must, **not later than 7 days after** publishing a printed EA, deposit **2 copies** of the advertisement to the relevant RO [s 34(4) of the ECICO].

17.17 The provisions of s 102 of the EAC (EP) (LC) Reg are more stringent. **Before** a candidate displays, distributes or otherwise uses an EA, he must allocate a **number in a separate series** to each type of EA, and make a **declaration** in a specified form to state the quantity of each type of EA he proposes to so use. For a better control over the display of unauthorised EAs and to facilitate the ROs in handling such complaints, the declaration and **2 copies** of the EA must be deposited with the relevant RO **before** the EA is displayed, distributed or used. If the relevant RO has not yet been appointed, the declaration and copies should be deposited with the CEO. By doing so, the candidate should have complied with s 34(4) of the ECICO as mentioned in para. 17.16 above.

## **PART IV : CORRUPT CONDUCT RELATING TO ELECTIONEERING AND VOTING**

### **Bribery**

17.18 Any act to affect a person's voting preference by offering or soliciting or accepting an advantage is prohibited [s 11 of the ECICO]. Voting preference covers voting for a particular candidate or candidates, not voting at an election, or not voting for a particular candidate or candidates.

### **Treating**

17.19 A person must not at any time provide or meet all or part of the cost of providing another person any food, drink or entertainment for the purpose of influencing that person's or a third person's voting preference. Likewise, the corrupt solicitation or acceptance of any such treating is prohibited [s 12 of the ECICO].

17.20 The serving of non-alcoholic drinks at an election meeting will not be deemed corrupt for the above purposes [s 12(5) of the ECICO]. An election meeting is any meeting held to promote or prejudice the election of a particular candidate or particular candidates. [See Chapter 9 : Election Meetings for details.]

17.21 Treating arises in daily situations. If it is used (by a candidate or another person) for promoting or prejudicing the election of a candidate, it is an offence. For example, a person or an organisation may host a banquet for a non-election-related purpose but, during the occasion, innocently calls on the guests to vote for a particular candidate. In such an event, the candidate concerned should immediately disown or dissociate with whatever has been

said or done to promote his candidature. Otherwise, he would be liable to being charged with an offence under s 12 of the ECICO and the expenses so incurred would be counted towards his election expenses.

17.22 If a banquet, albeit apparently not related to any election, is used to treat guests corruptly for the purpose of promoting a candidate or prejudicing other candidates, then both the host and the candidate will be guilty of a corrupt conduct. Moreover, the host will commit an **offence** under s 23 of the ECICO if he has not yet been authorised in writing by the candidate to incur election expenses at or in connection with an election.

### **Force and Duress**

17.23 The use of force or duress against a person to induce him to vote or not to vote at an election, or to vote or not to vote for a particular candidate or particular candidates or to get a third person to do so is a corrupt conduct [s 13 of the ECICO].

17.24 Persons in position to exert pressure and influence on others should be careful not to breach the provisions under the ECICO, eg employers over employees, school principals or teachers over students, religious advisers over believers and doctors over patients, etc.

### **Voting Offences**

17.25 It is a corrupt conduct for any person:

- (a) to vote at an election knowing that he is not entitled to vote at that election;
- (b) to vote at an election after having knowingly or recklessly given

materially false or misleading information to an electoral officer, or to vote at an election after having knowingly omitted to give material information to an electoral officer;

- (c) to vote at an election more than once except as expressly permitted by an electoral law; or
- (d) to invite or induce another person to commit (a), (b) or (c) above.

[S 16 of the ECICO.]

## **PART V : CORRUPT AND ILLEGAL CONDUCT RELATING TO ELECTION EXPENSES AND DONATIONS**

17.26 Candidates should be careful when handling election expenses and donations as non-compliance with the relevant requirements will be a corrupt or illegal conduct. For details of the requirements that have to be observed, please refer to Chapter 16 : Election Expenses and Donations.

## **PART VI : POWER OF COURT TO EXCUSE INNOCENT ACTS**

17.27 S 31 of the ECICO provides a mechanism for a candidate to apply for a Court order to relieve himself of criminal responsibility if he contravenes the illegal conduct provisions due to inadvertence, accidental miscalculation or any reasonable cause and was not due to bad faith. No

prosecution against him may be instituted or carried on until the application is disposed of by the Court. He will not be liable to be convicted of an offence if the illegal conduct is the subject of a Court order.

17.28 A candidate who fails to provide the printing details or deposit copies of EAs with the relevant RO commits an offence. However, he may apply to the court for an order allowing the publication of the above EAs be excepted from the relevant requirements and relieving him from the penalties, provided that the court is satisfied that the non-compliance was due to inadvertence, an accidental miscalculation or any reasonable cause and was not due to bad faith [s 35 of the ECICO].

17.29 A candidate who is unable or has failed to send to the CEO the return and declaration of all election expenses and donations before the end of the permitted period or omits an item in it or makes a mistake in it, and such inability, failure, omission or error was due to his own illness or absence from Hong Kong or of the absence from Hong Kong, death, illness or misconduct of any agent or employee of the candidate or by reason of inadvertence or accidental miscalculation or any reasonable cause (but not by reason of want of good faith of the candidate), has the right to make an application to the Court of First Instance for an order to send in the return and declaration late, or to correct the omission or mistake [s 40 of the ECICO]. When the candidate finds himself in such a situation, it would be wise of him to make the application to the Court and inform the REO as soon as possible.  
*[Amended in October 2007]*

## **PART VII : NON-COMPLIANCE WITH THE LAW AND SANCTION**

17.30 Any complaint or report of breach of these guidelines may be made to the relevant RO, the REO or the EAC direct. The EAC may, after consideration, refer the cases to the relevant authorities for investigation and prosecution.

17.31 The ICAC may, subject to the decision of the Secretary for Justice, prosecute, issue a warning or caution to candidates and any other persons in appropriate cases concerning any breach of the electoral law or regulation, especially the ECICO.

17.32 The Director of Public Prosecutions has informed the EAC that the Department of Justice will not hesitate to prosecute appropriate cases of electoral offences.

17.33 The EAC may also issue public statements in such manner as it deems fit to reprimand or censure any non-compliance with these guidelines.

17.34 A person convicted of a corrupt conduct or illegal conduct within the meaning of the ECICO will, in addition to the penalties set out in this chapter, be disqualified:

- (a) for 3 years from voting in the CE, EC subsector, LegCo, DC or VR election from the date of conviction [s 26(d) of the CEEQ, s 30 of the Schedule to CEEQ, s 53 of the LCO, s 30 of the DCO and s 14 of the VREQ];
- (b) for 5 years from being nominated or elected as a candidate for

the election of, or elected as, the CE, member of the LegCo or DC or a VR from the date of conviction [ss 14 and 20 of the CEEO, s 39 of the LCO, s 21 of the DCO and s 23 of the VREO]; and

- (c) for 3 years from being nominated as a candidate for the election of, or from being nominated or elected as, as an EC member from the date of conviction [ss 9 and 18 of the Schedule to the CEEO].

*[Amended in October 2007]*

17.35 It is worthy of note that the Courts of Hong Kong view election-related offences and contravention of the ECICO as serious crimes. On 27 November 1997, the Court of Appeal laid down sentencing guidelines that a person found guilty of any serious election-related offence should be punished by an immediate custodial sentence. *[Amended in October 2007]*

## CHAPTER 18

### NAMEDROPPING

#### **False Claim of Support**

[Please also see paras. 17.10 to 17.14 of Chapter 17 especially regarding GC lists.]

18.1 A candidate must obtain **prior written consent** from a person or an organisation before using the name or logo of that person or organisation, or a pictorial representation of that person in any of his EAs or activities as an indication of support from that person or organisation. Oral consent is **not** sufficient [s 27 of the ECICO]. The EAC provides a standardised consent form for this purpose. Any indication of support in EAs, be it a text, a photograph or any other material, must be covered by a written consent from the person or organisation concerned. The written consent is a requirement under the ECICO. It protects the candidates from unnecessary complaints and disputes which may arise if only oral consent is obtained. It also protects the electors from being misinformed as to whether a candidate has the support of a person or an organisation. Prior written consent is required if the inclusion of the name, logo or pictorial representation of a person or an organisation, as the case may be, implies support of the candidate concerned. What amounts to “support” will depend on the circumstances of each case. The question to consider is whether any reasonable man who has seen the pictorial representation would have the perception that the persons appearing in the EA support the candidate.

18.2 It is important to note that it is still an offence even if such an EA contains a statement to the effect that it does not imply support from the person or organisation concerned [s 27(4) of the ECICO]. It is also an offence for a

person to give information which he knows or ought to know is materially false or misleading information to a candidate or candidates for the purpose of promoting or prejudicing the election of a candidate or candidates [s 27(6) of the ECICO].

18.3 To avoid confusion, it is advisable for the written consent to set out clearly whether consent is given:

- (a) by a person in his personal capacity - in which case no mention should be made of any office title which he may have, in the candidate's EAs and campaign activities;
- (b) by a person in his official capacity - in which case his office title may be used by the candidate concerned for the said purposes; and
- (c) by an organisation (which may be signed by an authorised person such as its director, chairman or chief executive, etc.) - in which case the name of the organisation may be used by the candidate concerned for the said purposes.

18.4 Care must also be exercised in the use of the office title of an individual and this should be cleared with the person concerned when seeking his written consent. In the case where an office-bearer of an organisation wishes to use his office title to support a candidate, he should be careful not to give the impression that it represents the support of the whole organisation except where a decision has been so taken by the governing body of the organisation or by a resolution of the members of that organisation passed at a general meeting [s 27(5) of the ECICO]. This will prevent dispute and dissatisfaction amongst the members. Depending on circumstances, the approval of an organisation or a committee may or may not be needed if an

office bearer uses his office title to support a candidate. If a supporter includes in an EA bears the title of “the principal of a school” (for example, “Chan Tai Man, the Principal”) or “chairman of an owners corporation” (for example, “Chan Tai Man, Chairman of Owners’ Corporation”), it would not be necessary for the candidate to seek the consent of the owners’ corporation or the school concerned since there is no specific mentioning of which school or owners’ corporation. However, it would be desirable for the candidate to seek the organisation’s prior written approval as well if the EA is posted in the building or the school in which he is serving. *[Amended in October 2007]*

18.5 When a candidate has obtained consent of support from a person who holds a certain position in an organisation, he must make sure that in his EAs he does not misrepresent that he has the support of the organisation. He must ensure that his EAs do not give any misleading information that he has the support of the organisation as opposed to the person who holds the position in the organisation. When he has the support of an organisation, he must ensure that his EAs do not represent or give a misleading impression that he has the support of all the members of that organisation, unless the decision of that organisation in giving him support was made at a meeting of all its members present and voting.

18.6 Consent of support in writing by an organisation must be approved by the governing body of the organisation or by a resolution of the members of the organisation passed at a general meeting [s 27(5) of the ECICO]. Candidates should note that the Home Affairs Department has its own guidelines for Mutual Aid Committees and their office bearers in respect of their giving consent of support to candidates. A copy of such guidelines can be found at **Appendix P**.

18.7 Consent can be given to two or more candidates or two or more lists of candidate(s) of a GC, even if they are competing in the same

constituency, although that may cause confusion. A consent given can also be revoked. In case of a revocation, in order to avoid dispute, it is advisable for the person or organisation who has revoked the consent to send a notice or copy of the revocation to the candidate concerned and to the RO for his constituency.

18.8 Once a consent has been revoked, the candidate concerned should be careful to cease immediately using any EA which contains the support of the person or organisation who has made the revocation. The costs incurred for the production of EAs bearing such support which have been used before revocation should still be regarded as the candidate's election expenses and be declared in the return and declaration of election expenses and donations.

18.9 On the question of whether expenditure incurred by an EA will need to be borne by candidate A if candidate A's name or photograph appears in the EA of candidate B to indicate support for candidate B, this would depend on whether the publicity material in question has explicitly or implicitly promoted the election of candidate A. There may be 2 different scenarios in such cases:

### **Scenario A**

If the appearance of candidate A in candidate B's EA is solely to indicate support for candidate B but not to promote the election of candidate A, the EA should not be treated as a joint EA. The election expenses incurred should be counted as candidate B's election expenses only, but not as candidate A's. Candidate B has to obtain the prior written consent of support from candidate A before using candidate A's names or photographs in his EAs [s 27 of the ECICO].

**Scenario B**

If candidate B wishes to publish the EAs for promoting his candidature and that of candidate A as well, he must obtain prior written authorisation by candidate A as his election expense agent and the expenses so incurred will have to be borne by the candidates A and B in equal or unequal shares as their respective election expenses, to be calculated by the proportion of the size of the portion advertising each.

18.10        It is not uncommon for candidates to put photographs in their EAs to show their past activities. However, it may be possible for electors to believe that those persons appearing in the photograph support a particular candidate when they receive such EAs. To minimise misunderstanding, for instance, if an EA carries a photograph of the candidate attending an activity with other attendees, a caption specifying the particular nature of the event could be added underneath the photograph in such a way that will not imply, or likely to cause electors to believe, that the candidate has the support of the other people appearing in the photograph. If the photograph is likely to cause electors to believe that the candidate has the support of the other people appearing in the photograph, it is advisable that prior written consent of support should be obtained by the candidate.

18.11        To avoid misleading the electors to believe that a candidate has obtained support from a certain person, organisation, government agency or department, which is not the case, a candidate should not attach any materials published by any such person, organisation, government agency or department together with his own EAs.

### **Form of Consent**

18.12 The standard form “**Consent of Support**” is at **Appendix O**. It should be noted that the form is designed to cover a specific constituency in a particular election. A candidate who subsequently switches to another constituency should seek afresh the consent from the person or organisation concerned.

18.13 There are occasions (as allegations and complaints were received) requiring confirmation of the compliance of the law by a candidate. Therefore, every candidate is **required to deposit a copy** of each of the **completed consent forms** with the relevant RO **before** the display, distribution or otherwise use of the relevant EA [s 102(10)(b) of the EAC (EP) (LC) Reg]. The relevant RO will then be in a position to answer such enquiries, thus saving the trouble and sometimes the embarrassment of the candidates. Candidates are also **required to notify** the relevant RO in writing of any **revocation** of consent. Such consent forms and notices of revocation (with the identity document numbers of the persons involved obliterated) will be made available for public inspection at the office of the relevant RO.

### **Penalty**

18.14 It is an illegal conduct under the ECICO for a person to make false claim of support (ie a claim without **prior** written consent from the person or organisation concerned). For details of penalty and sanction, please refer to para. 17.4(b) and Part VII of Chapter 17.

## **CHAPTER 19**

### **ATTENDANCE OF PUBLIC FUNCTIONS BY BOTH GOVERNMENT OFFICIALS AND CANDIDATES**

#### **PART I : GENERAL**

19.1 This chapter deals with the subject of government officials attending public functions which are also attended by candidates.

#### **IMPORTANT :**

“Candidate” includes a person who has publicly declared an intention to stand for election at any time before the close of nominations for the election, whether or not he has submitted a nomination form [s 2 of the ECICO]. It also includes a list of candidate(s) in a GC list to which the list voting system of proportional representation applies.

19.2 Although each person in Hong Kong may have his own political inclination, civil servants wishing to participate in electioneering activities in a LegCo election should observe the rules and guidelines issued by the Civil Service Bureau (“CSB”). Under the CSB guidelines currently in force, certain officers at the senior level and those who may be particularly susceptible to accusations of bias because of the nature of their duties, namely Directorate Officers, Administrative Officers, Police Officers and Information Officers and those officers acting in these grades and ranks with a view to substantive appointment thereto ie other than for temporary relief purpose (“government officials”), should not openly support any candidate or be seen to

lend support to a candidate. They should not participate in any form of electioneering, including seeking election donations for any candidate.  
*[Amended in October 2007]*

19.3 There is no objection in principle to individual civil servants, other than the government officials listed in para. 19.2 above, supporting electioneering activities of a candidate provided that it does not give rise to any conflict of interest with their official duties, and that it does not involve the use of public resources or the wearing of any government uniform.

## **PART II : ATTENDANCE OF PUBLIC FUNCTIONS BY GOVERNMENT OFFICIALS**

### **On the occasion of being invited**

19.4 Government officials should exercise care in accepting invitations from persons or organisations to attend any public function that may also be attended by a candidate(s) (“the function”).

19.5 They should take such care when any person has publicly declared an intention to run for election in respect of a particular constituency or when the nomination commences, whichever is the earlier, up to the end of the polling day.

19.6 Before deciding to attend the function, a government official should satisfy himself that:

- (a) by attending the function, he is performing an official duty normally required of the post he is currently holding; and

- (b) to his best knowledge, the organiser of the function has no intention whatsoever of making use of the function to promote or prejudice any candidate.

### **When attending**

19.7 The EAC appeals to government officials not to have photographs taken with candidates at the function since such photographs, if published, may be seen as the official lending support to the candidate. A government official may do so, however, if the photograph taking:

- (a) arises from the need for him to perform his official duty at the function normally required of the post he is currently holding;
- (b) is a natural part of the function which, if the official declines to participate, would be seen as breaching the protocol appropriate to that function; or
- (c) is participated by all other candidates of the same constituency.

## **PART III : ATTENDANCE OF PUBLIC FUNCTIONS BY CANDIDATES**

19.8 Similarly, the EAC appeals to all candidates who attend public functions not to have photographs taken with the officials, since such photographs, if published, may be seen as an unfair advantage over other candidates. A candidate may do so, however, if the photograph taking:

- (a) arises from the need for him to perform his role at the function as requested by the function organiser;

- (b) is a natural part of the function which, if the candidate declines to participate, would be seen as breaching the protocol appropriate to that function; or
- (c) is participated by all other candidates of the same constituency.

## **PART IV : OFFICIALS UNDER THE POLITICAL APPOINTMENT SYSTEM**

19.9 The terms “government officials” and “civil servants” used in the earlier parts of this chapter do not include officials under the Political Appointment System. Officials under the Political Appointment System are political appointees and they may belong to or be affiliated with political organisations. Politically appointed officials have to comply with a “Code for Officials under the Political Appointment System”. *[Amended in July 2008]*

19.10 Politically appointed officials may, subject to the guidelines below, participate in election-related activities. *[Amended in July 2008]*

19.11 Politically appointed officials are disqualified from being nominated as a candidate at an election of the LegCo. *[Amended in July 2008]*

19.12 As far as the LegCo elections are concerned, politically appointed officials should not use any public resources for any election-related activities. A politically appointed official should ensure that when taking part in such activities, great care should be taken that there is no actual or potential conflict of interest with the business of the Government or his own official duties. *[Amended in July 2008]*

## CHAPTER 20

### COMPLAINTS PROCEDURE

#### PART I : GENERAL

20.1 This chapter deals with the procedure for making complaints relating to **any breach or non-compliance of the Guidelines and the EAC (EP) (LC) Reg or the spirit of them** which are for ensuring that elections are conducted honestly, fairly and openly.

20.2 A complaint against criminal, illegal or corrupt activities may be made direct to the relevant authorities such as the Police or the ICAC. The procedures for making and processing such a complaint will be handled by these authorities, and are not covered by this chapter.

#### PART II : TO WHOM A COMPLAINT MAY BE MADE

20.3 The EAC is an independent, apolitical and neutral body established by the EACO to deal with all matters concerning the conduct of elections including handling election-related complaints. The EAC may, if necessary, set up a **Complaints Committee** consisting of its 3 members and 1 or more judges of the District Court or High Court for the purpose of dealing with complaints.

20.4 Without limiting the right of a citizen to make a complaint to the Police or the ICAC or other authorities, a complaint for breach of or non-compliance with the EAC (EP) (LC) Reg or Guidelines or relating to election matters can be made to one of the following bodies or persons:

- (a) the RO of the relevant constituency appointed by the EAC to deal with electoral arrangements;
- (b) the REO; or
- (c) the EAC or its Complaints Committee.

20.5 **Caution** : if the complaint is against the conduct, behaviour, or acts of any of the REO officers or the RO personally, it should be addressed to the EAC or its Complaints Committee and marked “CONFIDENTIAL” in order to ensure that only the Complaints Committee will receive it.

### **PART III : TIME AND PROCEDURE FOR MAKING COMPLAINT**

20.6 The Guidelines deal with election-related activities, and any non-compliances, abuses and irregularities that can be redressed should be remedied as soon as practicably possible. It is **imperative** that **all complaints should be made as soon as possible**, for any delay in the making of complaint may result in remedial measures being useless or futile and necessary evidence being lost. No complaint received **later than 45 days** after the date of the relevant election will be entertained.

20.7 No specified or specific form is required for making a complaint. A complaint can be made either orally or in writing, either in Chinese or in English. A person who wishes to make an oral complaint can call the REO Complaints Hotline.

20.8 In each case, the complainant is required to identify himself and provide his identity document number, address, telephone number and other means of communication. A written complaint must be signed. Save where it relates to a matter of minor nature or which requires urgent action, an oral complaint received will be recorded in writing and the complainant will be required to sign the written record afterwards. All personal particulars of a complainant will be **treated in strict confidence**.

#### **PART IV : COMPLAINTS INSIDE A POLLING STATION**

20.9 If a person has any complaint about whatever happens inside a polling station, he should follow the following procedures:

- (a) he should direct his complaint to the PRO, the Deputy PRO or an Assistant PRO immediately.
- (b) if the matter is not resolved, or if the complainant still feels aggrieved or if his complaint is directed at the PRO, the Deputy PRO or an Assistant PRO, he should as soon as possible report the matter to the RO of the constituency of the polling station by using the telephone number appearing in the guide on procedures for complaint.
- (c) where the matter is still not resolved by the RO, the complainant

should without any delay telephone the Complaints Hotline of the REO to report his complaint by giving a gist thereof. He should then try to obtain as much evidence as possible in order to substantiate his complaint. As he is not allowed to talk to or communicate with any elector inside the polling station, he may need to go outside the polling station to obtain necessary evidence.

- (d) a member of the EAC or its Complaints Committee or an officer of the REO will handle the complaint as soon as practicable.

A copy of the guide on procedures for handling of complaints at a polling station (together with telephone numbers of the relevant RO(s) and the REO Complaints Hotline) will be available for inspection inside each polling station.

20.10 The PRO or his Deputy or Assistant PRO must record any complaint mentioned in para. 20.9(a) and (b) and any other complaints and enquiries concerning an elector's data.

## **PART V : THE PROCESSING OF COMPLAINT**

20.11 The PRO, ROs and the CEO are obliged under s 101 of the EAC (EP) (LC) Reg to report irregularities to the EAC or its Complaints Committee. By these guidelines, they are also required to report all complaints received by them to the EAC or its Complaints Committee. Except where a complaint is of minor nature or the RO has been delegated with the authority to deal with it, any complaint received by the RO or the REO will be forwarded to the EAC or its Complaints Committee with comments and all the relevant information relating to the complaint. When the EAC or its Complaints Committee

receives a complaint, it may seek additional information and comments from the relevant RO or the REO, if necessary.

20.12 The EAC or its Complaints Committee, the RO or the REO (when they are so authorised by the EAC or its Complaints Committee), may seek further information on the complaint from the complainant or may arrange interviews with the complainant in order to seek clarification or evidence. The complainant may be required to make a statutory declaration for the truth and correctness of his complaint or statement. If the further information required is not provided by the complainant or if he refuses to be interviewed or to make the statutory declaration, the EAC or its Complaints Committee, the RO or the REO may or may not take further action on the complaint.

20.13 All bona fide complaints will be processed and considered by the RO who has been delegated with the necessary authority or by the EAC or its Complaints Committee, as soon as reasonably practicable, taking into account the merits of the complaint with all the information and evidence gathered [s 6(3) of the EACO].

20.14 Where a complaint is substantiated, a decision will be made on the appropriate course to be taken, including one or more of the following:

- (a) take remedial measures against the matter complained of, such as the removal of EAs displayed in breach of the guidelines in that regard;
  - (b) issue to the relevant person a warning on the matter under complaint after making a reasonable effort to contact the person and giving him a reasonable opportunity to give explanations. Where necessary, immediate rectification action against complaints proven on the spot should be taken without delay;
- [Amended in October 2007]*

- (c) publish a public statement of reprimand or censure against the acts or omissions and the person or persons complained of [see various chapters in these Guidelines] after making a reasonable effort to contact the person or persons and giving him or them a reasonable opportunity to make representations [s 6(4) of the EACO];
- (d) with or without comments, refer the matter to the ICAC for investigation and/or further action [s 5(e) of the EACO]; and
- (e) with or without comments, refer the matter to the Secretary for Justice or the Police for further action such as prosecution of the culprit [s 5(e) of the EACO].

20.15 The EAC or its Complaints Committee will also notify the complainant in writing of its decision, and if the decision is that the complaint is not substantiated, it will also give reasons. *[Amended in October 2007]*

## **PART VI : ELECTORAL AFFAIRS COMMISSION'S REPORT ON COMPLAINTS**

20.16 The EAC is required to report to the CE on any complaint made to it in connection with an election within 3 months of the conclusion of the election [s 8(1) and (2) of the EACO].

**PART VII : OBLIGATIONS OF THE RETURNING OFFICER,  
THE PRESIDING OFFICER AND THE  
REGISTRATION AND ELECTORAL OFFICE**

20.17           The RO(s), PRO(s) and the REO are required to report as soon as practicable to the EAC or its Complaints Committee (in writing or otherwise as circumstances may demand) on any complaints received by them and on any occurrence which they consider to be a material irregularity relating to an election, poll or count.

**PART VIII : SANCTION FOR FALSE COMPLAINT**

20.18           Any person who knowingly makes or causes to be made to an ICAC officer a false report of the commission of any offence or misleads such an officer by giving false information or by making false statements or accusations is guilty of an offence punishable by \$20,000 and imprisonment for 1 year [s 13B of the ICAC Ordinance (Cap 204)]. A similar offence is committed where a false report is made or false information given to a police officer [s 64 of the Police Force Ordinance (Cap 232)]. If a person knowingly makes a false complaint and gives false information to the EAC or its Complaints Committee knowing that the EAC or its Complaints Committee will refer or direct such complaint and information to the ICAC or the Police, the person concerned will similarly be guilty of the relevant offence. If a person knowingly and wilfully makes to the EAC or its Complaints Committee, the RO or the REO a statement false in a material particular and such a statement is in a statutory declaration, he commits an offence punishable by imprisonment for 2 years and a fine [s 36 of the Crimes Ordinance (Cap 200)].  
*[Amended in October 2007]*

## **Legislative Council Election**

### **Action Checklist for Candidates**

#### **A. Major Steps to be Observed**

Before and during  
Nomination Period

1. Obtain the following from the Returning Officer (“RO”), any District Office (“DO”) of the Home Affairs Department or the Registration and Electoral Office (“REO”):

- (a) Nomination Form;
- (b) Grid paper and guide on completion of grid paper (for inclusion in the Introduction to Candidates);
- (c) the form of “Request by a Candidate for a Legislative Council Functional Constituency or a Sole Candidate on a Legislative Council Nomination List or by a Candidate for a District Council Constituency for Printing of Particulars Relating to the Candidate on a Ballot Paper” and/or the form of “Request by Candidates on a Legislative Council Nomination List with More than One Candidate for Printing of Particulars Relating to the Candidates on a Ballot Paper”, as the case may be;
- (d) the form of “Consent of a Prescribed Body for its Particulars to be Printed on a Ballot Paper in Relation to the Request by Candidate(s)”; and
- (e) the form of “Intention to Display Election Advertisements at Designated Spots”.

During Nomination  
Period

2. Except where the Chief Electoral Officer (“CEO”) authorises otherwise, personally deliver the following to the RO before expiry of the Nomination Period:

- (a) the duly completed Nomination Form; and
- (b) an election deposit in cash or by cashier order or cheque made payable to “The Government of the Hong Kong Special Administrative Region”.

In order to avoid the risk of invalidation of the nomination due to dishonoured cheques, candidates are strongly advised to submit the election deposit in cash or cashier order.

3. Obtain from the RO the following:
- (a) copies of the relevant legislation;
  - (b) an electoral boundary map of the relevant geographical constituency (“GC”) (for GC candidates only);
  - (c) Summary on Free Postage for Election Mails;
  - (d) Undertaking on the Use of Electors’ Information and Notice for Collection of Electors’ Information;
  - (e) information regarding display spots on government land or property that are available to candidates for display of election advertisements (“EAs”); and
  - (f) forms -
    - (i) Return and Declaration of Election Expenses and Donations by a GC List of Candidates (Applicable to a GC list of candidates only) or Return and Declaration of Election Expenses and Donations (Applicable to Functional Constituency (“FC”) candidates only)
    - (ii) Standard Receipt for Donations
    - (iii) Notice of Authorisation of Person to Incur Election Expenses
    - (iv) Notice of Revocation of Authorisation to Incur Election Expenses/Adjustment of Authorised amount of Election Expenses.
    - (v) Notice of Withdrawal of Candidature
    - (vi) Notice of Appointment of Election Agent
    - (vii) Notice of Appointment of Polling Agents
    - (viii) Notice of Appointment of Counting Agents
    - (ix) Notice of Revocation of Appointment of Agent
    - (x) Declaration of Election Advertisements
    - (xi) Corrective Declaration of Election Advertisements
    - (xii) Consent of Support

- (xiii) Permission for Display/Distribution of Election Advertisements or Conduct of Electioneering Activities at Private Premises
- (xiv) Declaration of Secrecy
- (xv) Return of Election Deposit
- (xvi) Advance Return and Declaration of Donations
- (xvii) Notice of Posting of Election Mail
- (xviii) Declaration for Posting of Election Mail
- (xix) Claim for Financial Assistance
- (xx) Notice of Withdrawal of Claim for Financial Assistance
- (xxi) Notice of Variation (Variation of the Claim for Financial Assistance)

(Attachment: Financial Assistance Scheme - Notes for Candidate and Auditor of Candidate of Legislative Council Elections)

- (xxii) Notification of Decision on Electioneering Activities
- (xxiii) Notification of the Intention to Hold a Public Meeting/Procession.

4. Lodge with the RO a Notice of Withdrawal of Candidature if the candidate wishes to withdraw his candidature.

Any time before, during or after handing in Nomination Form

5. (a) Except for the categories exempted, assign a serial number to all copies of each type of EAs intended for display, distribution or otherwise use.
- (b) Submit to the RO (or CEO if RO has not yet been appointed) a Declaration of Election Advertisements **before EAs are displayed, distributed or otherwise used.** Candidates may submit as many declarations as required from time to time.

- (c) Ensure that all printed EAs contain the name and address of the printer, date of printing and the number of copies printed.
  - (d) Submit to the RO (or CEO if RO has not yet been appointed) 2 copies of each type of EAs **before they are displayed, distributed or otherwise used.**
  - (e) Submit to the RO (or CEO if RO has not yet been appointed) **before EAs are displayed, distributed or otherwise used** at private premises, a copy of Permission for Display/Distribution of Election Advertisements or Conduct of Electioneering Activities at Private Premises.
  - (f) Submit to the RO (or CEO if RO has not yet been appointed) **before EAs are displayed, distributed or otherwise used,** a copy of Consent of Support, where necessary.
6. Lodge with the RO (or CEO if RO has not yet been appointed) a Notice of Appointment of Election Agent.
  7. Lodge with the RO (or CEO if RO has not yet been appointed) Notices of Authorisation of Person to Incur Election Expenses.  
[For GC list of candidates, Return and Declaration of Election Expenses Already Incurred and Appointment of Election Expense Agent/Cross-Authorisation of Candidates on a List of Candidates in a GC Election is applicable.]
  8. Submit to the CEO an Advance Return and Declaration of Donations when a donation is received.
- Any time after handing in Nomination Form, but before expiry of Nomination Period
9. (a) If a candidate wishes to have his photograph and election platform printed in the Introduction to Candidates, he should :
    - (i) lodge with the RO a duly completed grid paper affixing a colour photograph of the candidate which must be in specified size and taken within the last 6 months; and

- (ii) provide 2 additional copies of his photograph identical to the one affixed to the grid paper with his name label affixed on the back.

(If a candidate does not submit the grid paper, the Introduction to Candidates will only show the name of the candidate and the number of the candidate/ list of the candidates. The statement, “Relevant information has not been provided by the candidate”, will also be printed in the area provided for the election platform.)

- (b) Lodge with the RO an Intention to Display Election Advertisements at Designated Spots.
- (c) If a candidate wishes to have his photograph and particulars printed on a ballot paper, he should:
  - (i) lodge with the RO a duly completed form of “Request by a Candidate for a Legislative Council Functional Constituency or a Sole Candidate on a Legislative Council Nomination List or by a Candidate for a District Council Constituency for Printing of Particulars Relating to the Candidate on a Ballot Paper” or a duly completed form of “Request by Candidates on a Legislative Council Nomination List with More than One Candidate for Printing of Particulars Relating to the Candidates on a Ballot Paper”, as the case may be;
  - (ii) lodge with the RO a colour photograph of the candidate, in a specified size and taken within the last 6 months, be affixed to the form, and an additional copy of his photograph identical to the one affixed to the form with his name label affixed on the back; and

- (iii) lodge with the RO the duly completed form(s) of “Consent of a Prescribed Body for its Particulars to be Printed on a Ballot Paper in Relation to the Request by Candidate(s)”.

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|---|---|
| Any time after handing in Nomination Form, but not later 3 weeks before polling day       | 10. Make a request to CEO for obtaining, within 5 working days, one set of gum labels with addresses of electors and a CD-ROM containing addresses of electors in the constituency (after signing an Undertaking on the Use of Electors’ Information).  |
| Any time after handing in Nomination Form, but not later than one week before polling day | 11. Lodge with the CEO Notices of Appointment of Polling Agents.<br><br>12. Lodge with the RO Notices of Appointment of Counting Agents.  |
| Around 3 days after close of nominations  | 13. Attend the briefing for candidates and collect from the RO the following:<br><br>(a) location and layout plans of the polling/counting stations; and<br><br>(b) name badges for candidates and their agents.<br><br>14. Attend meetings held by the RO to determine the candidate numbers by drawing of lots and to allocate display spots for display of EAs.<br><br>15. Receive from the RO copy of the permission/authorisation for display of EAs at designated spots allocated to the candidate. |
| Around 7 days after close of nominations  | 16. Check the ballot paper proof and verify the particulars relating to the candidate to be printed on the ballot paper. If a candidate or his election agent cannot perform the check in person, the candidate may authorise a representative in writing to check the particulars concerned on the ballot paper proof on his/her behalf.   |
| Within 10 days after expiry of Nomination Period  | 17. Receive from the RO information about the election agents appointed by other candidates of the same constituency.   |

After expiry of Nomination Period	18. Receive from the RO the notification on the validity of the candidate's nomination (which will also be sent to every other validly nominated candidate of the same constituency, if any).
1 clear working day before posting postage-free election mail	19. Give notice of the free posting of election mail by using the Notice of Posting of Election Mail and present three unsealed specimens to the relevant Manager (Retail Business) of the Hongkong Post for inspection and retention.
Not later than the period specified by Hongkong Post	20. Post postage-free election mail and present to the Post Office a Declaration for Posting of Election Mail.
Not later than 7 days before polling day	21. Receive from the RO information regarding the delineation of no canvassing zone and no staying zone for the polling station.
Not later than 12 noon before polling day	22. Lodge with the RO Corrective Declarations of Election Advertisements, if any.
Before entering polling/counting station	23. Complete the Declarations of Secrecy (to be made by all candidates, their election agents, polling agents and counting agents).
Any time before polling day	24. Lodge with the CEO or RO, as the case may be, Notices of Revocation of Appointment of Agent, if any.
On polling day	25. Attend the poll and the count if the candidate so wishes, bringing along the Declaration of Secrecy.
	26. Candidates or their election agents personally deliver Notices of Appointment of Polling Agents and Notices of Revocation of Appointment of Agent to the relevant Presiding Officer ("PRO"), if not yet lodged pursuant to paras. 11 and 24 respectively.
	27. Candidates or their election agents personally deliver Notices of Appointment of Counting Agents and Notices of Revocation of Appointment of Agent to the relevant PRO (or to the relevant RO if the counting agents are appointed for the central counting station), if not yet lodged pursuant to paras. 12 and 24 respectively.
Within 10 days after polling day	28. Remove all EAs on display.

Not later than 60 days of the publication in the Gazette of the result of the election or the declaration of the termination of the election proceedings or the declaration of failure of the election

(The election result of an uncontested constituency will be gazetted in the Notice of Nominations)

Not later than 60 days after the publication in the Gazette of the result of the election or the declaration of the failure of the election

(The election result of an uncontested constituency will be gazetted in the Notice of Nominations)

29. (a) Lodge with the CEO a Return and Declaration of Election Expenses and Donations signed by the candidate with original receipted vouchers and duplicate donation receipts.

(b) An uncontested candidate returned should lodge with the CEO a Return and Declaration of Election Expenses and Donations signed by the candidate with original receipted vouchers and duplicate donation receipts not later than 60 days after the gazettal of the Notice of Nominations.

30. (a) Eligible candidates in contested constituencies who wish to apply for financial assistance should complete a Claim for Financial Assistance. The completed form, together with the candidate's Return and Declaration of Election Expenses and Donations audited by an auditor should be presented in person by the candidate or his agent to the CEO.

(b) If a candidate in an uncontested constituency wishes to apply for financial assistance, he should complete a Claim for Financial Assistance. The completed form, together with the candidate's Return and Declaration of Election Expenses and Donations audited by an auditor should be presented in person by the candidate or his agent to the CEO not later than 60 days after the gazettal of the Notice of Nominations.

**Note:**

Most of the forms mentioned in this checklist can be downloaded from the REO website at <http://www.reo.gov.hk>.

**B. Handling and Declaring Election Expenses*****Records Keeping******Before and After Nomination***

1. Record all election expenses spent and all donations received.
2. Keep invoices/receipts for expenses of \$100 or above.
3. Issue receipt for any non-anonymous donation of more than \$1,000 and keep a copy of the receipt. [The candidate/list of candidates should use the Standard Receipt for Donations provided by the REO.]
4. Keep copies of all Declarations of Election Advertisements and copies of the EAs lodged with the RO.

***Appointment of Election Agents/Election Expense Agents***

5. Each candidate/list of candidates can only appoint 1 election agent by completing a Notice of Appointment of Election Agent. An election agent has the authority to do everything a candidate is authorised to do for the purposes of the election except:
  - (a) anything a candidate is required to do in relation to his nomination;
  - (b) to withdraw the candidate's candidature;
  - (c) to incur election expenses unless he has been so authorised by the candidate; and
  - (d) to authorise a person as an election expense agent to incur election expenses.
6. Each candidate/list of candidates can appoint one or more persons authorised to incur election expenses on his/their behalf, i.e. the election expense agents, by completing the Notice of Authorisation of Person to Incur Election Expenses. A candidate/list of candidates **may** also authorise his/their election agent to incur election expenses for him/them. These agents may incur expenses only after the candidate/list of candidates has/have authorised them to do so. [After the formation of a GC list of candidates, each candidate on the list must also obtain the cross-authorisation from each other before they can incur any election expenses.]

***Lodgement of  
Authorisation and  
Declaration to  
appropriate authority***

7. Lodge with the RO the Notice of Appointment of Election Agent at any time after handing in Nomination Form.
8. The candidate/list of candidates must serve a notice of the authorisation for person to incur election expenses or cross-authorisation of candidates on a GC list of candidates to the RO (or CEO if the RO has not yet been appointed). It is important to note that the authorisation is not effective until it has been received by the RO or CEO (if the RO has not yet been appointed).
9. 2 copies of each type of EAs must be deposited with the RO (or CEO if the RO has not yet been appointed), together with a Declaration of Election Advertisements before the EAs are displayed, distributed or otherwise used.

***Submission of Return  
and Declaration of  
Election Expenses and  
Donations***

***Not later than 60 days after the publication in the Gazette of election result or the declaration of the termination of the election proceedings or failure of the election under the relevant electoral law***

10. The completed return and the declaration verifying its contents must be submitted together with all supporting documents as required by section 37 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554). If financial assistance is to be claimed, the return and declaration must be audited by an auditor before submission.
11. The completed return must set out all election expenses incurred by the candidate/list of candidates or by his/their election expense agents on his/their behalf, the cost (if any) incurred by the Government in removing his/their EAs and the election donations (including services and goods) received. ***Candidates/list of candidates are required to submit their election returns even if no election expenses have been incurred.***
12. A candidate/list of candidates must make the declaration verifying the content of the return before a Commissioner for Oaths (at District Offices) or a Justice of the Peace or a solicitor holding a practising

certificate.

13. (a) A candidate/list of candidates must lodge his/their completed return with the CEO not later than 60 days after the publication of election result in the Gazette or the declaration of the termination of the election proceedings or failure of the election under the relevant electoral law.  
  
(b) For an uncontested candidate/list of candidates returned, he/they must lodge his/their completed election return with the CEO not later than 60 days after the publication of the Notice of Nominations in the Gazette.
14. If a candidate/list of candidates is/are unable or has/have failed to lodge the return by the deadline, he/they can apply to the Court of First Instance for an order allowing him/them to lodge the return within such further period as the Court specifies.
15. If a candidate/list of candidates wish(es) to change any information in his/their election return, he/they may lodge with the CEO before the deadline a supplementary declaration stating the information to be changed.
16. If a candidate/list of candidates wish(es) to correct any error or false statement in his/their return or in any document accompanying his/their return after the deadline, he/they must apply to the Court of First Instance for an order enabling him/them to do so.

**(This "Action Checklist for Candidates" is for general reference only. Candidates are advised to refer to the Action Checklist included in the candidate folder for the respective general election/by-election.)**

*[Amended in July 2008]*

**The Functional Constituencies and their Electors**

<b><u>Column 1</u></b> <b><u>Constituency</u></b>	<b><u>Column 2</u></b> <b><u>Electors</u></b>
1. Heung Yee Kuk functional constituency	Chairman and Vice-Chairmen of the Heung Yee Kuk and Ex Officio, Special and Co-opted Councillors of the Full Council of the Kuk.
2. Agriculture and fisheries functional constituency	<p>(1) Corporate members of each of the following bodies:</p> <p>(a) The Federation of Vegetable Marketing Co-operative Societies, Limited;</p> <p>(b) The Federation of Pig Raising Co-operative Societies of Hong Kong, Kowloon and New Territories, Limited;</p> <p>(c) The Joint Association of Hong Kong Fishermen;</p> <p>(d) Federation of Hong Kong Aquaculture Associations;</p> <p>(e) The Federation of Fishermen's Co-operative Societies of Shau Kei Wan District, Limited;</p> <p>(f) The Federation of Fishermen's Co-operative Societies of Tai Po District, N.T., Limited;</p> <p>(g) The Federation of Fishermen's Co-operative Societies of Sai Kung District, Limited;</p> <p>(h) The Federation of Fishermen's Co-operative Societies of Southern District, Limited.</p> <p>(2) Aberdeen Fishermen Friendship Association.</p> <p>(3) The Ap Lei Chau Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(4) The Castle Peak Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(5) The Castle Peak Mechanized Trawler Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(6) Cheung Chau Fisheries Joint Association.</p> <p>(7) Cheung Chau Fishermen's Welfare Promotion Association.</p> <p>(8) The Fanling Kwun Ti Village Farmers' Irrigation Co-operative Society, Ltd.</p> <p>(9) Fish Farming and Stuff Association.</p> <p>(10) Fisherman's Association of Po Toi Island.</p> <p>(11) Fishery Development Association (Hong Kong) Limited.</p> <p>(12) Fraternal Association of The Floating Population of Hong Kong.</p> <p>(13) The Guild of Graziers.</p> <p>(14) Hang Hau Grazier Association.</p> <p>(15) Hong Kong and Kowloon Fishermen Association Ltd.</p> <p>(16) Hong Kong &amp; Kowloon Floating Fishermen Welfare Promotion Association.</p> <p>(17) Hong Kong Fisheries Development Association.</p>

**Column 1**  
**Constituency****Column 2**  
**Electors**

- (18) Hong Kong Fishermen's Association.
- (19) Hong Kong Fishing Vessel Owners Association, Ltd.
- (20) Hong Kong Florists Association.
- (21) Hong Kong Graziers Union.
- (22) Hong Kong Liner & Gill Netting Fisherman Association.
- (23) Hong Kong Livestock Industry Association.
- (24) Hong Kong N.T. Fish Culture Association.
- (25) Hong Kong N.T. Poultry (Geese & Ducks) Mutual Association.
- (26) Hong Kong Netting, Cultivation and Fisherman Association.
- (27) Hong Kong New Territories Boat People Association.
- (28) Hong Kong Off-shore Fishermen's Association.
- (29) Hong Kong Pigfarm Association Limited.
- (30) The Lam Ti Agricultural Credit Co-operative Society, Limited.
- (31) Lamma Island Lo Dik Wan Aquaculture Association.
- (32) Lau Fau Shan Oyster Industry Association, New Territories.
- (33) Ma Wan Fisheries Rights Association Ltd.
- (34) The Mui Wo Agricultural Products Marketing & Credit Co-operative Society, Ltd.
- (35) Mui Wo Fishermen Fraternity Society.
- (36) N.T. Oyster and Aquatic Products United Association.
- (37) The New Territories Chicken Breeders Association, Ltd.
- (38) The New Territories Fishermen Fraternity Association Ltd.
- (39) New Territories Florist Association, Ltd.
- (40) North District Florists Association.
- (41) Outlying Islands Mariculture Association (Cheung Chau).
- (42) Peng Chau Fishermen Association Ltd.
- (43) Quality Broiler Development Association.
- (44) Sai Kung Fishermen Association Limited.
- (45) Sai Kung (North) Sham Wan Marine Fish Culture Business Association.
- (46) Sai Kung Po Toi O Fish Culture Business Association.
- (47) Sai Kung Tai Tau Chau Fish Culture Business Association.
- (48) Sai Kung Tai Wu Kok Fishermen's Association.
- (49) The Sha Tau Kok Marine Fish Culture Association.
- (50) The Sha Tau Kok Small Long Liner and Gill Net Fishermen's Credit Co-operative Society, Unlimited.
- (51) The Shan Tong Vegetable Marketing Co-operative Society, Ltd.
- (52) Shatin Ah Kung Kok Fishermen Welfare Association.

<b><u>Column 1</u></b> <b><u>Constituency</u></b>	<b><u>Column 2</u></b> <b><u>Electors</u></b>
	<p>(53) Shatin Florists Association.</p> <p>(54) The Shau Kei Wan Deep Sea Capture Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(55) Shau Kei Wan Fishermen Friendship Association.</p> <p>(56) The Shau Kei Wan Pair Trawler Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(57) The Shau Kei Wan Trawler Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(58) The Sheung Shui Ngai Yuen Sun Tsuen Pig Raising Co-operative Society, Ltd.</p> <p>(59) Tai O Fishermen (Coastal Fishery) Association.</p> <p>(60) The Tai O Sha Chai Min Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(61) The Tai Po Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(62) Tai Po Florists and Horticulturists Association.</p> <p>(63) The Tai Po Purse Seiner and Small Long Liner Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(64) The Tsing Lung Tau Hand Liner Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(65) The Tsuen Wan Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(66) The Tuen Mun Mechanized Fishing Boat Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(67) Tuen Mun Agricultural Association.</p> <p>(68) Tung Lung Chau Mariculture Association.</p> <p>(69) The World Poultry Science Association, Hong Kong Branch.</p> <p>(70) Yuen Long Agriculture Productivity Association.</p> <p>(71) Yung Shue Au Marine Fish Culture Business Association.</p> <p>(72) Tsing Yi Residents Association.</p> <p>(73) 荃灣葵青居民聯會（漁民組）.</p> <p>(74) 荃灣葵青漁民會.</p> <p>(75) The Shau Kei Wan Stern Trawler Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(76) Hong Kong Organic Farming Association Limited.</p> <p>(77) N. T. North District Fishermen's Association.</p> <p>(78) Tai Po Off Shore Fishermen's Association.</p> <p>(79) Aberdeen Fisherwomen Association.</p>
3. Insurance functional constituency	Bodies that are insurers authorized or deemed to be authorized under the Insurance Companies Ordinance (Cap 41).

<b><u>Column 1</u></b> <b><u>Constituency</u></b>	<b><u>Column 2</u></b> <b><u>Electors</u></b>
4. Transport functional constituency	(1) VINCI Park Services Hong Kong Limited. (2) Airport Authority Hong Kong. (3) Articulated & Commercial Vehicle's Instructors Union. (4) The Association of N.T. Radio Taxicabs Ltd. (5) Autotoll Limited. (6) The Chartered Institute of Logistics and Transport in Hong Kong. (7) China Merchants Shipping & Enterprises Co. Ltd. (8) China Tollways Ltd. (9) Chu Kong Shipping Enterprises (Holdings) Co. Ltd. (10) Chuen Kee Ferry Ltd. (11) Chuen Lee Radio Taxis Association Ltd. (12) Citybus Ltd. (13) Coral Sea Ferry Service Co., Ltd. (14) COSCO-HIT Terminals (Hong Kong) Limited. (15) CTOD Association Company Ltd. (16) Turbojet Ferry Services (Guangzhou) Limited. (17) Discovery Bay Transportation Services Ltd. (18) Driving Instructors Merchant Association Ltd. (19) Eastern Ferry Co. (20) Expert Fortune Ltd. (21) Far East Hydrofoil Co. Ltd. (22) Fat Kee Stevedores Ltd. (23) The Fraternity Association of N.T. Taxi Merchants. (24) Fraternity Taxi Owners Association. (25) G.M.B. Maxicab Operators General Association Ltd. (26) The Goods Vehicle Fleet Owners Association Ltd. (27) Happy Taxi Operator's Association Ltd. (28) Hoi Kong Container Services Co. Ltd. (29) Hon Wah Public Light Bus Association Ltd. (30) Hong Kong Air Cargo Terminals Limited. (31) Hong Kong & Kowloon Ferry Ltd. (32) Hong Kong & Kowloon Goods Vehicle Omnibuses and Minibuses Instructors' Association Ltd. (33) Hong Kong & Kowloon Motor Boats and Tug Boats Association Ltd. (34) Hong Kong & Kowloon Radio Car Owners Association Ltd. (35) Hong Kong and Kowloon Rich Radio Car Service Centre Association Ltd. (36) Hong Kong & Kowloon Taxi Companies Association Limited. (37) HongKong Association of Freight Forwarding and Logistics Limited. (38) Hong Kong Automobile Association.

**Column 1**  
**Constituency****Column 2**  
**Electors**

- (39) The Hong Kong Cargo-Vessel Traders' Association Ltd.
- (40) Hong Kong Commercial Vehicle Driving Instructors Association.
- (41) Hong Kong CFS and Logistics Association Limited.
- (42) Hong Kong Container Tractor Owner Association Ltd.
- (43) Hong Kong Driving Instruction Club Ltd.
- (44) Hong Kong Guangdong Transportation Association Ltd.
- (45) The Hong Kong Institute of Marine Technology.
- (46) Hong Kong, Kowloon & NT Public & Maxicab Light Bus Merchants' United Association.
- (47) Hong Kong Kowloon Taxi & Lorry Owners Association Ltd.
- (48) The Hong Kong Liner Shipping Association.
- (49) Hong Kong Marine Contractors Association.
- (50) Hong Kong Motor Car Driving Instructors Association Ltd.
- (51) Hong Kong Pilots Association Ltd.
- (52) Hong Kong Public & Maxicab Light Bus United Associations.
- (53) Hong Kong Public Cargo Working Areas Traders Association Ltd.
- (54) Hong Kong Scheduled (GMB) Licensee Association.
- (55) The Hong Kong School of Motoring Ltd.
- (56) Hong Kong Sea Transport and Logistics Association Limited.
- (57) The Hong Kong Shipowners Association Ltd.
- (58) Hong Kong Shipping Circles Association Ltd.
- (59) Hong Kong Shipping Industry Institute.
- (60) Hong Kong Logistics Management Staff Association.
- (61) Hong Kong Society of Articulated Vehicle Driving Instructors Ltd.
- (62) The Hong Kong Stevedores Employers' Association.
- (63) Hong Kong Tele-call Taxi Association.
- (64) Hong Kong Tramways, Limited.
- (65) Hong Kong Transportation Warehouse Wharf Club.
- (66) Hong Kong Tunnels and Highways Management Company Limited.
- (67) The Hongkong & Yaumati Ferry Co., Ltd.
- (68) Hongkong International Terminals Ltd.
- (69) Institute of Advanced Motorists (Hong Kong) Limited.
- (70) The Institute of Seatransport.
- (71) Institute of Transport Administration (China - Hong Kong Centre).
- (72) Kowloon Fung Wong Public Light Bus Merchants & Workers' Association Ltd.
- (73) Kowloon Motor Bus Company (1933) Ltd.

**Column 1**  
**Constituency****Column 2**  
**Electors**

- (74) Kowloon Motor Driving Instructors' Association Ltd.
- (75) The Kowloon PLB Chiu Chow Traders & Workers Friendly Association.
- (76) The Kowloon Taxi Owners Association Ltd.
- (77) Kowloon Truck Merchants Association Ltd.
- (78) Kowloon-Canton Railway Corporation.
- (79) Kwik Park Limited.
- (80) Lam Tin Wai Hoi Public Light Bus s Association.
- (81) Lantau Taxi Association.
- (82) Lei Yue Mun Ko Chiu Road Public Light Bus Merchants Association Ltd.
- (83) Lok Ma Chau China - Hong Kong Freight Association.
- (84) Long Win Bus Company Limited.
- (85) Lung Cheung Public Light Bus Welfare Advancement Association Ltd.
- (86) Mack & Co. Carpark Management Limited.
- (87) Marine Excursion Association Limited.
- (88) Maritime Affairs Research Association Ltd.
- (89) MTR Corporation Limited.
- (90) Merchant Navy Officers' Guild - Hong Kong.
- (91) Metropark Limited.
- (92) Mid-stream Holdings (HK) Limited.
- (93) Mixer Truck Drivers Association.
- (94) Modern Terminals Ltd.
- (95) N.T. PLB Owners Association.
- (96) N.T. San Tin PLB (17) Owners Association.
- (97) N.T. Taxi Merchants Association Ltd.
- (98) N.T. Taxi Owners & Drivers Fraternal Association.
- (99) N.T. Taxi Radio Service General Association.
- (100) N.W. Area Taxi Drivers & Operators Association.
- (101) New Hong Kong Tunnel Co., Ltd.
- (102) New Lantau Bus Co., (1973) Ltd.
- (103) New Territories Cargo Transport Association Ltd.
- (104) New World First Bus Services Limited.
- (105) North District Taxi Merchants Association.
- (106) Organisation of Hong Kong Drivers.
- (107) Peak Tramways Co., Ltd.
- (108) Pioneer Concrete Owners Drivers Association.
- (109) Private Hire Car for Young Children Association Ltd.
- (110) Public and Private Light Buses Driving Instructors' Society.
- (111) The Public Cargo Area Trade Association.
- (112) Public Light Bus General Association.
- (113) The Public Omnibus Operators Association Ltd.
- (114) Public Vehicle Merchants Fraternity Association.
- (115) Quadripartite Taxi Service Association Ltd.

**Column 1**  
**Constituency****Column 2**  
**Electors**

- (116) Abbo Taxi Owners Association Limited.
- (117) River Trade Terminal Co. Ltd.
- (118) Route 3 (CPS) Company Limited.
- (119) Sai Kung Public Light Bus Drivers and Owners Association.
- (120) Sai Kung Taxi Operators Association Ltd.
- (121) CSX World Terminals Hong Kong Limited.
- (122) Serco Group (HK) Limited.
- (123) The "Star" Ferry Co., Ltd.
- (124) Sun Hing Taxi Radio Association.
- (125) Tang's Taxi Companies Association Ltd.
- (126) Tate's Cairn Tunnel Co., Ltd.
- (127) Taxi Associations Federation.
- (128) Taxi Dealers & Owners Association Ltd.
- (129) Taxi Drivers & Operators Association Ltd.
- (130) The Taxi Operators Association Ltd.
- (131) Taxicom Vehicle Owners Association Ltd.
- (132) Tsing Ma Management Limited.
- (133) Tsuen Wan PLB Commercial Association Ltd.
- (134) Tuen Mun Public Light Bus Association.
- (135) Tung Yee Shipbuilding and Repairing Merchants General Association Limited.
- (136) United Association of Public Lightbus Hong Kong.
- (137) United Friendship Taxi Owners & Drivers Association Ltd.
- (138) United Radio Taxi & Goods Vehicle Association Ltd.
- (139) Urban Taxi Drivers Association Joint Committee Co. Ltd.
- (140) Wai Fat Taxi Owners Association Ltd.
- (141) Wai Yik H.K. & Kowloon and New Territories Taxi Owners Association.
- (142) West Coast International (Parking) Limited.
- (143) Western Harbour Tunnel Co. Ltd.
- (144) Wilson Parking (Hong Kong) Limited.
- (145) Wing Lee Radio Car Traders Association Ltd.
- (146) Wing Tai Car Owners & Drivers Association Ltd.
- (147) Wu Gang Shipping Co. Ltd.
- (148) Xiamen United Enterprises (H.K.) Ltd.
- (149) Yik Sun Radiocabs Operators Association Ltd.
- (150) School Buses Operators Association Limited.
- (151) Rights of Taxi Owners and Drivers Association Limited.
- (152) New World First Ferry Services Limited.
- (153) New World First Ferry Services (Macau) Limited.
- (154) Hong Kong Container Drayage Services Association Limited.
- (155) Hong Kong Kowloon & N.T. Grab-Mounted Lorries

**Column 1**  
**Constituency****Column 2**  
**Electors**

- Association Limited.
- (156) Hong Kong Waste Disposal Industry Association.
- (157) HK Public-light Bus Owner & Driver Association.
- (158) Container Truck Drivers Union.
- (159) The Concrete Producers Association of Hong Kong Limited.
- (160) Hongkong Guangdong Boundary Crossing Bus Association Limited.
- (161) Tsui Wah Ferry Service Company Limited.
- (162) Quality Driver Training Centre Limited.
- (163) Public and Private Commercial Driving Instructors' Society.
- (164) Shun Tak-China Travel Ship Management Limited.
- (165) Cruise Ferries (HK) Limited.
- (166) Asia Airfreight Terminal Company Limited.
- (167) The Hong Kong Joint Branch of The Royal Institution of Naval Architects and The Institute of Marine Engineering, Science and Technology.
- (168) The Hongkong Salvage & Towage Company Limited.
- (169) The Institute of Chartered Shipbrokers, Hong Kong Branch.
- (170) Hongkong United Dockyards Limited.
- (171) Guangdong and Hong Kong Feeder Association Limited.
- (172) Hong Kong Right Hand Drive Motors Association Limited.
- (173) The Institute of the Motor Industry Hong Kong.
- (174) Hong Kong Vehicle Repair Merchants Association Limited.
- (175) Environmental Vehicle Repairers Association Limited.
- (176) The Hong Kong Taxi and Public Light Bus Association Limited.
- (177) Park Island Transport Company Limited.
- (178) Discovery Bay Road Tunnel Company Limited.
- (179) International Association of Transport Officers.
- (180) Hong Kong Express Airways Limited.
- (181) Hong Kong (Cross Border) Transportation Drivers' Association.
- (182) Hong Kong Logistics Association Limited.
- (183) Hong Kong Container Depot and Repairer Association Limited.
- (184) New World Parking Management Limited.
- (185) The Nautical Institute-Hong Kong Branch.
- (186) The Hong Kong Union of Light Van Employees.
- (187) Worldwide Flight Services, Inc.

<b><u>Column 1</u></b> <b><u>Constituency</u></b>	<b><u>Column 2</u></b> <b><u>Electors</u></b>
5. Education functional constituency	<p>(1) Full-time academic staff engaged in teaching or research and administrative staff of equivalent rank in -</p> <ul style="list-style-type: none"> <li>(a) institutions of higher education funded through the University Grants Committee;</li> <li>(b) approved post secondary colleges registered under the Post Secondary Colleges Ordinance (Cap 320);</li> <li>(c) technical colleges established under the Vocational Training Council Ordinance (Cap 1130);</li> <li>(d) The Hong Kong Academy for Performing Arts;</li> <li>(e) The Open University of Hong Kong.</li> </ul> <p>(2) Full-time academic staff engaged in teaching or research and administrative staff of equivalent rank in -</p> <ul style="list-style-type: none"> <li>(a) School of Continuing and Professional Education of the City University of Hong Kong;</li> <li>(b) School of Continuing Education of the Hong Kong Baptist University;</li> <li>(c) Lingnan Institute of Further Education of the Lingnan University;</li> <li>(d) School of Continuing Studies of The Chinese University of Hong Kong;</li> <li>(e) Division of Continuing Professional Education of The Hong Kong Institute of Education;</li> <li>(f) School of Professional Education and Executive Development of The Hong Kong Polytechnic University;</li> <li>(g) HKUST College of Lifelong Learning Limited;</li> <li>(h) HKU School of Professional and Continuing Education.</li> </ul> <p>(3) Members of each of the following bodies -</p> <ul style="list-style-type: none"> <li>(a) Council of the University of Hong Kong;</li> <li>(b) Council of The Chinese University of Hong Kong;</li> <li>(c) Council of The Hong Kong University of Science and Technology;</li> <li>(d) Council of the City University of Hong Kong;</li> <li>(e) Council of The Hong Kong Polytechnic University;</li> <li>(f) Council of The Hong Kong Academy for Performing Arts;</li> <li>(g) Council of The Open University of Hong Kong;</li> <li>(h) the Vocational Training Council;</li> <li>(i) Council of The Hong Kong Institute of Education;</li> <li>(j) Council of the Hong Kong Baptist University;</li> <li>(k) Council of Lingnan University;</li> <li>(l) Board of Governors of the Hong Kong Shue Yan College;</li> <li>(m) Board of Governors of the Caritas Francis Hsu College.</li> </ul>

<b><u>Column 1</u></b> <b><u>Constituency</u></b>	<b><u>Column 2</u></b> <b><u>Electors</u></b>
	<p>(4) Registered teachers registered under the Education Ordinance (Cap 279).</p> <p>(5) Permitted teachers engaged in full-time employment in schools registered or provisionally registered under the Education Ordinance (Cap 279).</p> <p>(6) Teachers and principals of schools entirely maintained and controlled by the Government.</p> <p>(7) Persons whose principal or only employment is that of full-time teaching with the following institutions -</p> <ul style="list-style-type: none"> <li>(a) technical institutes, industrial training centres or skills centres established under the Vocational Training Council Ordinance (Cap 1130);</li> <li>(b) industrial training centres established under the Industrial Training (Construction Industry) Ordinance (Cap 317);</li> <li>(c) industrial training centres established under the Industrial Training (Clothing Industry) Ordinance (Cap 318);</li> <li>(d) Hong Chi Association - Hong Chi Pinehill Advanced Training Centre;</li> <li>(e) Caritas Lok Mo Integrated Vocational Training Centre of Caritas-Hong Kong incorporated under the Caritas-Hong Kong Incorporation Ordinance (Cap 1092).</li> </ul> <p>(8) Registered managers of schools registered under the Education Ordinance (Cap 279).</p>
6. Legal functional constituency	<p>(1) Members of The Law Society of Hong Kong entitled to vote at general meetings of the Society.</p> <p>(2) Members of the Hong Kong Bar Association entitled to vote at general meetings of the Association.</p> <p>(3) Legal officers within the meaning of the Legal Officers Ordinance (Cap 87).</p> <p>(4) Persons appointed under section 3 of the Legal Aid Ordinance (Cap 91).</p> <p>(5) Persons deemed to be legal officers for the purpose of the Legal Officers Ordinance (Cap 87) by section 75(3) of the Bankruptcy Ordinance (Cap 6) or section 3(3) of the Director of Intellectual Property (Establishment) Ordinance (Cap 412).</p> <p>(6) The Legal Adviser of the Legislative Council Secretariat and his or her assistants who are in the full-time employment of The Legislative Council Commission and are barristers or solicitors as defined in the Legal Practitioners Ordinance (Cap 159).</p>

<b><u>Column 1</u></b> <b><u>Constituency</u></b>	<b><u>Column 2</u></b> <b><u>Electors</u></b>
7. Accountancy functional constituency	Certified public accountants registered under the Professional Accountants Ordinance (Cap 50).
8. Medical functional constituency	(1) Medical practitioners registered or deemed to be registered under the Medical Registration Ordinance (Cap 161). (2) Dentists registered, deemed to be registered or exempt from registration under the Dentists Registration Ordinance (Cap 156).
9. Health services functional constituency	(1) Chiropractors registered under the Chiropractors Registration Ordinance (Cap 428). (2) Nurses registered or enrolled or deemed to be registered or enrolled under the Nurses Registration Ordinance (Cap 164). (3) Midwives registered or deemed to be registered under the Midwives Registration Ordinance (Cap 162). (4) Pharmacists registered under the Pharmacy and Poisons Ordinance (Cap 138). (5) Medical laboratory technologists registered under the Medical Laboratory Technologists (Registration and Disciplinary Procedure) Regulations (Cap 359 sub. leg. A). (6) Radiographers registered under the Radiographers (Registration and Disciplinary Procedure) Regulation (Cap 359 sub. leg. H). (7) Physiotherapists registered under the Physiotherapists (Registration and Disciplinary Procedure) Regulation (Cap 359 sub. leg. J). (8) Occupational therapists registered under the Occupational Therapists (Registration and Disciplinary Procedure) Regulations (Cap 359 sub. leg. B). (9) Optometrists registered under the Optometrists (Registration and Disciplinary Procedure) Regulation (Cap 359 sub. leg. F). (10) Dental hygienists enrolled under the Ancillary Dental Workers (Dental Hygienists) Regulations (Cap 156 sub. leg. B). (11) Audiologists, audiology technicians, chiropodists (also known as "podiatrists"), dental surgery assistants, dental technicians, dental technologists, dental therapists, dietitians, dispensers, mould laboratory technicians, orthoptists, clinical psychologists, educational psychologists, prosthetists, speech therapists and scientific officers (medical) who are in the service under

<b><u>Column 1</u></b> <b><u>Constituency</u></b>	<b><u>Column 2</u></b> <b><u>Electors</u></b>
	<p>the Government, or are employed in Hong Kong, at the following institutions -</p> <ul style="list-style-type: none"> <li>(a) Public hospitals within the meaning of the Hospital Authority Ordinance (Cap 113);</li> <li>(b) Hospitals registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap 165);</li> <li>(c) Clinics maintained or controlled by the Government or The Chinese University of Hong Kong or by the University of Hong Kong;</li> <li>(d) services subvented by the Government.</li> </ul>
10. Engineering functional constituency	<ul style="list-style-type: none"> <li>(1) Professional engineers registered under the Engineers Registration Ordinance (Cap 409).</li> <li>(2) Members of the Hong Kong Institution of Engineers entitled to vote at general meetings of the Institution.</li> </ul>
11. Architectural, surveying and planning functional constituency	<ul style="list-style-type: none"> <li>(1) Architects registered under the Architects Registration Ordinance (Cap 408).</li> <li>(2) Members of The Hong Kong Institute of Architects entitled to vote at general meetings of the Institute.</li> <li>(3) Landscape architects registered under the Landscape Architects Registration Ordinance (Cap 516).</li> <li>(4) Members of The Hong Kong Institute of Landscape Architects entitled to vote at general meetings of the Institute.</li> <li>(5) Professional surveyors registered under the Surveyors Registration Ordinance (Cap 417).</li> <li>(6) Members of The Hong Kong Institute of Surveyors entitled to vote at general meetings of the Institute.</li> <li>(7) Professional planners registered under the Planners Registration Ordinance (Cap 418).</li> <li>(8) Members of The Hong Kong Institute of Planners entitled to vote at general meetings of the Institute.</li> </ul>
12. Labour functional constituency	Bodies that are trade unions registered under the Trade Unions Ordinance (Cap 332) of which all the voting members are employees.
13. Social welfare functional constituency	Social workers registered under the Social Workers Registration Ordinance (Cap 505).

<b><u>Column 1</u></b> <b><u>Constituency</u></b>	<b><u>Column 2</u></b> <b><u>Electors</u></b>
14. Real estate and construction functional constituency	(1) Members of The Real Estate Developers Association of Hong Kong entitled to vote at general meetings of the Association. (2) Members of The Hong Kong Construction Association, Limited entitled to vote at general meetings of the Association. (3) Members of The Hong Kong E&M Contractors' Association Limited entitled to vote at general meetings of the Association.
15. Tourism functional constituency	Bodies that are: (1) travel industry members of the body known immediately before 1 April 2001 as the Hong Kong Tourist Association, entitled immediately before that date, under the constitution of that body in force immediately before that date, to vote at general meetings of that body. (2) members of the Travel Industry Council of Hong Kong entitled to vote at general meetings of the Council. (3) members of The Board of Airline Representatives in Hong Kong. (4) members of the Hong Kong Hotels Association entitled to vote at general meetings of the Association. (5) members of Federation of Hong Kong Hotel Owners Limited entitled to vote at general meetings of the Federation.
16. Commercial (first) functional constituency	Bodies that are members of The Hong Kong General Chamber of Commerce entitled to vote at general meetings of the Chamber.
17. Commercial (second) functional constituency	Members of The Chinese General Chamber of Commerce entitled to vote at general meetings of the Chamber.
18. Industrial (first) functional constituency	Members of the Federation of Hong Kong Industries entitled to vote at general meetings of the Federation.
19. Industrial (second) functional constituency	Bodies that are members of The Chinese Manufacturers' Association of Hong Kong entitled to vote at general meetings of the Association.
20. Finance functional constituency	Bodies that are: (1) banks within the meaning of the Banking Ordinance (Cap 155). (2) restricted licence banks within the meaning of the

<b><u>Column 1</u></b> <b><u>Constituency</u></b>	<b><u>Column 2</u></b> <b><u>Electors</u></b>
	Banking Ordinance (Cap 155).
	(3) deposit-taking companies within the meaning of the Banking Ordinance (Cap 155).
21. Financial services functional constituency	(1) Exchange participants of a recognized exchange company.
	(2) Members of The Chinese Gold & Silver Exchange Society entitled to vote at general meetings of the Society.
22. Sports, performing arts, culture and publication functional constituency	(1) Statutory bodies and registered bodies (other than schools registered under the Education Ordinance (Cap 279) and bodies formed by such schools) that are members of the sports associations affiliated to the Sports Federation & Olympic Committee of Hong Kong, China.
	(2) Sports associations affiliated to the Sports Federation & Olympic Committee of Hong Kong, China but have no statutory bodies or registered bodies as members.
	(3) The following district sports associations:
	(a) Central & Western District Recreation & Sports Association;
	(b) Eastern District Recreation & Sports Advancement Association Ltd.;
	(c) The Federation of Tsuen Wan District Sports & Recreation Association Ltd.;
	(d) Islands District Sports Association;
	(e) Kowloon City District Recreation & Sports Council;
	(f) Kwai Tsing District Sports Association;
	(g) Kwun Tong Sports Promotion Association Ltd.;
	(h) Mong Kok District Cultural, Recreational and Sports Association Limited;
	(i) North District Sports Association;
	(j) Sai Kung District Sports Association Ltd.;
	(k) Sha Tin Sports Association Ltd.;
	(l) Sham Shui Po Sports Association;
	(m) Southern District Recreation and Sports Association Limited;
	(n) Tai Po Sports Association Ltd.;
	(o) Tuen Mun Sports Association Limited;
	(p) Wan Chai District Arts Cultural Recreation and Sports Association Limited;
	(q) Wong Tai Sin District Recreation & Sports Council;
	(r) Yaumatei and Tsimshatsui Recreation & Sports Association Ltd.;
	(s) Yuen Long District Sports Association Ltd.

**Column 1**  
**Constituency****Column 2**  
**Electors**

- (4) Bodies listed in a Gazette notice currently in force made under section 3(5) of the Hong Kong Arts Development Council Ordinance (Cap 472) as organizations for the purpose of section 3(4) of that Ordinance.
- (5) Statutory bodies and registered bodies, the primary goal of which is the promotion of arts, and to which grants, sponsorship or performance fees have been approved by the Hong Kong Arts Development Council, the Urban Council, the Regional Council, the Provisional Urban Council, the Provisional Regional Council, the Leisure and Cultural Services Department or the Home Affairs Bureau during the relevant period.
- (6) The following district arts and culture associations:
  - (a) Central and Western District Association for Culture and Arts;
  - (b) Eastern District Arts Council;
  - (c) Kowloon City District Arts and Culture Council;
  - (d) Kwai Chung and Tsing Yi District Culture and Arts Co-ordinating Association Limited;
  - (e) Kwun Tong District Culture and Recreation Promotion Association;
  - (f) North District Arts Advancement Association Limited;
  - (g) Sai Kung Culture & Recreational Advancement Association;
  - (h) Sha Tin Arts Association Limited;
  - (i) Sham Shui Po Arts Association Limited;
  - (j) Southern District Arts and Culture Association Limited;
  - (k) Tai Po District Arts Advancement Association;
  - (l) Tsuen Wan Culture & Recreation Co-ordinating Association Limited;
  - (m) Tuen Mun Arts Promotion Association;
  - (n) Wong Tai Sin District Arts Council;
  - (o) Yau Ma Tei and Tsim Sha Tsui Culture and Arts Association Limited;
  - (p) Yuen Long District Arts Committee.
- (7) Members of each of the following bodies entitled to vote at general meetings of the body -
  - (a) Educational Booksellers' Association, Limited;
  - (b) The Anglo-Chinese Textbook Publishers Organisation Limited;
  - (c) The Hong Kong Educational Publishers Association Limited;
  - (d) The Hong Kong Publishers and Distributors Association;

**Column 1**  
**Constituency****Column 2**  
**Electors**

- (e) Hong Kong Book & Magazine Trade Association Limited;
- (f) Hongkong Book and Stationery Industry Association Company Limited.
- (8) Members of the Hong Kong Publishing Federation Limited (other than those referred to in paragraph (7)) entitled to vote at general meetings of the Federation.
- (9) Members of each of the following bodies entitled to vote at general meetings of the body -
  - (a) HK, Kln & NT Motion Picture Industry Association Ltd.;
  - (b) Hong Kong Film Awards Association Ltd.;
  - (c) International Federation of the Phonographic Industry (Hong Kong Group) Limited;
  - (d) Movie Producers and Distributors Association of Hong Kong Ltd.;
  - (e) Music Publishers Association of Hong Kong Ltd.;
  - (f) Hong Kong Theatres Association Ltd.
- (10) Corporate proprietors, the principal business of which is publication, registered under the Registration of Local Newspapers Ordinance (Cap 268).
- (11) Corporate proprietors of newspaper distributors licensed under the Newspapers Registration and Distribution Regulations (Cap 268 sub. leg. B).
- (12) Bodies that are holders of one or more of the following classes of licences granted under the Broadcasting Ordinance (Cap 562) –
  - (a) licences to provide a domestic free television programme service;
  - (b) licences to provide a domestic pay television programme service;
  - (c) licences to provide a non-domestic television programme service.
- (13) Holders of licences granted under Part IIIA of the Telecommunications Ordinance (Cap 106) (sound broadcasting licences).
- (14) All Stars Sports Association Ltd.
- (15) The Song Writers' Association of Hong Kong.
- (16) Artiste Training Alumni Association Limited.
- (17) Composers and Authors Society of Hong Kong Limited.
- (18) Friends of the Art Museum, The Chinese University of Hong Kong Limited.
- (19) The Friends of the Hong Kong Museum of Art.
- (20) HK Film Directors' Guild Ltd.
- (21) Hong Kong Anthropological Society.

**Column 1**  
**Constituency****Column 2**  
**Electors**

- (22) Hong Kong Archaeological Society.
- (23) The Hong Kong Children's Choir.
- (24) Hong Kong Chinese Orchestra Limited.
- (25) Hong Kong Chinese Press Association.
- (26) Hong Kong & Macau Cinema and Theatrical Enterprise Association Limited.
- (27) Hong Kong Cinematography Lighting Association Limited.
- (28) Hong Kong Curators Association.
- (29) Hong Kong Dance Company Limited.
- (30) Hong Kong Federation of Journalists Ltd.
- (31) Hong Kong Festival Fringe Ltd.
- (32) Hong Kong Film Academy.
- (33) Hong Kong Film Arts Association Limited.
- (34) Hong Kong History Society.
- (35) Hong Kong Intellectual Property Society.
- (36) Hong Kong Journalists Association.
- (37) The Hong Kong Mass Media Professionals Association Ltd.
- (38) Hong Kong Museum of Medical Sciences Society.
- (39) Hong Kong News Executives' Association, Limited.
- (40) Hong Kong PEN (English) Centre.
- (41) Hong Kong Performing Artistes Guild Ltd.
- (42) Hong Kong Philharmonic Orchestra.
- (43) Hong Kong Press Photographers Association.
- (44) Hong Kong Recreation Management Association Limited.
- (45) Hong Kong Repertory Theatre Limited.
- (46) Hong Kong Screen Writers' Guild Ltd.
- (47) Hong Kong Sports Association of the Deaf.
- (48) Hong Kong Sports Press Association Ltd.
- (49) Hong Kong Stuntman Association Ltd.
- (50) Hong Kong Tai Chi Association.
- (51) Hong Kong United Arts Entertainment Co. Ltd.
- (52) Min Chiu Society.
- (53) New Territories Regional Sports Association.
- (54) The Newspaper Society of Hong Kong.
- (55) Pop-Music Authors Society of Hong Kong.
- (56) The Hong Kong Branch of the Royal Asiatic Society.
- (57) Sail Training Association of Hong Kong Limited.
- (58) Society of Cinematographers (Hong Kong) Limited.
- (59) Society of Film Editors (HK) Ltd.
- (60) South China Film Industry Workers' Union.
- (61) South China Research Circle.
- (62) Swimming Teacher's Association Hong Kong.
- (63) Videotage.

<b><u>Column 1</u></b> <b><u>Constituency</u></b>	<b><u>Column 2</u></b> <b><u>Electors</u></b>
	(64) Zuni Icosahedron. (65) Federation of Hong Kong Filmmakers Limited. (66) Hong Kong Movie Production Executives Association Limited.
23. Import and export functional constituency	(1) Companies licensed under the Dutiable Commodities Ordinance (Cap 109) for the import or export, or import and export, of dutiable commodities. (2) Companies registered under the Motor Vehicles (First Registration Tax) Ordinance (Cap 330) for the import of motor vehicles for use in Hong Kong. (3) Companies licensed under the Control of Chemicals Ordinance (Cap 145) for the import or export, or import and export, of controlled chemicals. (4) Members of each of the following bodies entitled to vote at general meetings of the body - <ul style="list-style-type: none"> <li>(a) The Association of Hong Kong Photographic Equipment Importers Limited;</li> <li>(b) Hong Kong &amp; Kowloon Steel and Metal Importers and Exporters Association Ltd.;</li> <li>(c) The Hong Kong Chinese Importers' &amp; Exporters' Association;</li> <li>(d) Hong Kong Exporters' Association;</li> <li>(e) Hong Kong Fresh Fruits Importers Association Ltd.;</li> <li>(f) Hong Kong General Association of Edible Oil Importers &amp; Exporters Ltd.;</li> <li>(g) Hong Kong Maize and Feed Importers Association Ltd.;</li> <li>(h) Hongkong Rice Importers &amp; Exporters Association;</li> <li>(i) Hongkong Watch Importers' Association;</li> <li>(j) The Hong Kong Food, Drink &amp; Grocery Association;</li> <li>(k) Hong Kong &amp; Kowloon Light Industrial Products Importers &amp; Exporters Association Limited;</li> <li>(l) Nanyang Importers and Exporters Association;</li> <li>(m) Hong Kong Industrial Production Trading Association Limited;</li> <li>(n) The Industrial Chemical Merchants' Association Limited;</li> <li>(o) South-China Paper Merchants Association Limited;</li> <li>(p) The Wah On Exporters &amp; Importers Association;</li> <li>(q) The Hong Kong Shippers' Council;</li> <li>(r) The Shippers' Association of Hong Kong.</li> </ul>

<b><u>Column 1</u></b> <b><u>Constituency</u></b>	<b><u>Column 2</u></b> <b><u>Electors</u></b>
24. Textiles and garment functional constituency	<p>(1) Corporate members of the Textile Council of Hong Kong Limited (other than those referred to in paragraph (2)(a) to (l)) entitled to vote at general meetings of the Council.</p> <p>(2) Corporate members of each of the following bodies entitled to vote at general meetings of the body -</p> <ul style="list-style-type: none"> <li>(a) The Federation of Hong Kong Cotton Weavers;</li> <li>(b) The Federation of Hong Kong Garment Manufacturers;</li> <li>(c) Hong Kong Chinese Textile Mills Association;</li> <li>(d) The Hong Kong Cotton Made-up Goods Manufacturers Association, Limited;</li> <li>(e) The Hongkong Cotton Spinners Association;</li> <li>(f) Hong Kong Garment Manufacturers Association Ltd.;</li> <li>(g) Hong Kong Knitwear Exporters &amp; Manufacturers Association Ltd.;</li> <li>(h) Hong Kong Woollen &amp; Synthetic Knitting Manufacturers' Association, Ltd.;</li> <li>(i) The Hong Kong Association of Textile Bleachers, Dyers, Printers and Finishers Limited;</li> <li>(j) The Hong Kong Weaving Mills Association;</li> <li>(k) The Hongkong Wool and Synthetic Spinners Association Limited;</li> <li>(l) The Hong Kong General Chamber of Textiles Limited.</li> </ul> <p>(3) Members of the Hong Kong Institution of Textile and Apparel Limited entitled to vote at general meetings of the Institution.</p> <p>(4) Textiles &amp; Clothing manufacturers registered under the Factory Registration of the Trade and Industry Department for the purpose of applying for the certificate of Hong Kong origin.</p> <p>(5) Textiles traders who-</p> <ul style="list-style-type: none"> <li>(a) are registered as textiles traders pursuant to regulation 5A of the Import and Export (General) Regulations (Cap 60 sub. leg. A);</li> <li>(b) have been so registered for a period of 12 months immediately before making the application for registration as an elector; and</li> <li>(c) are carrying on business as textiles traders specified in the Fourth Schedule to the Import and Export (General) Regulations (Cap 60 sub. leg. A).</li> </ul>

<b><u>Column 1</u></b> <b><u>Constituency</u></b>	<b><u>Column 2</u></b> <b><u>Electors</u></b>
25. Wholesale and retail functional constituency	<p>Members of each of the following bodies entitled to vote at general meetings of the body -</p> <ol style="list-style-type: none"> <li>(1) Anglo-Chinese Vegetable Wholesale Merchants Association Limited;</li> <li>(2) Association of Better Business &amp; Tourism Services;</li> <li>(3) Cheung Sha Wan Poultry United Wholesalers Association Ltd.;</li> <li>(4) Chinese Medicine Merchants Association Ltd.;</li> <li>(5) Chinese Merchants (H.K.) Association;</li> <li>(6) Chinese Paper Merchants Association;</li> <li>(7) The Cosmetic &amp; Perfumery Association of Hong Kong Ltd.;</li> <li>(8) Eastern District Fresh Fish Merchants' Society;</li> <li>(9) Federation of Hong Kong Kowloon New Territories Hawkers Associations;</li> <li>(10) The Federation of Hong Kong Watch Trades and Industries Ltd.;</li> <li>(11) HK Vegetable Wholesaler Community;</li> <li>(12) Hong Kong and Kowloon Bamboo Goods Merchants Association Limited;</li> <li>(13) Hong Kong and Kowloon Electrical Appliances Merchants Association Ltd.;</li> <li>(14) Hong Kong Electro-Plating Merchants Association Limited;</li> <li>(15) Hong Kong &amp; Kowloon European Dress Merchants Association;</li> <li>(16) Hong Kong &amp; Kowloon Fresh Water Fish Merchants' &amp; Buyers' Association Limited;</li> <li>(17) Hong Kong &amp; Kowloon Fruit &amp; Vegetable Employees &amp; Employers Guild;</li> <li>(18) Hong Kong &amp; Kowloon Furniture &amp; Shop Fittings Merchants Association;</li> <li>(19) Hong Kong &amp; Kowloon General Association of Liquor Dealers and Distillers;</li> <li>(20) Hong Kong &amp; Kowloon Machine Made Paper Merchants Association Ltd.;</li> <li>(21) Hong Kong and Kowloon Machinery and Instrument Merchants Association Ltd.;</li> <li>(22) Hong Kong &amp; Kowloon Marine Products Merchants Association Ltd.;</li> <li>(23) Hong Kong &amp; Kowloon Plastic Products Merchants United Association Limited;</li> <li>(24) Hong Kong &amp; Kowloon Poultry Dealers Guild;</li> <li>(25) The Hong Kong &amp; Kowloon Provisions, Wine &amp; Spirit Dealers' Association;</li> <li>(26) Hong Kong and Kowloon Rattan Ware Merchants</li> </ol>

**Column 1**  
**Constituency****Column 2**  
**Electors**

- Association (Wing-Hing-Tong);
- (27) The Hong Kong and Kowloon Salt Merchants' Association;
- (28) Hong Kong & Kowloon Sauce & Preserved-Fruit Amalgamated Employers Association;
- (29) Hong Kong & Kowloon Tea Trade Merchants Association Ltd.;
- (30) Hong Kong & Kowloon Timber Merchants Association Limited;
- (31) Hong Kong & Kowloon Vermicelli & Noodle Manufacturing Industry Merchants' General Association;
- (32) Hong Kong Art Craft Merchants Association, Ltd.;
- (33) Hong Kong Dried Seafood and Grocery Merchants Association Limited;
- (34) Hong Kong Dyestuffs Merchants Association Limited;
- (35) Hong Kong Egg Merchants Association (Fung-Kwai-Tong);
- (36) Hong Kong Embroidery Merchants Association Limited;
- (37) Hong Kong Flower Dealers & Workers Association;
- (38) Hong Kong Flower Retailers Association;
- (39) The Hong Kong Food Council Limited;
- (40) Hong Kong Fresh Fish Merchants Association;
- (41) Hong Kong Fur Federation;
- (42) Hong Kong Furniture & Decoration Trade Association Limited;
- (43) Hong Kong General Chamber of Pharmacy Limited;
- (44) Hong Kong Glass and Mirror Merchants and Manufacturers Association Company Limited;
- (45) Hong Kong Jewellers' & Goldsmiths' Association Limited;
- (46) Hong Kong Leather Shoe And Shoe Material Merchants Association Ltd.;
- (47) Hong Kong Live Pig Trade Merchants' Association;
- (48) The Hong Kong Medicine Dealers' Guild;
- (49) Hong Kong Metal Merchants Association;
- (50) The Hong Kong Oil Merchants Association, Limited;
- (51) Hong Kong Paints & Pigments Merchants Association Ltd.;
- (52) Hong Kong Petroleum, Chemicals and Pharmaceutical Materials Merchants Association Ltd.;
- (53) Hong Kong Photo Marketing Association Limited;
- (54) Hong Kong Piece Goods Merchants' Association;
- (55) Hong Kong Plastic Material Suppliers Association Ltd.;
- (56) Hong Kong Plumbing and Sanitary Ware Trade Association Ltd.;
- (57) Hong Kong Provision & Grocery General Commercial

<b><u>Column 1</u></b> <b><u>Constituency</u></b>	<b><u>Column 2</u></b> <b><u>Electors</u></b>
	Chamber;
	(58) Hong Kong Record Merchants Association Ltd.;
	(59) Hong Kong Rice Suppliers' Association Limited;
	(60) Hong Kong Retail Management Association Limited;
	(61) Hong Kong Silk Piece-Goods Merchants' Association;
	(62) Hong Kong Stamp and Coin Dealers Association;
	(63) Hong Kong Video Industry Association Limited;
	(64) Hong Kong Yee Yee Tong Chinese Medicine Merchants Association Ltd.;
	(65) The Hong Kong & Kowloon General Merchandise Merchants' Association Limited;
	(66) Hongkong Kowloon New Territories & Overseas Fish Wholesalers Association Limited;
	(67) The Industrial Chemical Merchants' Association Limited;
	(68) Kowloon Cheung Sha Wan Wholesale Vegetable Market (Importers) Recreation Club;
	(69) Kowloon Fresh Fish Merchants Association Limited;
	(70) Kowloon Fresh Meat Retailers' Association Ltd.;
	(71) The Kowloon Pearls, Precious Stones, Jade, Gold & Silver Ornament Merchants Association;
	(72) Kowloon Poultry Laan Merchants Association;
	(73) The Merchants Association of First Wholesalers/Jobbery of Imported Fresh Fruits & Vegetables Limited;
	(74) Mongkok Vegetable Wholesale Merchants Association Company Limited;
	(75) The Motor Traders Association of Hong Kong;
	(76) Nam Pak Hong Association;
	(77) Po Sau Tong Ginseng & Antler Association Hong Kong Ltd.;
	(78) The Rice Merchants' Association of Hong Kong Limited;
	(79) Shaukiwan Fishery Merchants Association;
	(80) Yuet Sum Kong Vegetable Association (Hong Kong) Co.;
	(81) Kowloon Fruit & Vegetable Merchants Association Limited;
	(82) The Hong Kong And Kowloon Electric Trade Association;
	(83) Hong Kong Poultry Wholesalers Association;
	(84) Diamond Federation of Hong Kong, China Limited.
26. Information technology functional constituency	(1) Fellows and Full Members of the Hong Kong Computer Society entitled to vote at general meetings of the Society.
	(2) Fellows, Members and Graduate Members of Information Technology Division of the Hong Kong Institution of Engineers who are entitled to vote at general meetings of the Division.

**Column 1**  
**Constituency****Column 2**  
**Electors**

- (3) Professional Members of the Association for Computing Machinery, Hong Kong Chapter entitled to vote at general meetings of the Association.
- (4) Fellows, Senior Members and Full Members of the Institute of Electrical and Electronics Engineers, Inc., Hong Kong Section, Computer Chapter entitled to vote at general meetings of the Institute.
- (5) Fellows, Senior Members and Full Members of the Institute of Electrical and Electronics Engineers, Inc., Hong Kong Section, Hong Kong Joint Chapter on Circuits and Systems/Communications entitled to vote at general meetings of the Institute.
- (6) Fellows and Corporate Members of The Institution of Electrical Engineers Hong Kong entitled to vote at general meetings of the Institution.
- (7) Fellows, Members and Associate Members of The British Computer Society (Hong Kong Section) Limited entitled to vote at general meetings of the Society.
- (8) Fellows, Senior Professional Members and Professional Members of The Hong Kong Association for Computer Education entitled to vote at general meetings of the Association.
- (9) Full Members (Information Technology) of the Hong Kong Society of Medical Informatics Limited entitled to vote at general meetings of the Society.
- (10) Full Members of the Information and Software Industry Association Limited entitled to vote at general meetings of the Association.
- (11) Ordinary Members of the Hong Kong Telemedicine Association entitled to vote at general meetings of the Association.
- (12) The eligible persons of the following bodies -
  - (a) Hong Kong & Mainland Software Industry Cooperation Association Limited;
  - (b) Information Systems Audit and Control Association (Hong Kong Chapter) Limited;
  - (c) Internet Professional Association Limited;
  - (d) Professional Information Security Association.
- (13) Corporate members of each of the following bodies entitled to vote at general meetings of the body -
  - (a) Hong Kong Information Technology Federation Limited;
  - (b) Hong Kong Internet Service Providers Association;
  - (c) Hong Kong Radio Paging Association Ltd.;
  - (d) Internet & Telecom Association of Hong Kong Limited;

<b><u>Column 1</u></b> <b><u>Constituency</u></b>	<b><u>Column 2</u></b> <b><u>Electors</u></b>
	(e) Hong Kong Wireless Technology Industry Association Limited; (f) The Society of Hong Kong External Telecommunications Services Providers Limited. (14) Bodies that are holders of one or more of the following classes of licences granted by the Telecommunications Authority under the Telecommunications Ordinance (Cap 106) - (a) Fixed Telecommunications Network Services licences; (b) Public Non-exclusive Telecommunications Service licences; (c) Public Radiocommunication Service licences; (d) Satellite Master Antenna Television licences; (e) Broadcast Relay Station licences; (f) Broadcast Radio Relay Station licences; (g) Carrier licences. (15) APT Satellite Company Limited (16) Asia Satellite Telecommunications Company Limited.
27. Catering functional constituency	(1) Holders of food business licences under the Public Health and Municipal Services Ordinance (Cap 132). (2) The Association for the Hong Kong Catering Services Management Limited. (3) The Association of Restaurant Managers Limited. (4) Federation of Hong Kong Restaurant Owners Limited. (5) The Hong Kong Restaurant and Eating House Merchants General Association. (6) Hong Kong Catering Industry Association Limited.
28. District Council functional constituency	Members of the District Councils established under the District Councils Ordinance (Cap 547).

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Note : (1) In item 22 of this Appendix -

- (a) “registered body” (註冊團體) means a body which is registered or exempt from registration under, or incorporated by, any laws of Hong Kong.
- (b) “relevant period” (有關期間), in relation to a statutory body or registered body, means the period from 1 April 1994 to the date on which the statutory body or registered body applies for registration as an elector of the sports, performing arts, culture and publication functional constituency; or if the statutory body or registered body applies for such registration on or after 18 July 2003, the period of

6 years immediately preceding the date on which it so applies.

- (c) “statutory body” (法定團體) means a body established or constituted by or under the authority of an Ordinance.

(2) In item 26(12) of this Appendix, the “eligible persons” means –

- (a) Hong Kong & Mainland Software Industry Cooperation Association Limited – Full Members, the major business of which, as confirmed by the Association, has been in the research, development or application of information technology or computer software during the relevant period; and which are entitled to vote at general meetings of the Association;
- (b) Information Systems Audit and Control Association (Hong Kong Chapter) Limited – Ordinary Members who are confirmed by the Association to have been holders of the Certified Information Systems Auditor Certification (CISA) during the relevant period; and entitled to vote at general meetings of the Association;
- (c) Internet Professional Association Limited – Members who are confirmed by the Association to have had experience in the information technology field, as specified in the constitution of the Association, during the relevant period; and entitled to vote at general meetings of the Association; and
- (d) Professional Information Security Association – Full Members who are confirmed by the Association to have been holders of the Certified Information Systems Security Professional Certification (CISSP) during the relevant period; and entitled to vote at general meetings of the Association,

where the “relevant period”, in relation to a person, means the period of 4 years immediately preceding the date on which that person applies for registration as an elector of the information technology functional constituency.

**The Preferential Elimination System of Voting**  
**(applicable to the election of the 4 Special Functional Constituencies) -**  
**How Votes Are Counted**  
**(with Annex showing Working Examples)**

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1. All valid ballot papers will be sorted with reference to the candidate for whom the first preference vote has been recorded.
2. The result of an election will be ascertained by a count of the first preference votes received by each of the candidates. The candidate who receives an absolute majority (ie over 50%) of all the first preference votes received by the candidates will be declared elected (see Example 1 in the Annex). However, where each of the ballot papers contains only a first preference vote without any other valid preference marked on it, the candidate who obtains the highest number of the first preference votes will be elected.
3. Where no candidate has received an absolute majority of all the first preference votes received by the candidates:
  - (a) If each of the candidates has received an equal number of first preference votes, the result of the election will be determined by the drawing of lots (see paras. 3.2 - 3.4 in the Annex).
  - (b) Otherwise, an elimination process accompanied with a transfer of votes will be carried out, ie the candidate(s) with the least number of votes will be eliminated and his/their votes will be transferred to the other (remaining) candidates according to the next available preference recorded on his/their ballot papers (see Example 2 in the Annex).

4. The process in para. 3(b) above will be repeated until:
- (a) a candidate obtains an absolute majority of the aggregate of the total number of votes (both preference votes and transferred votes) - that candidate will then be declared elected;
  - (b) only one candidate is remaining - he shall be elected; or
  - (c) each of the remaining candidates has received an equal number of votes (ie the total number of the first preference votes and the transferred votes), in which case the result of the election will be determined by lot.

**The Preferential Elimination System of Voting****WORKING EXAMPLES****Example 1** (where an absolute majority is obtained at the first count)

1.1 At the first count, only first preference votes are counted. The results are as follows :-

First Count	Exhausted Ballot Papers	Valid Ballot Papers	A Votes %	B Votes %	C Votes %	D Votes %	E Votes %
Total Number of Votes	-	100	51 51.00	29 29.00	10 10.00	7 7.00	3 3.00
			Elected				

1.2 Candidate A is elected as he has obtained an absolute majority (over 50%) of all the first preference votes.

**Example 2** (where an elimination process and a transfer of votes take place)

2.1 In this example, the results of the first count in which only first preference votes are counted are as follows :-

First Count	Exhausted Ballot Papers	Valid Ballot Papers	A Votes %	B Votes %	C Votes %	D Votes %	E Votes %
Total Number of Votes	-	100	3 3.00	2 2.00	44 44.00	44 44.00	7 7.00

2.2 No candidate has obtained an absolute majority of all the first preference votes. Candidate B, who has obtained the least number of first preference votes, is eliminated.

2.3 A second count is then conducted. The 2 ballot papers which show Candidate B as the first preference are transferred to the remaining Candidates (A, C, D and E) according to the next available (second) preference shown on them. For any ballot papers which express no available preference for any of the remaining candidates or where the next available preference is not clear (eg where there is no consecutive preference or where the same preference is marked for 2 or more candidates), they are set aside as "exhausted" and are excluded from any subsequent counting of the total number of valid votes for the purpose of calculating an absolute majority of votes of the winning candidate.

2.4 It is assumed that the next available (second) preferences shown on these 2 ballot papers are as follows :-

<u>Candidates of next available preference</u>	<u>Number of votes</u>
A	0
C	1
D	1
E	0
Nil	0 (exhausted)
	<hr/>
	2

2.5 The results of the second count are as follows :-

Second Count	Exhausted Ballot Papers	Valid Ballot Papers	A Votes %	C Votes %	D Votes %	E Votes %
Own 1st preference votes	-	98	3	44	44	7
Preference votes transferred from Candidate B	0	2	0	1	1	0
Total Number of Votes	0	100	3 3.00	45 45.00	45 45.00	7 7.00

2.6 Still no candidate has obtained an absolute majority of all the valid votes in circulation. Candidate A, who has obtained the least total number of votes at this stage, is eliminated.

2.7 A third count is then conducted. The 3 ballot papers which show Candidate A as the first preference are transferred to the remaining candidates (C, D and E) according to the next available (second) preference marked on them. If any of these ballot papers shows Candidate B who has already been eliminated at the first count as the 2nd preference, it is transferred to one of the remaining candidates according to the next available (third) preference shown on it. It is assumed that the next available preferences for the remaining candidates shown on the 3 ballot papers under Candidate A are as follows :-

<u>Candidates of next available preference</u>	<u>Number of votes</u>
C	2
D	0
E	0
Nil	1 (exhausted)
	<hr/>
	3

2.8 The results of the third count are as follows :-

Third Count	Exhausted Ballot Papers	Valid Ballot Papers	C		D		E	
			Votes	%	Votes	%	Votes	%
Own 1st preference votes	-	95	44		44		7	
Preference votes transferred from Candidate B	0	2	1		1		0	
Preference votes transferred from Candidate A	1	2	2		0		0	
Total Number of Votes	1	99	47	47.48	45	45.45	7	7.07

2.9 Still no candidate has obtained an absolute majority of all the valid votes in circulation. Candidate E, who has obtained the least total number of votes at this stage, is eliminated.

2.10 A fourth count is then conducted. The 7 ballot papers which show Candidate E as the first preference are transferred to the remaining Candidates C and D according to the next available (second) preference marked on them. If any of these ballot papers shows Candidate B or Candidate A (both have already been eliminated) as the 2nd preference, it is transferred to one of the remaining candidates according to the next available (third) preference shown on it. If any of these ballot papers shows Candidate A and Candidate B as 2nd and 3rd preferences (or vice versa), it is transferred to the remaining candidates according to the next available (fourth) preferences shown on it. It is assumed that the next available preference shown after Candidate E for the remaining candidates on the 7 ballot papers are as follows :-

<u>Candidates of next available preference</u>	<u>Number of votes</u>
C	4
D	2
Nil	1 (exhausted)
	<hr/>
	7

2.11 The results of the fourth count are as follows :-

Fourth Count	Exhausted Ballot Papers	Valid Ballot Papers	C		D	
			Votes	%	Votes	%
Own 1st preference votes	-	88	44		44	
Preference votes transferred from Candidate B	0	2	1		1	
Preference votes transferred from Candidate A	1	2	2		0	
Preference votes transferred from Candidate E	1	6	4		2	
Total Number of Votes	2	98	51	52.04	47	47.96

2.12 Candidate C has now obtained an absolute majority of all the valid votes in circulation and is declared elected.

2.13 The following table shows the entire counting process :-

	Exhausted Ballot Papers	Valid Ballot Papers	A		B		C		D		E	
			Votes	%	Votes	%	Votes	%	Votes	%	Votes	%
First Count	-	100	3	3.00	2	2.00	44	44.00	44	44.00	7	7.00
Second Count	0	2	0	Eliminated	Eliminated	1		1		0		
Total Number of votes	0	100	3			3.00	45	45.00	45	45.00	7	7.00
Third Count	1	2					2		0		0	
Total Number of votes	1	99					47	47.48	45	45.45	7	7.07
Fourth Count	1	6				4		2				
Total Number of votes	2	98				51	52.04	47	47.96			
							Elected					

### **The Drawing of Lots**

3.1 The result of the election will be determined by the drawing of lots if :-

- (a) in the first count, no candidate has received an absolute majority of all the first preference votes received by the candidates and each of the candidates has received an equal number of first preference votes; or

- (b) after the elimination process and the transfer of votes have been carried out, no candidate has received an absolute majority of the aggregate of the total number of votes and each of the remaining candidates has received an equal number of votes (ie the total number of the first preference votes and the transferred votes).

3.2 10 lots will be used, each being allocated a number ranging from "1" to "10". All lots will be placed in an empty opaque bag.

3.3 The candidates concerned will take turn (in the order in which their names are listed on the ballot paper) to draw a lot, which will be put back into the bag before the next candidate makes his draw. The candidate whose lot carries the higher number will emerge as the winner. Number "10" is the highest number.

3.4 This method as to how lots should be drawn allows each candidate to have an equal opportunity to try his luck. A candidate may even by chance (1 in 10) draw the same lot as his opponent. In such an unlikely event, a second draw will be conducted. [For detailed arrangement, please make reference to para. 3.31 (a) and (b) of Chapter 3.]

**The Combined Polling Arrangements -  
Polling Stations for Various Kinds of Electors in the General Election**

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1. The general election consists of elections of 5 geographical constituencies (“GCs”), 24 ordinary functional constituencies (“FCs”), and 4 special functional constituencies (“SFCs”).
2. Each of the 4 SFCs has a small electorate and the voting system applicable to them is different from that applicable to the other 24 FCs.
3. An elector can simply be an elector of the GC, but any elector of the 24 FCs or 4 SFCs is also an elector of one of the 5 GCs.
4. A person cannot be an elector of more than one of the 24 FCs and 4 SFCs.
5. All GC electors are individuals. However, some of the 24 FCs and 4 SFCs have corporate electors. A corporate elector can only cast its FC vote by an authorised representative (“AR”) it has appointed. An AR must be a GC elector (see para. 3.12 of Chapter 3). A person who is an AR for one FC/SFC cannot be AR for another FC/SFC, but he can be an elector of another FC/SFC. Therefore, a person can be an FC/SFC elector and also an AR of another FC/SFC.
6. An one-stop service is aimed to be provided to all kinds of persons, so that a person only needs to go to one polling station to cast all the votes which he is entitled to cast. Under the combined polling arrangement, each GC elector is allocated to a polling station according to his residential address in the final register for GCs. He will be issued at the polling station the number of ballot papers to which he is entitled as the GC elector, elector and/or AR of an FC/SFC, as the case may be. There will be no other polling station designated for any of the 24 FCs or the 4 SFCs; and their electors and ARs will have to cast their votes in polling stations designated for GCs.
7. A cardboard will be issued to each person at the same time as he is issued with one or more ballot paper, in order to ensure that he must insert the

ballot paper(s) issued to him in the ballot boxes before he leaves the polling station. A **white** cardboard will be issued to a person with 1 ballot paper, a **red** cardboard to a person with 2 ballot papers and a **blue** cardboard to a person with 3 ballot papers. The cardboard will have to be handed back by the person to the polling officer manning the ballot boxes at the time immediately before that person inserts his ballot papers into the boxes.

8. There are going to be 2 kinds of ballot boxes in different colour, in any polling station :
  - (a) ballot box for the GCs; and
  - (b) ballot box for the mixed FCs and SFCs.
9. The polling arrangements, in their entirety, consist of only 7 scenarios. Each of the scenarios is explained below, and a table containing the 7 scenarios is also provided for easy reference.

**THE 7 SCENARIOS****At the local GC polling station :**

1. **A GC elector who has only his GC vote** - 1 GC ballot paper for the local GC. [The person shall insert his GC ballot paper into the GC ballot box.]
2. **An FC elector/AR** - 1 GC ballot paper for the local GC + 1 FC ballot paper. [The person shall insert his GC ballot paper into the GC ballot box and his FC ballot paper into the FC/SFC ballot box.]
3. **An FC AR who is also an elector of another FC** - 1 GC ballot paper for the local GC + 2 FC ballot papers. [The person shall insert his GC ballot paper into the GC ballot box and his 2 FC ballot papers into the FC/SFC ballot box.]
4. **An SFC elector/AR** - 1 GC ballot paper for the local GC + 1 SFC ballot paper. [The person shall insert his GC ballot paper into the GC ballot box and his SFC ballot paper into the FC/SFC ballot box.]
5. **An SFC AR who is also an elector of an FC** - 1 GC ballot paper for the local GC + 1 SFC ballot paper + 1 FC ballot paper for the appropriate FC. [The person shall insert his GC ballot paper into the GC ballot box, and both his SFC ballot paper and his FC ballot paper into the FC/SFC ballot box.]
6. **An SFC elector who is also an AR of an FC** - the same as in Scenario 5.
7. **An SFC elector who is also an AR of another SFC** - 1 GC ballot paper for the local GC + 1 SFC ballot paper as elector + 1 SFC ballot paper as AR. [The person shall insert his GC ballot paper into the GC ballot box, and his SFC ballot paper and his SFC AR ballot paper into the FC/SFC ballot box.]



**The 7 Scenarios of Polling Arrangements**

<b>Type of Elector/AR</b>			<b>No. of Ballot Papers Issued</b>	<b>Cardboard Issued</b>
<b>GC</b>	<b>FC</b>	<b>SFC</b>		
Yes			1	white
Yes	Elector or AR		2	red
Yes	Elector and AR		3	blue
Yes		Elector or AR	2	red
Yes	Elector	AR	3	blue
Yes	AR	Elector	3	blue
Yes		Elector and AR	3	blue

# Methods of Folding of Election Mail

## 郵寄選舉郵件採用的摺疊方法

Figure 1 : Folder of A4 (296mm) size  
圖示一：對摺的A4(296毫米)尺寸紙張

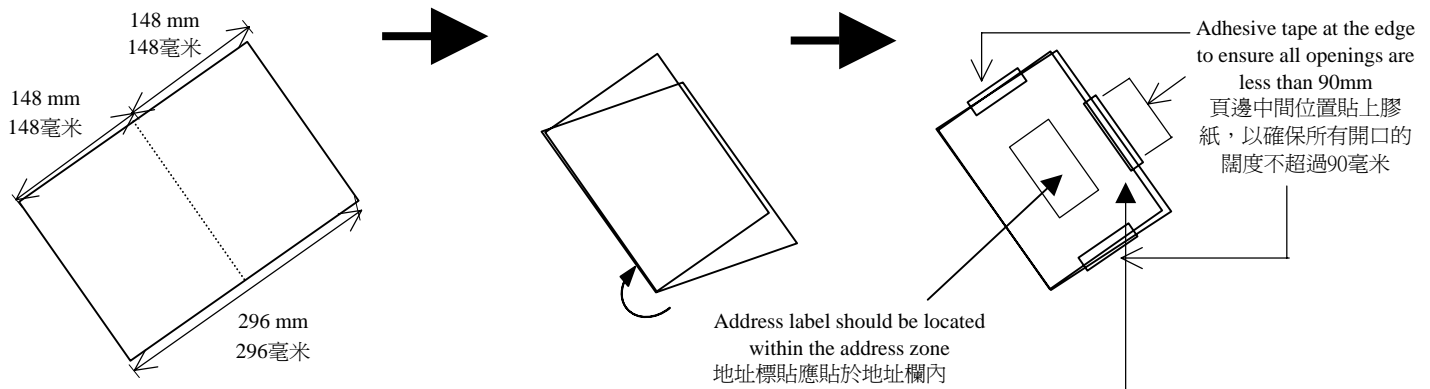


Figure 2 : Folder of A4 (296mm) size with 2 folds  
圖示二：兩摺的A4(296毫米)尺寸紙張

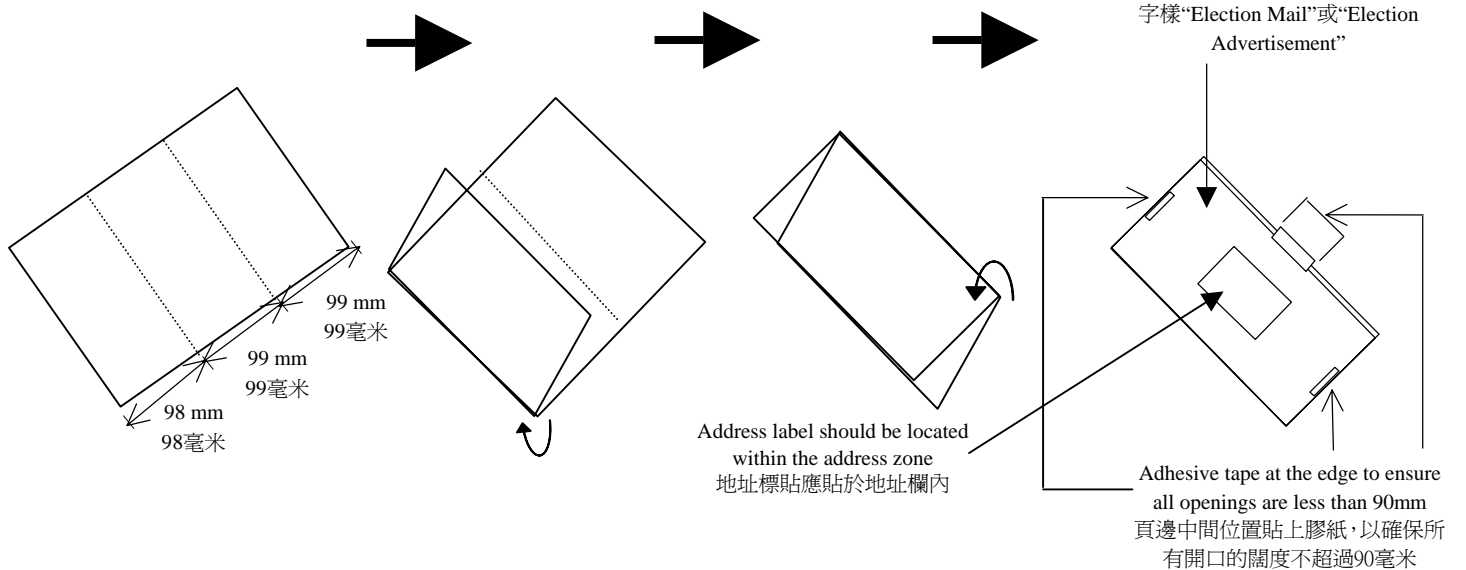
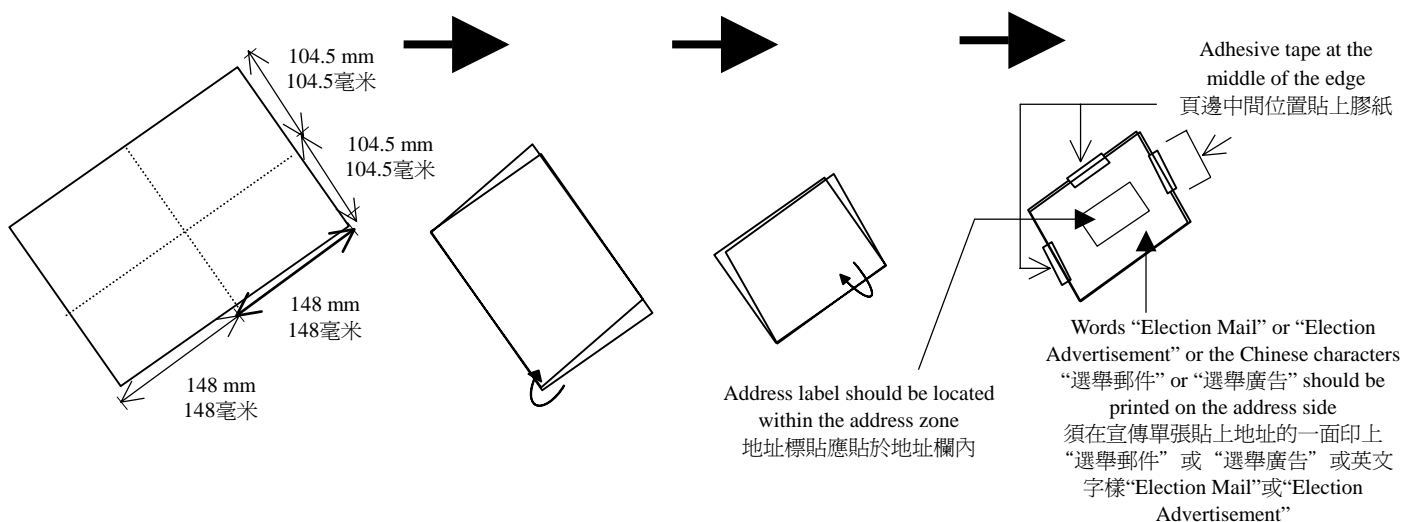


Figure 3 : Folder of A4 (296mm) size with 2 folds  
圖示三：兩摺的A4 (296毫米)尺寸紙張



## Methods of Folding of Election Mail

## 郵寄選舉郵件採用的摺疊方法

Figure 4A&amp;4B : Folder of A4 (296mm) size sealed with address label

圖示四A及四B：以地址標貼封口的A4(296毫米)尺寸紙張

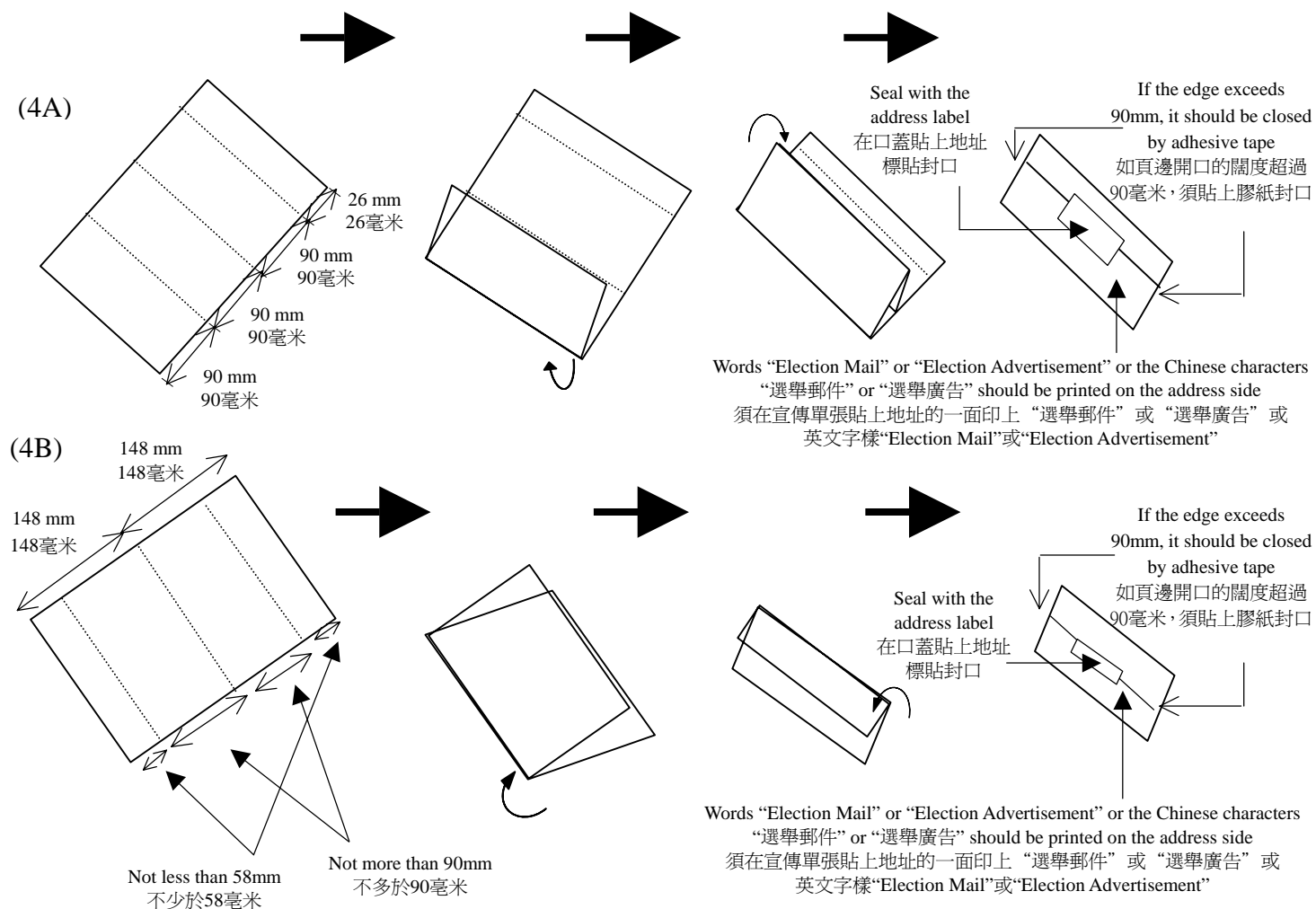
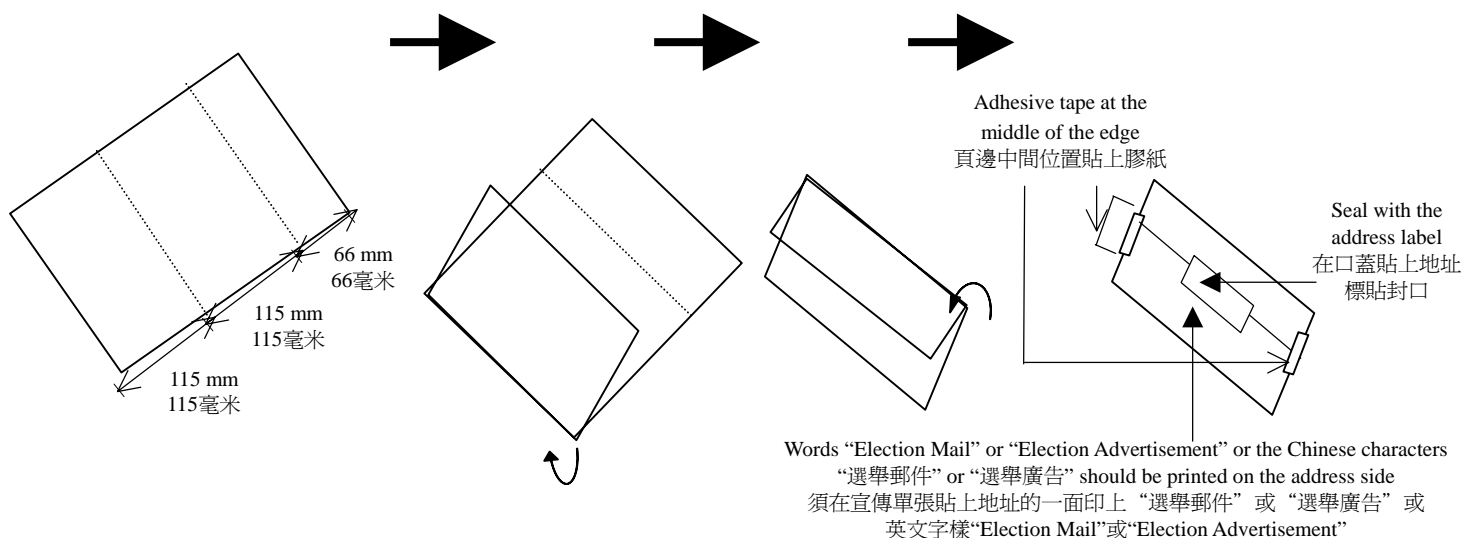


Figure 5 : Folder of A4 (296mm) size sealed with address label

圖示五：以地址標貼封口的A4(296毫米)尺寸紙張



備註：無論以任何方法摺疊，所有超過90毫米的開口，必須以膠紙封口。

Note : For any methods of folding, all openings exceed 90mm should be closed by means of adhesive tape.

### **Canvassing Activities which are Forbidden within a No Canvassing Zone**

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(Note : (1) This list is by no means an exhaustive list of the canvassing activities which are prohibited within a no canvassing zone. It only serves to illustrate some of the common forms of canvassing activities.

(2) Door-to-door canvassing and for the purpose of such canvassing, the display of propaganda material, eg any badge, emblem, clothing or head-dress which may promote or prejudice the election of a candidate or candidates at the election, or makes direct reference to a body any member of which is standing as a candidate in the election or a prescribed body the registered name or registered emblem of which has been printed on ballot paper for the election, will be allowed on storeys above or below street level in a building within a no canvassing zone other than a building in which there is a polling station provided that permission has been obtained for entry to the building for canvassing votes, and that obstruction is not posed to electors and no sound amplifying system or device is used.)

1. Unauthorised static display of election advertisements on walls (including the outer walls of the polling station), windows, railings, fences, etc.
2. Exhibition of portable displays on vehicles (whether in motion or parked within the area), or held or carried by persons.
3. Except for the purpose of door-to-door canvassing referred to in Note (2) above, displaying, without reasonable excuse, propaganda material eg any badge, emblem, clothing or head-dress which:
  - (a) may promote or prejudice the election of a candidate or candidates at the election; or

- (b) makes direct reference to a body any member of which is standing as a candidate in the election or a prescribed body the registered name or registered emblem of which has been printed on ballot paper for the election.
- 4. Distribution of election advertisements.
- 5. Canvassing for votes by :-
  - (a) talking to electors;
  - (b) shouting slogans or the name or number of a candidate or any appeal message;
  - (c) singing or chanting; or
  - (d) making signals or signs to electors.
- 6. Broadcast of audio or video tape to appeal to or induce electors to vote.
- 7. Using loud-hailers or loudspeakers (whether carried by a person or mounted on a vehicle or installed in any other manner) to broadcast any message which appeals to or induce electors to vote.
- 8. Shaking hands with electors.

*[Amended in October 2007]*

**Conduct of Electioneering Activities and Election Meetings in Premises  
under the Management of the Housing Department and the  
Hong Kong Housing Society**

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Candidates must obtain **prior approval** from the Housing Manager before conducting any electioneering activities or election meetings inside a housing estate, in addition to compliance with regulations and conditions imposed by other relevant authorities. An **application** for approval **should be made at least 2 clear working days (excluding Saturday, Sunday or public holiday) before the date of the meeting**, and the applicant will be notified as soon as practicable after a decision is arrived at. To avoid conflict that may arise from allowing 2 or more candidates and their supporters to hold election meetings in a housing estate at the same venue and time, the Housing Department and the Hong Kong Housing Society will process the applications as soon as practicable and will adopt the following arrangements:

- (a) if only 1 application for holding an election meeting at a particular venue and at a particular time is received, that application will be approved;
- (b) if 2 or more applications for the same venue and the same period are received by the Housing Department or the Hong Kong Housing Society 2 clear working days before the activity takes place, the applicants will be advised to negotiate among themselves to reach a compromise on condition that no canvassing from 2 or more groups will be held at the same place and at the same time to avoid any dispute or clash. If no compromise can be reached, allocation of venue or time will be made by the drawing of lots at a time to be decided by the relevant estate Housing Manager;
- (c) for the purpose of (a) and (b) above, an application for several periods will be dealt with as separate applications for each of the periods; and
- (d) the Housing Manager should send a copy of the letter of approval to the respective RO for record and for public inspection.

*[Added in October 2007]*

## Personal Data Privacy: Guidance on Electioneering Activities

### Introduction

This guidance note serves as a general reference on compliance with the requirements of the Personal Data (Privacy) Ordinance ("the Ordinance"), in relation to electioneering activities that may involve the collection and use of personal data of an individual. Very often, candidates and/or their election agents make electioneering approaches by telephone to prospective voters. Candidates may also choose to lobby potential voters by various forms of mailings such as fax messages, SMS/MMS or E-mails. In some cases, the individuals have no previous dealings with the caller and/or the candidate and they are concerned that the candidate might have obtained their personal data from sources other than the voter register.

The act of canvassing for votes is not in contravention of the Ordinance provided, inter alia, that personal data are obtained by means that are lawful and fair in the circumstances, and that the use of the data is directly related to the purpose for which the data are originally collected. Of particular relevance are the requirements under data protection principles 1, 3 and 4 ("DPP1", "DPP3" and "DPP4") in Schedule 1 to the Ordinance:

**DPP1(2)** requires that personal data shall be collected by means that are lawful and fair;

**DPP3** provides that personal data shall not, without the prescribed consent of the data subject, be used for any purpose other than the purpose for which the data were to be used at the time of collection of the data or a directly related purpose;

**DPP4** requires that all practicable steps be taken to ensure that personal data are protected against unauthorized or accidental access, processing, or other use.

### Guidance for Candidates

1. Candidates who use personal data in electioneering should be mindful of the provisions in DPP1, DPP3 and DPP4.
2. Candidates should assume direct responsibility for briefing and supervising members of their campaign staff to ensure their compliance with the requirements of the DPPs.
3. Candidates who solicit personal data directly from an individual for electioneering should ensure that the individual is informed of the purpose of collection of the data.
4. Candidates should not collect personal data for electioneering by deceptive means or by mis-representing the purpose of the collection.
5. With respect to the use of personal data gathered from the published register of voters, due care should be taken to ensure that they are used only for purposes relating to an election as prescribed by relevant election legislations.
6. Should candidates want to use personal data from sources other than the voter register for electioneering purpose, express consent from the data subject must be obtained beforehand, unless the original purpose of collection of the data is directly related to the electioneering purpose.
7. With respect to the use of personal data gathered by a third party, e.g. a trade union or professional body as a means of accessing members of those bodies for electioneering purpose, the proper course of action would be for these bodies to determine whether this is a permitted purpose for which the personal data were collected, and mailings

should preferably be handled by these bodies. As a matter of good practice, prior notification to members of such use of their data is recommended.

8. When candidates or their election agents contact individual voters for electioneering purpose, they should inform the voters how they obtained the voters' personal data when being asked.
9. It is recommended that candidates who use any form of mailings, e.g. through trade unions or professional bodies, to lobby support should allow those individuals to whom such mailings are directed to decline receipt of any subsequent mailings by

providing for the exclusion of the individual from any future electioneering mailings from the candidates.

10. As a matter of good practice, candidates should maintain a list of individuals who, to their knowledge, find electioneering phone calls, mails or visits objectionable and avoid approaching them to canvass for votes.
11. When conducting electioneering activities, candidates and their election agents should safeguard the personal data in the list of voters held by them to prevent accidental or unauthorized access by unrelated parties.

## **Guidance Note on Safe Conduct of Election-related Activities**

### **Introduction**

1. This guidance note serves to provide general advice to candidates and organisers of election related activities, to enable them to conduct such activities safely.

### **Election Meetings**

2. The Public Order Ordinance (Cap 245) and Chapter 10 Part II of the 'Guidelines on Election-related Activities in respect of the Legislative Council Elections' provide direction on when a meeting, to be held in a public place, is to be notified to the Police and the procedures to be followed.

3. In the interests of safety, and to minimise the potential for confrontation and/or the harassment of candidates, irrespective of whether an election meeting is required to be notified to the Police, candidates should be mindful of the sensitivities of their intended audience. In this regard, consideration should be given to making appropriate arrangements with the local management office, if one exists, to facilitate the holding of the meeting. Should a candidate have any concerns over the issue on his safety, consideration should be given to seeking advice from the local police station, prior to the holding of such meeting.

### **Election Forums**

4. In addition to the provisions of Chapter 11 Part IV of the 'Guidelines on Election-related Activities in respect of the Legislative Council Election', organisers of election forums should be aware of the potential for possible instances of harassment of candidates.

5. In order to ensure that order, fairness and impartiality are maintained and to avoid any embarrassment, where a forum is to be held at private premises, prior precautions should be made with the owner, occupier, owners' corporation, building management or the mutual aid committee concerned, to ensure the safety of all participants and the orderly proceeding of

the forum. Where necessary, security guards should be employed at the forum venue.

### **Electioneering at Living or Working Places**

6. Chapter 9 of the ‘Guidelines on Election-related Activities in respect of the Legislative Council Election’ relates to the conduct of electioneering activities at the living and working places of electors, etc.

7. If a decision is made by the owners or owners’ corporations to allow electioneering by candidates, the decision can also set out the hours of access and other conditions. These conditions can also minimise the potential for confrontation and the harassment of candidates.

8. Related to this, candidates should be sensitive to the feelings of tenants, occupiers and owners in planning and carrying out electioneering activities. By doing so, they will ensure that such can be carried out in a safe and orderly manner.

9. In addition to obtaining the formal approval or consent of the owners or the owner’s corporation to conduct electioneering activities in the building, it is advisable for the candidates to notify the management office at the time that the electioneering activities are being carried out.

### **General**

10. Should any safety issues be of particular concern, consideration should be given to seeking advice from the local police station, prior to the conduct of the activity.

*[Amended in October 2007]*

**Application for a Permit under S4(17)**  
**of Summary Offences Ordinance, Cap.228**  
**for Non-Charitable Purposes**

This application should reach the Secretary for Home Affairs at 31/F, Southorn Centre, 130 Hennessy Road at least **FOUR WEEKS** before the date of the activity. This will enable the applicant to be notified of the result of his application about seven days before the event. For enquiries, please call 2835 1495.

1. Name of applicant : \* Mr/Mrs/Miss/Ms \_\_\_\_\_

Name in Chinese (if any) : \_\_\_\_\_

2. Hong Kong Identity Card Number : \_\_\_\_\_

(Please enclose a photocopy of your Hong Kong Identity Card)

3. Address : \_\_\_\_\_

4. Contact Telephone No. : \_\_\_\_\_ Fax No. : \_\_\_\_\_

5. If this application is made on behalf of an organisation, please complete the following details : -

i) Name of organisation : \_\_\_\_\_

ii) Position of applicant in organisation : \_\_\_\_\_

iii) Details of key officers in organisation :

<u>Post</u>	<u>Name</u>	<u>Address</u>
<u>President/Chairman</u>	_____	_____
	_____	_____
<u>Secretary</u>	_____	_____
	_____	_____
<u>Treasurer/Accountant</u>	_____	_____
	_____	_____

iv) Date the organisation was formed : \_\_\_\_\_

v) Type of organisation : Society registered/exempt under the Societies Ordinance, or  
Company incorporated in Hong Kong, or  
Others (Please give details)

(Please enclose a copy of the certificate of registration/exemption of your

organisation and also a copy of the memorandum and articles of association or the constitution or rules of your organisation whichever is applicable. If your organisation is a company incorporated in Hong Kong, a copy each of a Certificate of Incorporation and Certificate of Existence issued by the Companies Registry should also be produced.)

6. If the money raised is intended to benefit another organisation, please complete the following details : -

i) Name of organisation : \_\_\_\_\_

ii) Relationship between applicant and that organisation : \_\_\_\_\_

iii) Details of key officers in that organisation :

<u>Post</u>	<u>Name</u>	<u>Address</u>
<u>President/Chairman</u>	_____	_____
		_____
<u>Secretary</u>	_____	_____
		_____
<u>Treasurer/Accountant</u>	_____	_____
		_____

iv) Date the organisation was formed : \_\_\_\_\_

v) Type of organisation : Society registered/exempt under the Societies Ordinance, or  
Company incorporated in Hong Kong, or  
Others (Please give details)

\_\_\_\_\_  
\_\_\_\_\_

(Please enclose a copy of the certificate of registration/exemption of the organisation and also a copy of the memorandum and articles of association or the constitution or rules of the organisation whichever is applicable. If the organisation is a company incorporated in Hong Kong, a copy each of a Certificate of Incorporation and Certificate of Existence issued by the Companies Registry should also be produced.)

vi) Has the organisation given consent to the activity being organised by you ? \* Yes /  
No

7. If the applicant is making this application as an individual, please complete the following details : -

i) Date and place of birth : \_\_\_\_\_

ii) Length of residence in Hong Kong : \_\_\_\_\_

iii) Are you a permanent resident of Hong Kong ? \* Yes / No

8. ✦ Intended use of money to be collected : \_\_\_\_\_

\_\_\_\_\_

9. ✦ Format of the activity : \_\_\_\_\_

\_\_\_\_\_

10. ✦ Method for money collection : \_\_\_\_\_

\_\_\_\_\_

11. ✦ Date and time of the activity listed in priority : \_\_\_\_\_

\_\_\_\_\_

(Note : To ensure a fair distribution of venues, dates and frequency of fund-raising among all potential applicants, there could be a restriction on the number of days approved, depending on prevailing circumstances.)

12. ✦ Venue and address : \_\_\_\_\_

\_\_\_\_\_

Has permission to use venue been secured ? \* Yes / No / Under application / Not applicable

(If the venues are in open public places, please give exact locations and enclose layout plan. Please also indicate where furniture (e.g. table) will be placed, if appropriate.)

- ✦ If approval is given to this application, the permit issued will specify the details given in these items. It will therefore be to the applicant's own advantage to plan the activity carefully, so as to avoid the need to seek fresh approval later on as a result of any changes to the above details.

13. Details of previous S4(17) application(s) to the Secretary for Home Affairs by the applicant, or the organisations named in 5(i) and 6(i) above, or any of the persons named in 5(iii) and 6(iii) above :

<u>Name of Applicant</u>	<u>Date of Application</u>	<u>Approved or Rejected</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

14. State here any additional information which the applicant wishes to provide in support of this application (e.g. reasons for requesting that the administrative guidelines or licensing conditions for the issue of permit be waived in whole or in part.)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I declare that to the best of my knowledge and belief, the information supplied by me in this form is true and correct.

Signed : \_\_\_\_\_  
(Applicant)

(Chop of organisation, if applicable)      Date : \_\_\_\_\_

\* Delete where applicable

(If there is not enough space in this form for the filling in of the required information, the applicant may provide details on a separate sheet of paper and attach it to the form.)

Note: If the activities concerned involve hawking in public places, please seek advice from the Food and Environmental Hygiene Department (Tel: 2867 5953) as to whether a temporary hawker licence is required.

## **Statement of Purpose**

### Purpose of Collection

1. The personal data provided by means of this form will be used by Home Affairs Department for the purpose of :

“To exercise functions on fund-raising activities for non-charitable purposes”

### Classes of Transferees

2. The personal data you provided by means of this form may be disclosed to other Government bureaux, departments and relevant persons and bodies for the purposes mentioned in paragraph 1 above.

### Access to personal data

3. You have a right of access and correction with respect to personal data as provided for in sections 18 and 22 and principle 6 of Schedule 1 of the Personal Data (Privacy) Ordinance. Your right of access includes the right to obtain a copy of your personal data provided by this form.

### Enquiries

4. Enquiries concerning the personal data collected by means of this form, including the making of access and corrections, should be addressed to :

Executive Officer  
Home Affairs Department  
Tel. No. : 2835 1492

**Administrative Guidelines and Licensing Conditions  
for the issue of Public Fund-raising Permits  
for Non-Charitable Purposes**

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Applications for permission under section 4(17) of the Summary Offences Ordinance (Cap 228) to raise funds by collection of money or sale of badges, tokens or similar articles or exchange the same for donations in a public place should, where the funds are to be used for a charitable purpose, be referred to the Director of Social Welfare. Where the funds are to be used for any other purpose, such applications should be referred to the Secretary for Home Affairs.

**A. Administrative Guidelines for Consideration**

When considering an application for a public fund-raising permit under section 4(17) of the Summary Offences Ordinance, the Secretary for Home Affairs will **normally** wish to be satisfied that : -

- (i) the organisation or group on behalf of which the permit is sought, and the organisation or group to benefit from the collection if different, are, where applicable, properly registered under the laws of Hong Kong;
- (ii) if the applicant is an individual, he should be aged 21 or above, and should either be a permanent resident of Hong Kong within the meaning of the Immigration Ordinance, or have been ordinarily resident in Hong Kong for a minimum of seven years;
- (iii) the funds collected will be used for purposes which would contribute directly or indirectly to the development of representative government in Hong Kong;
- (iv) the fund-raising activity will not cause public order and public safety problems, and will not cause nuisance or harassment to the general public;

- (v) the fund-raising activity should not be held on a morning which is a “flag day” approved by the Director of Social Welfare unless it is to be held in a confined public place;
- (vi) the fund-raising activity should not be held at the same time and in the same venue or its vicinity as a charitable fund-raising activity;
- (vii) there will be no more than one non-charitable fund-raising activity in the same venue or its vicinity on the same day except where the activities are organised by the same applicant;
- (viii) there will be a fair distribution of venues, dates and frequency of fund-raising among all potential applicants; and
- (ix) the permittee who had breached the conditions stipulated in the permit last granted would not be considered for a new permit unless explanations/justifications have been provided to the satisfaction of the Secretary for Home Affairs.

Each application will be considered on its own merits having regard to the above administrative guidelines.

## **B. Licensing Conditions**

The following conditions will normally be imposed if an application is approved:

- (i) permission must have been obtained or is likely to be forthcoming from the relevant authorities, including the authority responsible for the management of the venue(s), for the fund-raising activity to be held;

- (ii) the funds collected will not be used to finance any profit-making ventures or activities;
- (iii) the funds collected will be used only in Hong Kong;
- (iv) no person will benefit improperly from the collection;
- (v) the permission given for the fund-raising activity is only valid for the details specified in the permit. If there are any changes to such details, the approval of the Secretary for Home Affairs will be required;
- (vi) the permission given for the fund-raising activity will become null and void if the funds collected are used for purposes other than those specified in the permit;
- (vii) within 90 days after the conclusion of the fund-raising activity, the permittee will cause the money received from the public, less any reasonable expenses incurred, to be applied for the purpose for which the permission is given;
- (viii) if after applying the funds collected as described in (vii) above, there is still a balance left, the permittee will donate the unspent funds to a charitable institution which is exempt from tax under section 88 of the Inland Revenue Ordinance (Cap 112) for charitable purpose;
- (ix) the funds collected will be audited by a qualified accountant arranged by the permittee. A copy of the audited accounts will be submitted to the Secretary for Home Affairs within 90 days after the conclusion of the fund-raising activity. The audited accounts will also be made available to members of the public for inspection upon demand;
- (x) all donations are to be purely voluntary, and that the activity shall not create public order problems or cause

nuisance, including excessive noise, or harassment to the general public, and that the manner in which the activity is conducted should not be such as to be likely to produce a reaction generally against public fund-raising activities;

- (xi) during the course of the fund-raising activity, the name of the organisation and a copy of the permit/approval letter should be prominently displayed. Every participant of the activity should also wear a clear and legible badge identifying the name of the participant and the name of the organisation; and
- (xii) children under the age of 14 must not be allowed to take part in the activity. Participation by young persons between the age of 14 - 18 must be entirely voluntary and the prior written consent of parents must be obtained.

The Secretary for Home Affairs may, if a particular application so warrants, impose additional conditions such as those required for the protection of the participants in the fund-raising event, for the preservation of law and order, for crowd control, or for public safety purposes. In specific circumstances, he may waive certain conditions where it appears reasonable for him to do so.

*[Amended in October 2007]*

### **Fair and Equal Treatment of Candidates by the Print Media**

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1. Fairness and equality will in each case be viewed by the Electoral Affairs Commission with reference to the surrounding circumstances.
2. Practical problems that may be experienced by publishers like limitation of column space and staff resources, and situations such as some candidates who have extensive arguments and opinions on issues of public relevance and those who have none, candidates who have made newsworthy statements or speeches as opposed to those who have not uttered a word, and the difference in status and standing of candidates as public figures, etc, are examples of circumstances against which the criteria of fairness and equality are to be judged.
3. What is important is that practical problems, in general terms without specifics, should not be allowed to be used as pretexts for not giving fair and equal treatment and coverage to all candidates/Geographical Constituency (“GC”) lists of the same constituency. Merely saying that practical problems gave rise to the selective reporting will be viewed as a lame excuse, but if the other candidates/GC lists had been approached and they refused to offer any interview, and this fact is made known in the same article, there can hardly be any suspicion or complaint that the guidelines have been breached.
4. Equal treatment and coverage are not necessarily equal space and equal number of words written on each candidate/GC list of the same constituency. It is an idea that has to be examined in all the circumstances of each individual case. Where a candidate says more on a topic and another candidate says less, that can be truthfully and faithfully reported, and no reasonable-minded person will say that that is unequal reporting. Fairness and equality here are in the sense of **equal opportunity** being given to all candidates/GC lists of the same constituency alike.

5. If there is fair and equal treatment of all candidates/GC lists of the same constituency in a publication, its editorial line or the personal opinions of the writer on each of the candidates can be freely expressed, insofar as they are fair comments and based on true facts. Any newspaper is at full liberty to express its support for or disapproval of a candidate/GC list. The guidelines do not seek to impose any shackle on the expression of such ideas.

### **Application Procedure for the Approval of Float Design**

1. All applications in respect of the design of any float to be used in a procession or parade must be made in writing, with the following particulars clearly stated:
  - the name of the applicant
  - the address of the applicant
  - contact telephone number and fax number
  - the make, model and registration mark (or vehicle identity number in the case of a brand new vehicle) of the vehicle to be used as float
2. The application should be accompanied by 3 copies of a drawing, certified by qualified electrical or mechanical engineers, in minimum A3 size, showing the following details:
  - the float and vehicle outline, side, plan, front and rear view, with all major dimensions (both proposed and original) shown
  - the means of entry/exit to and from the driver's compartment
  - location of mirrors which will enable the driver to view both sides of the float
  - location of exhaust outlets from any internal combustion engines
  - location of any auxiliary power equipment installed
  - means of communication with the passengers on the float
  - location of passengers and support for passengers (seats, handles, etc) on the float

Applicant's attention is drawn to regulation 53(2) of the Road Traffic (Traffic Control) Regulations on requirements for carriage of passengers: subject to subregulation (7), no driver of a vehicle on a road shall permit a passenger to travel in any vehicle unless seated in a properly constructed seat secured to

the bodywork of the vehicle except where the vehicle is a public service vehicle licensed to carry standing passengers.

- detailed artwork is not required
3. All applications must be made at least **1 month** in advance of the date of the event to:

Engineer (Vehicle Approval and Planning)  
Vehicle Safety and Standards Division  
Transport Department  
Room 3402, Immigration Tower  
7 Gloucester Road  
Hong Kong  
(Contact telephone : 2829 5550  
Fax : 2802 7533)

4. If the application is approved in principle (subject to the vehicle inspection results), the applicant will be so advised within 14 days upon the receipt of the application, and also informed of further details of the vehicle inspection.
5. In case the design is considered unacceptable, the applicant should resubmit revised drawings within 1 week's time upon notice.

**Items of Expenses which may be  
Counted towards Election Expenses**

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(Note : This list is by no means an exhaustive list of items of expenditure which may be counted as election expenses. It only serves to illustrate the common items of such expenses.)

1. Fees and allowances, including travelling expenses, paid to agents and assistants engaged in relation to one's election activities.
2. Costs incurred for meals and drinks for agents and assistants before and on polling day.
3. Costs incurred for design and production of election advertisements such as :
  - (i) banners
  - (ii) signboards
  - (iii) placards
  - (iv) posters
  - (v) handbills
  - (vi) publicity pamphlets
  - (vii) video and audio tapes
  - (viii) electronic messages
  - (ix) various forms of literature or publicity material for the promotion of the candidate.
4. Costs incurred for display and removal of election advertisements including labour charges. If the election advertisements have not been removed by the deadline specified by the EAC, the removal costs for the election advertisements charged by the government departments should also be included.
5. Costs incurred by the relevant authorities for removal of election advertisements displayed without authorisation.
6. Costs incurred for renting space used in connection with the election campaign.
7. Cost of stationery used in connection with the election campaign.
8. Operation costs in connection with the election campaign, eg photocopying, hire of telephone line and fax line.
9. Postage for mailing of publicity materials (excluding the free mail

provided by the Government).

10. Costs incurred for the hire of transport in connection with the election.
11. Costs incurred for publicity by vehicles.
12. Costs of advertisements in newspapers, taxi or other public transport.
13. Costs incurred for election meetings, including venue charges.
14. Costs of T-shirts, armbands, caps, etc and other identification devices for election agents and assistants.
15. Costs incurred by a candidate who is a serving member of the Legislative Council, a District Council, the Heung Yee Kuk, or a serving chairman, vice-chairman or member of the Executive Committee of a Rural Committee; or a serving village representative in the publication of performance reports during the election period (ie from the commencement of the nomination period to the close of poll) of the Legislative Council election and the publication of performance reports for promoting the candidature any time on or before the date of election.
16. Costs incurred by the political body or organisation of the candidate in promoting his election. [Costs of meeting where the platform of the political body or organisation is publicised without specific reference to the candidate will not be counted as election expenses.]
17. Costs for obtaining legal advice incurred in respect of the management of an election (eg where a candidate asks his lawyer to vet an election publicity pamphlet to make sure that statements contained in it do not amount to libel). [Costs for obtaining legal advice on the general application of the election law including what is “election expenses” and “donations” will not be an election expense.]
18. Interest incurred from a loan to finance the campaigning activities of a candidate. [In case of an interest-free loan, the interest waived should be declared as a donation and correspondingly as an election expense. A reasonable amount should be assessed by reference to the market interest rate.]
19. Subsidy of activities organised for promoting one’s candidature is a form of donation which is counted as election expense.
20. Although some people may not charge the candidate for the goods supplied or work, labour and services rendered, a reasonable sum

estimated for such charges, over any allowance or discount usually given to customers, is an election expense (which is correspondingly a donation made by these people).

21. Goods given incidental to the provision of voluntary service.
22. Charities undertaken for the purpose of promoting one's candidature.
23. Costs for any negative publicity launched against one's opponent.

*[Amended in October 2007]*

# **Support Clean Elections**

## **A Handbook by the ICAC**

**The ICAC Election Enquiry Hotline: 2920 7878**

**24-Hour ICAC Report Hotline: 25 266 366**

***ICAC Corporate Website: [www.icac.org.hk](http://www.icac.org.hk)***

## **INTRODUCTION**

The Elections (Corrupt and Illegal Conduct) Ordinance (ECICO) (Cap 554), which was enacted on 3 March 2000 with an aim to uphold fairness and prevent corrupt and illegal conduct in elections, also applies to the Legislative Council Election and by-elections. The Independent Commission Against Corruption (ICAC) is responsible for enforcing the ECICO. It has prepared this Handbook, which comprises a gist of the ECICO, a “questions-and-answers” section, a “Dos and Don’ts” checklist and a part showing the channels for making reports and enquiries with the ICAC. The Handbook serves to alert candidates, their election agents and helpers to corrupt conduct, illegal conduct and various requirements in elections under the ECICO so that they can take appropriate measures to avoid contravening the ECICO. Candidates, election agents and helpers, however, should note that this Handbook is for general reference only. They should refer to the original legislation and consult their legal advisers in case of doubt.

*\* Throughout this Handbook, the male pronoun is used to cover references to both the male and female. No gender preference is intended.*

## **GIST OF THE ELECTIONS (CORRUPT AND ILLEGAL CONDUCT) ORDINANCE**

The Elections (Corrupt and Illegal Conduct) Ordinance (ECICO) (Cap 554) applies to the Legislative Council Election (including by-elections) and other elections as specified in the Ordinance. The Ordinance governs all conduct concerning an election, whether it is engaged in before, during or after the election period, and whether it is engaged in within Hong Kong or elsewhere.

The following is a gist of major provisions of the ECICO which relates to the management of electioneering activities for the reference of candidates, their election agents and helpers.

To facilitate easy reference, “●” denotes an offence or elaboration of provisions under the ECICO and interpretation of terms is given under “□” in the following gist.

## **(1) NOMINATION OF CANDIDATES**

### **Bribery in Relation to Standing or Not Standing as Candidate (Sections 2, 7)**

- It is an offence if a person corruptly offers an advantage to another person as an inducement to or a reward for :
  - (1) that person's standing, not standing, or if that person has been nominated as a candidate, withdrawal of his candidature, or his not using the best endeavours to promote his election; or
  - (2) that person to get and try to get a third person to stand, not to stand, or if that third person has been nominated as a candidate, to withdraw his candidature, or not to use that third person's best endeavours to promote his election.
- It is also an offence if a person authorises another person, either expressly or by implication, to offer an advantage for getting any person to engage in the conduct stated in (1) or (2) above.
- It is also an offence if a person corruptly solicits or accepts an advantage for the conduct stated in (1) or (2) above.
- "Candidate" :
  - (1) means a person\* who stands nominated as a candidate at an election; and
  - (2) also means a person\* who, at any time before the close of nominations for an election, has publicly declared an intention to stand as a candidate at the election.

\*includes a person who is one of a group of candidates.
- "Advantage" includes (but is not limited to) any valuable consideration, gift, loan, office, employment, contract, favour or service (other than voluntary service or the provision of entertainment). However, it does not include an election donation if particulars of the donation are given in an election return that has been lodged with the Chief Electoral Officer.
- "Voluntary service" means any service provided free of charge to or in respect of any candidate(s) at an election by a natural person, voluntarily and personally, in the person's own time for the purpose of promoting the election of the candidate(s) or prejudicing the election of another candidate or other candidates.

**Using or Threatening to Use Force or Duress in Relation to Standing or not Standing as Candidate (Section 8)**

- It is an offence if a person uses or threatens to use force or duress against another person to induce him :
  - (1) to stand or not to stand as a candidate, or to withdraw his candidature; or
  - (2) to get a third person to stand or not to stand as a candidate, or to withdraw the third person's candidature.
- It is an offence if a person uses or threatens to use force or duress against another person because the other person or the third person stood or did not stand as a candidate, or withdrew his candidature after having been nominated as a candidate.
- It is also an offence if a person authorises another person, either expressly or by implication, to engage in the above conduct.

**Deceptive Behaviour for Inducing Others to Run or Not to Run at an Election (Section 9)**

- It is an offence if a person, by deception, induces another person :
  - (1) to stand or not to stand as a candidate, or to withdraw his candidature; or
  - (2) to get a third person to stand or not to stand as a candidate, or to withdraw the third person's candidature.
- It is also an offence if a person authorises another person, either expressly or by implication, to engage in the above conduct.

**Defacing or Destroying Nomination Papers (Section 10)**

- It is an offence if a person defaces or destroys a completed or partly completed nomination paper in order to prevent or obstruct another person from standing for election.

**(2) ELECTIONEERING**

**Publishing False Statement that a Person Is or Is Not a Candidate (Section 25)**

- It is an offence if a person knowingly publishes a false statement that:
  - (1) he or another person is a candidate at an election; or
  - (2) another person who has been nominated as a candidate is no longer a

candidate at an election.

- It is an offence if a candidate knowingly publishes a false statement that he is no longer a candidate at an election.

**Publishing False or Misleading Statements about a Candidate (Section 26)**

- It is an offence if a candidate or a person publishes a materially false or misleading statement of fact about a particular candidate or particular candidates for the purpose of promoting or prejudicing the election of the candidate or candidates at an election.
- ☐ Statements about a candidate or candidates include (but are not limited to) statements concerning the character, qualifications or previous conduct of the candidate or candidates.

**Election Advertisement with False Claim of Support (Sections 2, 27)**

- It is an offence if a candidate or a person publishes or authorises the publication of an election advertisement which includes the name or logo of or associated with a person or an organisation; or a name or logo that is substantially similar to that of a person or an organisation; or a pictorial representation of a person, in such a way that implies or is likely to cause electors to believe that the candidate or candidates have the support of the person or organisation unless prior written consent from that person or organisation has been obtained.
- It is still an offence even if such an election advertisement contains a statement to claim that such inclusion does not imply support by the person or organisation concerned.
- It is an offence if a person purports to give written consent to the inclusion in an election advertisement of the name or logo of an organisation without having been approved by the governing body of the organisation or by a resolution of the members of the organisation passed at a general meeting.
- It is also an offence if a person, for the purpose of promoting or prejudicing the election of a candidate or candidates, gives information to the candidate or candidates that the person knows or ought to know is materially false or misleading.
- ☐ “Support” includes support for the policies or activities of the candidate.

- ☐ “Election advertisement” means :
- (1) a publicly exhibited notice; or
  - (2) a notice delivered by hand or electronic transmission; or
  - (3) a public announcement made by radio or television or by video or cinematographic film; or
  - (4) any other form of publication,
- published for the purpose of promoting or prejudicing the election of a candidate or candidates at the election.

**Publishing Election Advertisements that Do Not Meet Certain Requirements (Sections 2, 33, 34)**

- It is an offence if a person publishes a printed election advertisement, with exception to those printed in a registered local newspaper, which fails to show, in English or Chinese, the name and address of the printer, the date of printing and the number of copies printed.
  - The above conduct is, however, not an offence if the publisher, or a person authorised by him, has lodged with the relevant Returning Officer a statutory declaration on the required printing details not later than 7 days after the publication of the advertisement.
  - A person must, not later than 7 days\* after publishing a printed election advertisement, furnish 2 copies of the advertisement to the relevant Returning Officer.
- \* It should, however, be noted that under the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation, a candidate must submit 2 copies of his election advertisement to the relevant Returning Officer before he displays, distributes or otherwise uses the election advertisement. He should also comply with all other statutory requirements governing election advertisements in an election and relevant guidelines issued by the Electoral Affairs Commission.
- ☐ A performance report published by an incumbent candidate, who being the person holding an office as a serving member of the Legislative Council, a District Council, or the Heung Yee Kuk; or serving Chairman, Vice-chairman or member of the Executive Committee of a Rural Committee; or a serving Village Representative, etc. during election period (the period beginning with the nomination day and ending with the polling day of an election), is taken as an election advertisement.

**(3) VOTING****Bribing Electors and Others (Section 11)**

- It is an offence if a person, without reasonable excuse, offers an advantage to another person as an inducement to or a reward for that person or for him to get or try to get a third person :
  - (1) not to vote, or for not having voted at an election; or
  - (2) to vote or not to vote, or for having or not having voted for a particular candidate or particular candidates at an election.
- It is also an offence if a person authorises another person, either expressly or by implication, to engage in the above-stated conduct.
- It is also an offence if a person, without reasonable excuse, solicits or accepts an advantage in return for engaging in or getting or trying to get another person to engage in the conduct stated in (1) or (2) above.

**Refreshments or Entertainment for Electors and Others (Section 12)**

- It is an offence if a person provides, or meets all or part of the cost of providing any food, drink or entertainment for another person as an inducement to or a reward for that person or a third person :
    - (1) not to vote, or for not having voted at an election; or
    - (2) to vote or not to vote, or for having or not having voted for a particular candidate or particular candidates at an election.
  - It is an offence if a person solicits, accepts or takes any food, drink or entertainment as an inducement to or a reward for the conduct stated in (1) or (2) above.
  - It is also an offence if a person authorises another person, either expressly or by implication, to engage in the above conduct.
  - However, the serving of non-alcoholic drinks at an election meeting is not an offence.
- ☐ An “election meeting” is any meeting held to promote or prejudice the election of a particular candidate or particular candidates.

**Using or Threatening to Use Force or Duress against Electors (Section 13)**

- It is an offence if a person uses or threatens to use force or duress against another person to induce that person or to get him to induce a third person to vote or not to vote; or to vote or not to vote for a particular candidate or particular candidates, at an election.
- It is an offence if a person uses or threatens to use force or duress against another person because the other person voted or refrained from voting ; or voted or refrained from voting for a particular candidate or particular candidates, at an election.
- It is also an offence if a person authorises another person, either expressly or by implication, to engage in the above conduct.

**Deceptive Behaviour in Relation to Electors (Section 14)**

- It is an offence if a person, by deception, induces another person or gets him to induce a third person not to vote; or to vote or not to vote for a particular candidate or particular candidates at an election.
- It is an offence if a person, by deception, obstructs or prevents another person or gets him to obstruct or prevent a third person from voting at an election.
- It is also an offence if a person authorises another person, either expressly or by implication, to engage in the above conduct.

**Impersonating Another at Election (Section 15)**

- It is an offence if a person applies for a ballot paper in another person's name, or having voted at an election, applies at the same election for a ballot paper in his own name, except as expressly permitted by an electoral law.

**Other Offences with Respect to Voting (Section 16)**

- It is an offence if a person :
  - (1) votes at an election knowing that he is not entitled to vote at that election; or
  - (2) votes at an election after having knowingly or recklessly given materially false or misleading information to an electoral officer, or knowingly omitted to give material information to an electoral officer; or
  - (3) votes more than once in the same constituency, or votes in more than one constituency except as expressly permitted by an electoral law.

- It is an offence if a person invites or induces another person :
  - (1) to vote at an election knowing that the other person is not entitled to do so; or
  - (2) to vote at an election knowing that the other person has given materially false or misleading information to an electoral officer, or has omitted to give material information to an electoral officer; or
  - (3) to vote more than once in the same constituency, or to vote in more than one constituency except as expressly permitted by an electoral law.

### **Destroying or Defacing Ballot Papers (Section 17)**

- It is an offence if a person, without lawful authority, supplies a ballot paper to another person, or destroys or interferes with a ballot box or ballot paper in use at an election or a ballot paper that has been used at an election.
- It is an offence if a person, with intent to deceive, puts into a ballot box a paper other than a ballot paper that he is lawfully authorised to put into the box or removes a ballot paper from a polling station.

## **(4) ELECTION EXPENSES AND ELECTION DONATIONS**

### **Election Expenses (Sections 2, 24)**

- “Election expenses” means expenses incurred or to be incurred before, during or after the election period, by or on behalf of a candidate for the purpose of :
  - (1) promoting the election of the candidate; or
  - (2) prejudicing the election of another candidate,
 and includes the value of election donations consisting of goods and services used for that purpose.
- A candidate commits an offence if the aggregate amount of the election expenses, whether incurred by or on behalf of the candidate, exceeds the prescribed election expense limits.
- The election expense limits are prescribed by the Maximum Amount of Election Expenses (Legislative Council Election) Regulation. The election expense limits for each constituency in the Legislative Council Election are as follows:

<b>Constituencies</b>	<b>Election Expense Limits*</b>
(a) for a GC election	
(i) for a list in Hong Kong Island GC	\$2,100,000
(ii) for a list in Kowloon East and Kowloon West GCs	\$1,575,000
(iii) for a list in New Territories East and New Territories West GCs	\$2,625,000
(b) for an election for one of the following 4 special FCs, viz, Heung Yee Kuk, Agriculture and Fisheries, Insurance, and Transport FCs	\$105,000
(c) for an election for an FC other than those in (b) above with not more than 5,000 registered electors	\$168,000
(d) for an election for an FC with between 5,001 and 10,000 registered electors	\$336,000
(e) for an election for an FC with over 10,000 registered electors	\$504,000

\* These election expense limits will take effect upon the commencement of operation of the Maximum Amount of Election Expenses (Legislative Council Election) Regulation on 18 July 2008.

### **Use of Election Expenses (Sections 2, 23)**

- It is an offence if a person, other than a candidate or a candidate's election expense agent, incurs any election expenses.
- An "election expense agent" means a person authorised in writing by a candidate to incur election expenses on behalf of the candidate. The maximum amount of election expenses to be incurred by him has to be specified in the authorisation, a copy of which has to be served on the relevant Returning Officer in order to effect his authorisation.

- It is an offence if a candidate does not include election expenses incurred by the candidate or the candidate's election expense agent(s) in the candidate's election return.
- It is an offence for an election expense agent to incur election expenses that exceed the amount specified in his authorisation.

**Use and Disposal of Election Donations (Sections 2, 18, 19)**

- "Election donation" means :
  - (1) any money given to a candidate for the purpose of meeting the election expenses of the candidate; or
  - (2) any goods (including any goods given incidental to the provision of voluntary service) or service (excluding voluntary service) provided to a candidate for the purpose of promoting the election of the candidate or prejudicing the election of another candidate.
- It is an offence if a candidate or other person uses election donations for a purpose other than :
  - (1) meeting the candidate's election expenses; or
  - (2) promoting the election of the candidate or prejudicing the election of another candidate.
- It is an offence if a candidate, on receiving an election donation of more than \$1,000 in value, does not issue a receipt to the donor.
- Any anonymous election donation of more than \$1,000 in value must not be used for meeting or contributing towards meeting his election expenses or for promoting the election of the candidate or prejudicing the election of another candidate or other candidates and must be given to a charitable institution or trust of a public character chosen by the candidate. A candidate engages in corrupt conduct if he fails to observe the above.
- It is an offence if a candidate does not give the unused election donations or donations that exceed the prescribed maximum amount of election expenses to a charitable institution or trust of a public character he chooses.

**Election Returns (Sections 20, 36, 37, 38)**

- It is an offence if a candidate makes a statement that he knows or ought to know is materially false or misleading in his election return.
- It is an offence if a candidate fails to lodge with the Chief Electoral Officer

an election return of his election expenses and all election donations not later than 60 days after the date of publication of the result of the election, or not later than 60 days after the declaration of the termination of the election proceedings under the relevant electoral law, or not later than 60 days after the declaration of the failure of the election under the relevant electoral law.

- The return must be accompanied by:
  - (1) an invoice and a receipt of each election expense, giving particulars of the expenditure (except for sums under \$100); and
  - (2) a copy of the receipt issued to every donor, giving particulars of the donor and the election donation (except for donations of \$1,000 in value or below); and
  - (3) a copy of the receipt of such election donation given to a charitable institution or trust of a public character chosen by the candidate in accordance with the law; and
  - (4) an explanation setting out the reason why an unused election donation was not disposed of in accordance with the requirement of giving the same to charitable institutions or trusts of a public character; and
  - (5) a declaration in a form provided or specified by the Chief Electoral Officer verifying the contents of the return.

## **(5) ELECTION PETITION OR ELECTION APPEAL**

### **Bribery in Relation to Election Petition or Election Appeal (Section 21)**

- It is an offence if a person offers an advantage to another person:
  - (1) as an inducement for that person, or for him to get a third person, to withdraw an election petition or election appeal; or
  - (2) as a reward for that person for his having withdrawn or agreed to withdraw; or for his having got a third person to withdraw an election petition or election appeal.
- It is an offence if a person:
  - (1) withdraws his election petition or election appeal in return for an advantage; or
  - (2) solicits or accepts an advantage as an inducement to withdraw an election petition or election appeals; or
  - (3) solicits or accepts an advantage as a reward for his having withdrawn or his having got a third person to withdraw an election petition or election appeal.

## **(6) MISCELLANEOUS AND RELATED PROVISIONS**

### **Corrupt or Illegal Conduct Engaged in with the Knowledge and Consent of a Candidate (Section 29)**

- A candidate is to be regarded as having personally engaged in corrupt or illegal conduct if the conduct was engaged in with the knowledge and consent of the candidate.

### **Officers Liable for Offences Committed by Corporation (Section 42)**

- If a corporation is found guilty of having engaged in a corrupt or illegal conduct, the director, executive officer or any person who is concerned in the management of the corporation during the material time will be liable for the conduct unless the person proves that:
  - (1) he has no knowledge of the conduct; or
  - (2) he has exercised reasonable diligence to prevent the conduct, if it was done with his knowledge.

### **Aiding, Abetting, etc. to Commit an Offence (Section 43 of the ECICO and Section 101C of the Criminal Procedure Ordinance(Cap. 221))**

- A person commits an offence if he incites, conspires with, aids, abets, counsels or procures another person to engage in corrupt or illegal conduct at an election or attempts to engage in corrupt or illegal conduct.

## **(7) APPLICATION FOR RELIEF**

### **Relief for Certain Illegal Conduct (Section 31)**

- A candidate, agent or any other person who has done or omitted to do an act that would be an “illegal conduct” under the ECICO may apply to the Court for an order relieving him from penalties and disqualifications that are imposed on him by an electoral law.
- The applicant has to satisfy the Court that such act or omission was due to inadvertence, an accidental miscalculation or any reasonable cause and was not due to bad faith.

### **Relief for Offences in Relation to Election Advertisements (Section 35)**

- Any person who has published a printed election advertisement without the

printing details required by Section 34 or has not furnished 2 copies of the printed election advertisement to the relevant Returning Officer in accordance with Section 34 may apply to the Court for an order:

- (1) allowing the publication be excepted from the statutory requirements; and
  - (2) relieving him from penalties imposed on him by Section 34.
- The applicant has to satisfy the Court that the non-compliance was due to inadvertence, an accidental miscalculation or any reasonable cause and was not due to bad faith.

**Relief for Offences in Relation to Election Returns (Section 40)**

- A candidate who fails to lodge an election return as required by Section 37 before the end of the permitted period, or fails to send an invoice or a receipt, or a copy of a receipt, as required by the law or has lodged an election return or any document accompanying the return, which contains any error or false statement may apply to the Court for an order allowing the candidate to lodge with the Chief Electoral Officer an election return within such further period as the Court specifies, or an order excepting the candidate from the requirement to send an invoice or a receipt, or a copy of a receipt, as required by the law, or an order enabling the candidate to correct any error or false statement in an election return or in any document accompanying the return.
- The candidate has to satisfy the Court that the failure to comply with the requirement was attributable to the following reasons and was not due to his bad faith:
  - (1) the applicant's illness or absence from Hong Kong; or
  - (2) the death, illness, absence from Hong Kong of an agent or employee of the applicant; or
  - (3) misconduct of an agent or employee of the applicant; or
  - (4) inadvertence or an accidental miscalculation by the applicant or any other person; or
  - (5) an accidental loss or destruction of the invoice or receipt or copy of the receipt by the applicant or any other person; or
  - (6) any reasonable cause.

(1), (2), (3), (4) and (6) are reasons for the Court to consider an application whether an extended period for lodging an election return should be granted; (3), (4) and (6) are reasons for the Court to consider an application which enables the candidate to correct any error or false statement in an election return or in any document accompanying the return while (3), (5) and (6) are reasons for considering whether an order for excepting the candidate from the requirement to

send an invoice, or a receipt, or a copy of a receipt should be allowed. Depending on the circumstances of different cases, candidates should check whether the above reasons are applicable to their applications concerned.

## **(8) PENALTY**

### **Corrupt Conduct**

- As stipulated in the ECICO, a person who engages in corrupt conduct at an election commits an offence and is liable on conviction to:
  - (1) a fine of \$200,000 and imprisonment for 3 years, if tried summarily; or
  - (2) a fine of \$500,000 and imprisonment for 7 years, if tried on indictment.
- A person who is convicted of having engaged in corrupt conduct has to pay to the Court the amount or value of any valuable consideration received by the person or his agents in connection with the conduct or such part of the amount or value as specified by the Court.

### **Illegal Conduct**

- As stipulated in the ECICO, a person who engages in illegal conduct at an election commits an offence and is liable on conviction to:
  - (1) a fine at level 5 and imprisonment for 1 year, if tried summarily; or
  - (2) a fine of \$200,000 and imprisonment for 3 years, if tried on indictment.
- A person who has contravened the provisions of Section 34 or 37 of the ECICO is liable on conviction to the same penalty as illegal conduct.

**Corrupt conduct refers to that mentioned in Sections 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21 of the ECICO as listed in this Handbook, whereas illegal conduct in Sections 23, 24, 25, 26 and 27.**

### **Disqualifications**

- A person convicted of having engaged in corrupt conduct or illegal conduct under the ECICO will be :
  - disqualified for 3 years from voting in the Chief Executive, Election Committee subsector, Legislative Council, District Councils or Village Representative elections from the date of conviction;
  - disqualified for 5 years from being nominated as a candidate for the election of, or elected as, the Chief Executive, a member of the Legislative Council and District Council or a Village Representative

- from the date of conviction; and
- disqualified for 3 years from being nominated as a nominee for the election of, or from being nominated or elected as, an Election Committee member from the date of conviction.

**Immediate Custodial Sentence**

- According to the sentencing guideline set by the Court of Appeal on 27 November 1997, any person convicted of a serious election-related offence shall receive an immediate custodial sentence in order to uphold clean and fair elections in Hong Kong.

## **QUESTIONS AND ANSWERS**

The following questions and answers are summarised from the enquiries and concerns raised by candidates, etc. in the previous Legislative Council (LegCo) Elections. The scenarios quoted serve to highlight the spirit of the law and its application on various processes of an election, viz the nomination of candidates, electioneering, voting, and handling of election expenses and donations, etc. and alert candidates and their election helpers to the common corrupt and illegal pitfalls in conducting electioneering activities.

**Q1. Will it be an offence for a candidate running for the LegCo Election to organise and sponsor an overseas trip for electors of his constituency before the election period? Is there any restriction on the time and place for the candidate to offer advantages to the electors?**

- A1.
- It is an offence under S 11 of the ECICO for any person including a candidate to offer an advantage to another person for inducing the latter to vote or not to vote for a particular candidate or particular candidates, or not to vote at the election.
  - The candidate as mentioned in the question should have contravened this provision if the overseas trip is sponsored for inducing votes for his election. Electors accepting the trip are also liable to an offence under the same provision.
  - He must note that S 5 of the ECICO applies to all conduct concerning an election, whether the conduct is engaged in within Hong Kong or elsewhere.
  - S 6 and S 22 of the ECICO also state that a person may be convicted of an offence under the Ordinance if he is found to have engaged in corrupt or illegal conduct before, during or after the election period.
  - Whether the offer of advantages to electors is an offence depends on the purpose and not the time and place of the offer.

**Q2. A candidate of the LegCo Election wishes to set up a personal website / blog to introduce his election platform to his electors. Will the production and operation cost of his website / blog be counted as his election expenses? Which are the areas that he should pay attention to in order not to contravene the law inadvertently? If he creates another online forum for surfers to express their views on the forthcoming**

**LegCo Election, should he count the cost incurred for this e-forum towards his election expenses?**

- A2.
- Election advertisement includes a publicly exhibited notice or a notice delivered by electronic transmission for the purpose of promoting or prejudicing the election of a candidate. As such, the above-mentioned website / blog will be regarded as an election advertisement. The cost incurred by the production and its operation should hence be counted towards the candidate's election expenses and be declared in his election return.
  - As required by the Electoral Affairs Commission, the candidate has to furnish two copies of the electioneering messages sent through the above-mentioned website / blog to the relevant Returning Officer before display or publication.
  - If the said online forum is created solely for providing a discussion platform for surfers to express their views on the coming LegCo Election without promoting the election of any candidate at all, the cost for creating and running the online forum will not be counted as election expenses.

**Q3. Is it lawful for a serving District Council (DC) member who intends to run in the LegCo Election to publish and distribute a performance report to account for the services he has rendered, in the capacity of a DC member, for his constituency?**

- A3.
- A serving DC member who contests the LegCo Election is regarded as 'an incumbent candidate' according to S 33 of the ECICO. S 34(9) of the same Ordinance states that a performance report published by an incumbent candidate during the election period is an 'election advertisement'. As such, the performance report published by the said DC member during the election period of a LegCo election should be regarded as his election advertisement.
  - S 34 of the ECICO requires that any person who published a printed election advertisement must ensure that it shows in Chinese or English the name and address of the printer, the date of printing and the number of copies printed. The publisher must also furnish 2 copies of the

election advertisement to the Returning Officer not later than 7 days after publishing the printed election advertisement. Apart from complying with S 34 of the ECICO, the DC member who publishes the performance report must include the expenses incurred in publishing and distributing the performance report as his election expenses and declare this in his election return. He must also comply with all other statutory requirements governing election advertisements in an election and guidelines issued by the Electoral Affairs Commission.

- Any statement of facts in the performance report concerning the said DC member as a candidate in the LegCo Election must be materially correct. Otherwise, he may commit an offence under S 26 of the ECICO.

**Q4. Is it lawful for the chairman of a professional body to give his written consent to a candidate of a LegCo Functional Constituency (FC) Election for using the name and logo of the said professional body in this candidate's election advertisements? What happens if the chairman's decision of supporting the candidate is not agreeable to some of its members?**

- A4.
- The said chairman should ensure that the professional body agrees to the written consent he gave to this candidate. It will be an offence under S 27 of the ECICO if a person of an organisation purports to give written consent to a candidate to the inclusion of the name or logo of the organisation in the candidate's election advertisements without having been approved by the governing body or by a resolution of the members of the said organisation passed at a general meeting.
  - If the chairman's decision of supporting the candidate is eventually repudiated by the professional body through proper procedures by those members who object to the decision, the consent of support given by the chairman will become invalid. In this situation, the candidate must take reasonable measures, e.g. to make alterations to the publicity materials not yet distributed and to retrieve the publicity materials already displayed. In any event, the cost incurred by the production and subsequent removal of the said advertisements should still be counted as the candidate's election expenses and be declared in the candidate's election return.

**Q5. Several candidates on a Geographical Constituency (GC) list intend to introduce their election platforms and aspirations to electors via a letter and an electronic mail (e-mail) in their joint names for enlisting support. What should they take note of in order not to breach the ECICO?**

- A5.
- Under S 2 of the ECICO, any form of notice which serves the purpose of promoting or prejudicing the election of a candidate is an election advertisement (EA). Any person publishing a printed EA such as the letter above-mentioned is required to abide by S 34 of the ECICO. He has to include in the printed EA, in English or Chinese, the name and address of the printer, the date of printing and the number of copies printed. He should also furnish 2 copies of the printed EA to the appropriate Returning Officer not later than 7 days after publishing. Further, he should comply with all other statutory requirements governing election advertisements in an election and guidelines issued by the Electoral Affairs Commission.
  - Since both the letter and e-mail are joint EAs of the candidates on a GC list, the expenses incurred for publishing them such as the cost of paper, envelopes, postages and internet charges, etc. should be shared by the candidates concerned. As the said expenses were incurred by all candidates on the same GC list, such candidates should have authorised each other to be their respective election expense agents in accordance with S 23(2) of the ECICO before incurring any election expense for the group.

**Q6. Candidate A of a LegCo GC Election wishes to include in his EA a photograph he took with Candidate B who runs for the FC Election in the same LegCo Election to show the latter's support to him. Is it necessary for Candidate B to share the election expenses incurred for the said EA? What should Candidate A do if the information about Candidate B appearing in his EA is subsequently found to be incorrect?**

- A6.
- Whether Candidate B is required to bear the election expenses incurred for the said EA depends on different circumstances.
  - As defined in S 2 of the ECICO, an EA is any publicity material published for the purpose of promoting or prejudicing the election of a candidate. If the EA in question serves to promote the elections of both candidates (A and B), it will be regarded as their joint EA, and in this connection, they will be required to share the election expenses involved.

- If the EA simply shows Candidate B's support to Candidate A, there will be no need for Candidate B to share the expenses incurred for producing the EA. Candidate A, however, should have obtained Candidate B's prior written consent as required by S 27 of the ECICO before he publishes the EA.
- Candidate A should take immediate action to amend any mistakes / omissions found in his EA. If the EA has been released, he should try his best to withdraw it. Any cost incurred for the production and subsequent correction, etc. should be included in Candidate A's election expenses and be stated clearly in his election return.

**Q7. Two candidates who are in keen competition within the same constituency intend to organise negative publicity against each other. Which provisions of the ECICO should they abide by? If an election banner used by a candidate for prejudicing the election of his opponent is defaced, should the cost for repairing or reproducing a new banner be counted as his election expenses?**

- A7.
- The ECICO has not laid down any restrictions on the format of election campaign arranged by a candidate, including any campaign which would prejudice the election of another candidate. Each candidate, however, should make sure that all statements of facts published about a particular candidate must be true. Otherwise, he will breach S 26 of the ECICO which prohibits any person from publishing a materially false or misleading statement of fact (including statement concerning [but not limited to] a candidate's character, qualifications or previous conduct) for the purpose of promoting or prejudicing the candidate's election.
  - Given that the negative publicity campaign carried out by a candidate is to promote his election and prejudice that of his opponent, the cost for such campaign should be counted towards the candidate's election expenses and be declared in his election return.
  - The cost incurred for repairing, recreating or reproducing the defaced banner used for prejudicing the election of his opponent should also be included in the election expenses of the candidate concerned.

**Q8. Is it an offence if a person has incurred election expenses on behalf of a candidate without obtaining his written authorisation? Can the said person claim that the expenses incurred are election donations to be given to the candidate?**

- A8.
- Under S 23 of the ECICO, only the candidate or person authorised by him as his election expense agent in writing may incur election expenses. Such an authorisation will become effective only after a copy of it has been served on the relevant Returning Officer.
  - The person concerned should have committed an offence if he incurred election expenses without the candidate's written authorisation as above stated and no subsequent actions can remedy the offence once an election expense has been incurred. Whether or not the items purchased or services rendered would subsequently be donated to the candidate would not alter the fact that the offence has been committed.
  - The expenditure so incurred should be accounted for both as an election expense and as an election donation and be stated clearly in the candidate's election return.

**Q9. Is it against the ECICO for a main contractor to request a sub-contractor of his firm to vote for the candidate he supports?**

- A9.
- S 13 of the ECICO makes it an offence for a person to use or threaten to use force or duress against another person with a view to inducing or compelling the latter to vote for a particular candidate at an election.
  - Although it is difficult to define whether such a request will amount to duress as it will depend on the circumstances of each case, persons who are in positions of influence should be wary of their conduct which may cross the line between legitimate lobbying in support of a candidate and effecting a duress against others to vote for a particular candidate.

**Q10. Is it an offence for a candidate to arrange free transportation service for taking electors to the polling station for voting on the election day? Can he publicise the above-mentioned service and include details such as location of the pick-up point(s) and the service schedule in his election advertisements? What if the free transportation service is arranged by some supporters of the candidate?**

- A10.
- The provision of transportation service can be interpreted as “any other service” under the definition of “advantage” in S 2 of the ECICO. Whether it is an offence to provide this kind of free transportation service to electors will depend on the circumstances whereby such service is provided.
  - There should be no offence under the ECICO if the free transportation service is provided by any person, including a candidate, solely to facilitate electors to go to the polling stations for voting and no activities whether to promote or prejudice any particular candidate or candidates are carried out in the vehicle engaged.
  - However, if a candidate conducts canvassing activities, such as putting up posters and / or arranging the presence of his helpers who wear clothings / accessories making reference to the said candidate’s election in the vehicle, the free transportation service may be regarded as an “advantage” offered by the candidate to induce electors to vote for him. Hence, it is likely that he would have contravened S 11 of the ECICO.
  - A candidate who publicises the offer of free transportation service with related details in his election advertisements is likely to give electors an impression that he is offering such a service to induce votes.
  - Supporters of the candidate who provide free transportation service under the above-quoted circumstances should have breached S 11 of the ECICO. Electors who accept the said transportation service should have also committed an offence under the same provision.
- Q11. Will an elected candidate of a LegCo Election be liable to an offence if he hosts a dinner party to celebrate his success in the election for district personalities and election helpers who have supported his election? Should the expenses incurred for the dinner party be counted towards his election expenses? Will it make any difference if the expenses of the dinner party are borne by the participants?**
- A11.
- The candidate has nothing to worry about if the dinner party is hosted solely for the purpose of celebrating his success in the election. Since the dinner party is held after the election and such an the arrangement has in no way served to promote the candidate’s election, the expenses thus incurred, whether being borne by the participants or not, need not be counted towards his election expenses.

- If the dinner party is hosted to honour the candidate's promise made previously to the participants that they would be rewarded with a dinner party for their electioneering assistance upon the candidate's successful election, the hosting of this dinner party is related to the purpose of promoting his election and the expenses of the dinner party should be counted towards the candidate's election expenses. If the expenses of the dinner party are borne by the participants, the amount should be regarded as election donations to the candidate and be included in his election return.
- If the dinner party is also hosted as a reward for the participants' having voted for the candidate, both the candidate and the participants have contravened S 12 of the ECICO.
- According to S 12 of the ECICO, no person shall by himself or by any other persons provide or meet all or part of the cost of providing food, drink or entertainment to another person for the purpose of inducing or rewarding the latter to vote or not to vote for a particular candidate or particular candidates at the election, or not to vote at the election.

**Q12. Is it necessary for a complainant to produce evidence to the ICAC while lodging a complaint against any conduct in contravention of the ECICO? Would the complainant be accused of having made a malicious report in the event that his complaint is not substantiated?**

- A12.
- Any person who suspects any conduct in contravention of the ECICO is welcome to make a report to the ICAC. We will investigate each pursuable complaint to ascertain whether such a malpractice exists.
  - Any person who wishes to make a report to the ICAC can contact one of the seven ICAC Regional Offices or its 24-hour Report Centre direct. He can also lodge the complaint by calling on its hotline (Tel: 25 266 366) or writing to Hong Kong GPO Box 1000.
  - The ICAC welcomes reports on suspected corruption from the public. However, if a person knowingly furnishes false report of any offences, gives false information or makes false statements or accusations to mislead ICAC officers, he will commit an offence under S 13B of the

Independent Commission Against Corruption Ordinance (Cap. 204) and will be liable to a maximum penalty of 1 year's imprisonment and a fine of \$20,000.

- Any person who wishes to make enquiries on the ECICO may call the ICAC Election Enquiry Hotline (Tel: 2920 7878), or approach any ICAC Regional Offices.

## **DOS AND DON'TS CHECKLIST**

Candidates, their election agents and helpers should note the following in an election:

### **(1) NOMINATION OF CANDIDATES**

#### **Bribery**

- ☒ Do not engage in, or authorise another person either expressly or by implication, to engage in, any of the following corrupt conduct:
  1. offer any advantage to get any person to stand or not to stand as a candidate.
  2. offer any advantage to get any person having been nominated as a candidate to withdraw his candidature.
  3. offer any advantage to get any candidate not to use his best endeavours to promote his candidature.
- ☒ Do not solicit or accept any advantage for any person's standing or not standing as a candidate.
- ☒ Do not solicit or accept any advantage for any person's withdrawal of his candidature.
- ☒ Do not solicit or accept any advantage for any candidate's not using his best endeavours to promote his election.

#### **Engaging in Deceptive Behaviour**

- ☒ Do not induce by deception, any person to stand or not to stand as a candidate, or to withdraw his candidature.

#### **Nomination Paper**

- ☒ Do not deface or destroy any nomination paper to prevent or obstruct another person from standing for an election.

**(2) ELECTIONEERING****Statements about a Candidate**

- ☒ Do not publish any false statement that a person is or is not a candidate.
- ☒ Do not make any false or misleading statement of fact including (but not limited to) the character, qualifications or previous conduct of a candidate or candidates.

**Election Advertisements**

- ☒ Do not use, without obtaining prior written consent, the name or logo of a person or an organisation; or the pictorial representation of any person in an election advertisement in such a way as to infer that the candidate concerned has the support of the named person or organisation.
- ☒ Do include in all printed election advertisements, except those printed in a registered local newspaper, the name and address of the printer, the date of printing and the number of copies printed.
- ☒ Do remember that a performance report published by an incumbent candidate during the election period is an election advertisement.
- ☒ Do furnish 2 copies of any printed election advertisement to the relevant Returning Officer not later than 7 days# after it is published.

# It should, however, be noted that under the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation, a candidate must submit 2 copies of his election advertisement to the relevant Returning Officer before he displays, distributes or otherwise uses the election advertisement and comply with all other statutory requirements governing election advertisements in an election and relevant guidelines issued by the Electoral Affairs Commission.

### **(3) VOTING**

#### **Bribery**

- ☒ Do not engage in, or authorise another person either expressly or by implication, to engage in, any of the following corrupt conduct:
  1. offer any advantage as an inducement to or a reward for any person's not voting at an election.
  2. offer any advantage as an inducement to or a reward for any person's voting or not voting for a particular candidate at an election.

#### **Providing Refreshments or Entertainment**

- ☒ Do not engage in, or authorise another person either expressly or by implication, to engage in, any of the following corrupt conduct:
  1. provide or meet all or part of the costs of providing any food, drink or entertainment as an inducement to or a reward for any person's not voting at an election.
  2. provide or meet all or part of the costs of providing any food, drink or entertainment as an inducement to or a reward for any person's voting or not voting for a particular candidate at an election.

#### **Using or Threatening to Use Force or Duress**

- ☒ Do not use or threaten to use, or authorise another person, either expressly or by implication, to use or threaten to use, force or duress against any person for the purpose of influencing his or any other person's voting decision.

#### **Engaging in Deceptive Behaviour**

- ☒ Do not engage in, or authorise another person either expressly or by implication, to engage in, any of the following corrupt conduct:
  1. induce by deception any person not to vote at an election.
  2. induce by deception any person to vote or not to vote for a particular candidate at an election.

#### **Other Offences in Relation to Voting**

- ☒ Do not invite or induce ineligible persons to vote.
- ☒ Do not invite or induce a person to vote more than once in the same constituency, or to vote in more than one constituency except as expressly

permitted by an electoral law.

- ☒ Do not destroy, deface, take or otherwise interfere with a ballot paper in use or that has been used unless being lawfully authorised.

#### **(4) ELECTION EXPENSES AND ELECTION DONATIONS**

##### **Election Expenses**

- ☒ Do not incur election expenses more than the prescribed maximum amount of the election expenses for each constituency.
- ☒ Do not incur election expenses unless you are a candidate or a candidate's election expense agent with the required authorisation.
- ☒ Do not incur election expenses in excess of the amount authorised by the candidate if you are an election expense agent.
- ☒ Do include all election expenses incurred by the candidate and any person on his behalf in the election return.

##### **Election Donations**

- ☒ Do not use election donations for meeting the costs of activities unrelated to a candidate's election.
- ☒ Do issue a receipt for any election donation of more than \$1,000 in value.
- ☒ Do send any election donation of more than \$1,000 in value received from an anonymous donor to a charitable institution or trust of a public character chosen by the candidate.
- ☒ Do send any unused election donations and donations in excess of the statutory limit of election expenses to a charitable institution or trust of a public character chosen by the candidate.

##### **Election Returns**

- ☒ Do submit a return on election expenses and donations to the Chief Electoral Officer not later than 60 days after the date of publication of the result of the election, or not later than 60 days after the declaration of the termination of

the election proceedings under the relevant electoral law, or not later than 60 days after the declaration of the failure of the election under the relevant electoral law.

- ☒ Do submit with your election return the invoices, receipts and declaration form, etc. as stipulated by the law.
- ☒ Do not make any false or misleading statement in the return on election expenses and donations.
- ☒ Do lodge your election return with the Chief Electoral Officer within the period as required by the law even if **NO** election expense has been incurred.

#### **(5) ELECTION PETITION OR ELECTION APPEAL**

- ☒ Do not withdraw an election petition or election appeal for an advantage.
- ☒ Do not offer any advantage to get any person to withdraw an election petition or election appeal.
- ☒ Do not solicit or accept any advantage to withdraw an election petition or election appeal.

## **CHANNELS FOR REPORTS AND ENQUIRIES**

### **REPORTS**

Any person who discovers or suspects any conduct in contravention of the ECICO may call the 24-hour ICAC **Report Hotline 25 266 366**, make a report in person to the 24-hour ICAC Report Centre (G/F, 303 Java Road, North Point, Hong Kong) or any ICAC Regional Office, or write to Hong Kong GPO Box 1000.

### **ENQUIRIES**

Any person who wishes to make enquiries on the ECICO may call the ICAC **Election Enquiry Hotline 2920 7878**, or approach any ICAC Regional Office from 9:00 a.m. to 7:00 p.m. on Monday to Friday (closed on Saturday, Sunday and public holidays).

## **ADDRESSES AND TELEPHONE NUMBERS OF ICAC REGIONAL OFFICES**

### **HONG KONG ISLAND**

#### **ICAC Regional Office (Hong Kong West/Islands)**

G/F, Harbour Commercial Building  
124 Connaught Road Central, Sheung Wan  
Tel: 2543 0000

#### **ICAC Regional Office (Hong Kong East)**

G/F, Tung Wah Mansion  
201 Hennessy Road, Wanchai  
Tel: 2519 6555

### **KOWLOON**

#### **ICAC Regional Office (Kowloon West)**

G/F, Nathan Commercial Building  
434-436 Nathan Road, Yau Ma Tei  
Tel: 2780 8080

**ICAC Regional Office (Kowloon East/Sai Kung)**

Shop No.4, G/F, Kai Tin Building

67 Kai Tin Road, Lam Tin

Tel: 2756 3300

**NEW TERRITORIES****ICAC Regional Office (New Territories South West)**

G/F, Foo Yue Building

271-275 Castle Peak Road, Tsuen Wan

Tel: 2493 7733

**ICAC Regional Office (New Territories North West)**

G/F, Fu Hing Building

230 Castle Peak Road, Yuen Long

Tel: 2459 0459

**ICAC Regional Office (New Territories East)**

G06-G13, G/F, Shatin Government Offices

1 Sheung Wo Che Road, Shatin

Tel: 2606 1144

## Consent of Support

*(To be deposited with the Returning Officer as soon as it is completed)*

### LEGISLATIVE COUNCIL ELECTION

\_\_\_\_\_  
(Name of the \*Geographical/Functional Constituency)

Date of Election: \_\_\_\_\_

<u>Name of Candidate(s) (see Note 1)</u>	<u>Hong Kong Identity Card Number (see Note 1)</u>
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____

#### **For individual(s) giving consent in personal capacity (see Note 2)**

1. \*I/Each of us hereby give(s) consent to the above candidate(s) to use my/our name(s) or logo(s) of or associated with \*me/us or \*my/our pictorial representation(s) in \*my/our personal capacity in the manner described in section 27 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), as an indication of \*my/our support, for the purpose of promoting \*his/their election as a Member to the Legislative Council for the above-mentioned \*Geographical/Functional Constituency at the above-mentioned election.

#### **For an individual giving consent in official capacity (see Notes 3, 4 & 5)**

2. I hereby give consent to the above candidate(s) to use my name or logo of or associated with me or my pictorial representation in my official capacity as “\_\_\_\_\_” in the manner described in section 27 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), as an indication of my support, for the purpose of promoting \*his/their election as a Member to the Legislative Council for the above-mentioned \*Geographical/Functional Constituency at the above-mentioned election.

- |                                       |
|---------------------------------------|
| For an organisation (see Notes 4 & 5) |
|---------------------------------------|

- For completion in all cases**

- TO BE COMPLETED BY CANDIDATE(S) (see Note 1)/ELECTION AGENT -**

[illegible]

**TO BE COMPLETED BY INDIVIDUAL(S) GIVING CONSENT IN PERSONAL CAPACITY -**

Name	Hong Kong Identity Card Number	Signature	Date

**TO BE COMPLETED BY INDIVIDUAL GIVING CONSENT IN OFFICIAL CAPACITY/  
ORGANISATION GIVING CONSENT -**

Name: \_\_\_\_\_

Hong Kong Identity Card Number: \_\_\_\_\_

Signature: \_\_\_\_\_ Organisation Chop: \_\_\_\_\_

Official Capacity: \_\_\_\_\_ Date: \_\_\_\_\_

**TO BE COMPLETED BY A WITNESS (see Note 7) -**

Name: \_\_\_\_\_ Identity Document Number: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Notes**

- \* Delete whichever is inapplicable.
  
- 1 If there is more than one candidate to whom consent is given, such as the candidates on a list of candidates in a geographical constituency election, set out the name and identity card number of all the candidates. Alternatively, use a separate form for each candidate.
  
- 2 According to Chapter 18 of the Guidelines on Election-related Activities in respect of the Legislative Council Elections, if a written consent is given by a person in his personal capacity, no mention should be made of any office title which he may have, in the candidate's election advertisements and campaign activities.
  
- 3 According to Chapter 18 of the Guidelines on Election-related Activities in respect of the Legislative Council Elections, in the case where an office-bearer of an organisation wishes to use his office title to support a candidate, he should be careful not to give the impression that it represents the support of the whole organisation except where a decision has been so taken by the governing body of the organisation or by a resolution of the members of that organisation passed at a general meeting. This part must be completed if the name of the organisation concerned is specifically mentioned in the office bearer's title or the relevant election advertisement is posted in the building in which he is serving.
  
- 4 According to section 27(5) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), a consent of support in writing by an organisation must be approved by the governing body of the organisation or by a resolution of the members of the organisation passed at a general meeting.
  
- 5 In the case where a Mutual Aid Committee wishes to support a candidate in the name of the Mutual Aid Committee, the Home Affairs Department requires such a decision be taken in a general meeting convened in accordance with the Model Rules for the Mutual Aid Committee.
  
- 6 In accordance with section 102 of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541 sub. leg. D), the candidate must, **before he or she displays, distributes or otherwise uses an election advertisement**, deposit with the Returning Officer, in case the election advertisement is of a kind referred to in section 27(1) or (2) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), a copy of the consent in writing referred to in section 27(1) or (2), as the case may be, of that Ordinance.
  
- 7 A witness can be any person aged 18 years or over and in possession of an identity document. According to section 3(1) of the Legislative Council Ordinance (Cap. 542), "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); or
  - (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.
  
- 8 Please note the following with regard to the personal data supplied in connection with this form -
  - (a) **Purpose of Collection**  
The personal data and other related information supplied in connection with this form will be used by the Registration and Electoral Office and the Returning Officer for election-related purposes. **The consent form will also be made available for public inspection.** All identity document numbers in the form will be covered before display.
  
  - (b) **Transfer of Information**  
The information provided in this form may be provided to other authorised departments/agencies for election-related purposes.
  
  - (c) **Access to Personal Data**  
A person has the right to request access to and correction of the personal data which he supplied in accordance with the provisions of the Personal Data (Privacy) Ordinance (Cap. 486).
  
  - (d) **Enquiry**  
Enquiries concerning the personal data collected by means of this form (including the making of requests for access and corrections) should be addressed to the Chief Electoral Officer at 10th Floor, Harbour Centre, 25 Harbour Road, Wan Chai, Hong Kong.

### **Guidelines for Mutual Aid Committees**

1. Chapter 18 of the Electoral Affairs Commission's Guidelines on Election-related Activities in respect of the Legislative Council Elections provides that a candidate must obtain the prior written consent from a person or an organisation before using the name or logo of that person or organisation, or a pictorial representation of that person in any of his election advertisements or activities as an indication of support from that person or organisation.
2. In this respect, Mutual Aid Committees ("MACs") should comply with the following procedures:
  - (a) If the support is to be given to a candidate or a list of candidate(s) of a geographical constituency ("GC list") in the name of the MAC, the written consent should be approved at a general meeting convened in accordance with the Model Rules for the MAC, and signed by the incumbent Chairman of the MAC.
  - (b) If the support to a candidate/GC list is to be given in the official capacity of an office-bearer of a MAC, that office bearer should first obtain the approval of the MAC at a general meeting convened in accordance with the Model Rules for the MAC. Otherwise, that office-bearer should be careful not to give any impression or cause misunderstanding that the support in his official capacity represents the support of the MAC.
  - (c) If the support to a candidate/GC list is to be given in the personal capacity of an office-bearer of the MAC and his official title will not be mentioned in the election advertisements of the candidate/GC list, it will not be necessary for that office-bearer to seek approval from the MAC or its executive committee.

3. All general meetings of the MAC should be convened in accordance with the procedures laid down in the Model Rules for the MAC.
4. Decisions taken at the meetings of MACs must be properly recorded and the record must be prominently displayed in the block within 7 days after the meeting.

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