

**Administration's Further Response to Concerns raised
on 23 February 1999 by Members of the Bills Committee on
Election (Corrupt and Illegal Conduct) Bill**

**C1 The Administration to explain the differences between the Bill and the existing
Corrupt and Illegal Practices Ordinance(CIPO).**

A1 In addition to the comparison table provided earlier, we now provide another table juxtaposing each provision of the Bill with the relevant provisions of the CIPO for members' reference.

**C5 The Administration to make proposals to address members' concern about the
need for a candidate to apply for a court order to extend the period for lodging
the election return because the demand note from the Government for the
removal of election advertisements displayed arrives too late for him to include
the cost in the election return.**

A5 We have discussed the issue with the relevant government departments. After reviewing their procedures of issuing demand notes adopted last year, the relevant departments consider that the procedures can be improved with a view to removing the election advertisements as soon as possible and issuing the demand notes to the candidates forthwith.

After discussing with the relevant departments, we hope that all the demand notes in respect of removing the election advertisements can be issued within 21 days after publication of the election results in the Gazette so that the candidates will have enough time to include the costs in their election returns (the Bill provides that the election returns have to reach the Chief Electoral Officer within 30 days after publication of the election results in the Gazette). We shall submit the proposal to the Electoral Affairs Commission for consideration and hope that the Commission will include the proposed deadline in its electoral guidelines.

COMPARISON TABLE**Annex**

on the provisions of
Elections (Corrupt and Illegal Conduct) Bill
and
Corrupt and Illegal Practices Ordinance

Provisions of the Elections (Corrupt and Illegal Conduct) Bill	Provisions of the Corrupt and Illegal Practices Ordinance
<p>1. Short title and commencement</p> <p>(1) This Ordinance may be cited as the Elections (Corrupt and Illegal Conduct) Ordinance.</p> <p>(2) This Ordinance shall come into operation on a date to be appointed by the Secretary for Constitutional Affairs by notice published in the Gazette.</p> <p>2. Interpretation</p> <p>In this Ordinance, unless the context otherwise requires— “advantage” (利益) means—</p> <ul style="list-style-type: none"> (a) any valuable consideration, gift or loan; or (b) any office, employment or contract; or (c) the full or partial payment, release, discharge or liquidation of an obligation; or (d) the exercise or forbearance from exercising a right or power; or (e) the performance or forbearance from performing a duty; or (f) any favour, including— <ul style="list-style-type: none"> (i) giving protection from a liability incurred or anticipated; and (ii) giving protection from proceedings or possible proceedings of a disciplinary, civil or criminal nature; or (g) any other service (other than the provision of entertainment), but does not include an election donation if particulars of the donation are given in an election return that has been lodged with the appropriate authority; 	<p>1. Short title</p> <p>This Ordinance may be cited as the Corrupt and Illegal Practices Ordinance.</p> <p>2. Interpretation</p> <p>In this Ordinance, unless the context otherwise requires—</p> <p>“advantage” (利益) has the same meaning as in section 2(1) of the Prevention of Bribery Ordinance (Cap. 201); (section 5(2)(a))</p> <p>“advantage” (利益) means—</p> <ul style="list-style-type: none"> (a) any gift, loan, fee, reward or commission consisting of money or of any valuable security or of other property or interest in property of any description; (b) any office, employment or contract; (c) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part; (d) any other service, or favour (other than entertainment), including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted; (e) the exercise or forbearance from the exercise of any right or any power or duty; and (f) any offer, undertaking or promise, whether conditional or unconditional, of any advantage within the meaning of any of the preceding paragraphs (a), (b), (c), (d) and (e), <p>but does not mean any donation within the meaning of Part V of the Corrupt and Illegal Practices Ordinance (Cap. 288) particulars of which are contained in any return of donations submitted or corrected by a candidate under section 29(2A) or (7A) respectively of that Ordinance; (section 2(1) Prevention of Bribery ordinance (Cap. 201))</p>

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<p>“appropriate authority” (有關主管當局) means—</p> <ul style="list-style-type: none"> (a) in the case of an election to elect a member or members of the Legislative Council or a District Council, the Chief Electoral Officer; and (b) in the case of an election to elect members of the Heung Yee Kuk or to elect the Chairman or Vice-Chairman or a member of the Executive Committee of a Rural Committee, the returning officer for the election; <p>“candidate” (候選人) —</p> <ul style="list-style-type: none"> (a) means a person who stands nominated as a candidate at an election; and (b) 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, <p>and in relation to an election to return Members for a Legislative Council geographical constituency, includes a person who is one of a group of candidates;</p> <p>“Chief Electoral Officer” (總選舉事務主任) means the person holding office as such under section 9 of the Electoral Affairs Commission Ordinance (Cap. 541);</p> <p>“conduct” (行爲) engaged in by a person may be corrupt or illegal conduct even though the way in which it affects another person is only indirect;</p> <p>“constituency” (選區或選舉界別) means—</p> <ul style="list-style-type: none"> (a) in relation to a Legislative Council election, a geographical or functional constituency as defined in section 3(1) of the Legislative Council Ordinance (Cap. 542) or the Election Committee; or (b) in relation to an Election Committee subsector election, the relevant Election Committee subsector; or (c) in relation to a District Council election, an area declared to be a constituency under section 6(1) of the District Councils Ordinance (of 1999); <p>“corporate elector” (團體選民) has the same meaning as in section 3(1) of the Legislative Council Ordinance (Cap. 542);</p> <p>“Court” means the Court of First Instance;</p>	<p>“candidate” (候選人) means a candidate for an election to which this Ordinance applies and includes any person who, for the purpose of that election, has received any donation within the meaning of Part V particulars of which are contained in any return of donations submitted by him under section 29(2A);</p> <p>“Court” (法院) means the Court of First Instance;</p>

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<p>“duress” (脅迫手段) includes causing financial loss to a person by duress;</p> <p>“election” (選舉) means an election to which this Ordinance applies;</p> <p>“election advertisement” (選舉廣告), in relation to an election, means—</p> <ul style="list-style-type: none"> (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, <p>that has the effect of promoting or prejudicing the election of a candidate or candidates at the election;</p> <p>“election agent” (選舉代理人) means a person who is appointed in writing by a candidate at an election to be an election agent for the candidate at the election;</p> <p>“election appeal” (選舉上訴) means an appeal to a Revising Officer under section 32 of Schedule 2 to the Legislative Council Ordinance (Cap. 542);</p> <p>“Election Committee” (選舉委員會) means the Election Committee constituted in accordance with Part IV of the Legislative Council Ordinance (Cap. 542);</p> <p>“Election Committee subsector” (選舉委員會界別分組) means a subsector represented on the Election Committee as provided by section 1(4) of Schedule 2 to the Legislative Council Ordinance (Cap. 542);</p> <p>“election donation” (選舉捐贈), in relation to a candidate or group of candidates at an election, means—</p> <ul style="list-style-type: none"> (a) any money given to or in respect of the candidate or group for the purpose of meeting, or contributing towards meeting, the cost of the candidate’s or group’s election expenses; or (b) any goods given to or in respect of the candidate or group for the purpose of facilitating or promoting the election campaign of the candidate or group; or (c) any service provided free of charge to or in respect of the candidate or group by a person whose occupation involves the provision of that kind of services; 	<p>“Designated Officer” (指定人員) means—</p> <ul style="list-style-type: none"> (a) in relation to, or to a matter arising from an election to the Urban Council or the Regional Council, the Secretary of that Council; and (b) in relation to, or to a matter arising from an election in a District in the Urban Council area or a District in the Regional Council area, the Director of Home Affairs; <p>“election” (選舉) means any election to which this Ordinance applies;</p> <p>“election agent” (選舉代理人) means a person appointed by a candidate in an election as his election agent under regulations in force under the Electoral Affairs Commission Ordinance (Cap. 541);</p> <p>“donation” (捐贈), in relation to an election, means any money received, whether before, during or after that election, by a candidate, his election agent and by any other person on the candidate’s behalf for the purpose of meeting, defraying or contributing to, the cost of that candidate’s election expenses at that election, and includes any part of a donation; (section 27)</p>

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<p>“election expense agent” (選舉開支代理人), in relation to a candidate or group of candidates, means a person authorized by the candidate or candidates in accordance with section 23;</p> <p>“election expenses” (選舉開支), in relation to a candidate or group of candidates at an election, means expenses incurred or to be incurred, before, during or after the election period, by or on behalf of the candidate or group for the purpose of—</p> <ul style="list-style-type: none"> (a) promoting the election of the candidate or group; or (b) prejudicing the election of another candidate or group, <p>and includes the value of election donations consisting of goods and services used for that purpose;</p> <p>“election period” (選舉期間), in relation to an election, means the period beginning with the nomination day for the election and ending with the polling day for the election (or the last polling day if there is more than one polling day);</p> <p>“election petition” (選舉呈請) means an election petition lodged under an electoral law for the purpose of questioning an election held under that law;</p> <p>“election return” (選舉申報書) means the return required to be lodged by a candidate in accordance with section 36;</p> <p>“elector” (選民)</p> <ul style="list-style-type: none"> (a) in relation to an election to elect a Member of the Legislative Council, means an elector as defined by section 3(1) of the Legislative Council Ordinance (Cap. 542), and in relation to a corporate elector, includes the authorized representative of the elector; and (b) in relation to an election to elect a member of the Election Committee, means a voter as defined by section 7(1) of Schedule 2 to that Ordinance or the authorized representative of a corporate voter; and (c) in relation to an election to elect a member of a District Council, means an elector as defined by section 2 of the District Councils Ordinance (of 1999); and 	<p>“election expenses”(選舉開支), in relation to an election, means expenses incurred or to be incurred, whether before, during or after that election, by a candidate and by any other person on the candidate’s behalf on account of or in respect of the conduct or management of that election or for the purpose of promoting or procuring the election of that candidate at that election;</p> <p>“election petition” (選舉呈請書) means an election petition lodged under Part VII of the Legislative Council Ordinance (Cap. 542);</p> <p>“return and declaration” (申報書及聲明書) means the return of election expenses and donations and accompanying declaration referred to in section 29(1) and “return or declaration” (申報書或聲明書) shall be construed accordingly; (section 27)</p> <p>“return of donations” (捐贈申報書) means a return of donations referred to in section 29(2A); (section 27)</p> <p>“return of election expenses and donations” (選舉開支及捐贈申報書) means the return of election expenses and donations referred to in section 29(1). (section 27)</p> <p>“elector” (選民) —</p> <ul style="list-style-type: none"> (a) in relation to an election to elect a Member of the Legislative Council, means an elector as defined by section 3 of the Legislative Council Ordinance (Cap. 542); and (b) in relation to an election to elect a member of the Election Committee, means a voter as defined by section 7 of Schedule 2 to that Ordinance; and (c) in relation to an election of the Executive Committee of a Rural Committee and the election of the Chairman and Vice-chairman of a Rural Committee, means a member of the general assembly of the Rural Committee;

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<p>(d) in relation to an election to elect members of the Heung Yee Kuk, means a person who, in accordance with the Heung Yee Kuk Ordinance (Cap. 1097), is entitled to vote at the election; and</p> <p>(e) in relation to an election to elect the Chairman or Vice-Chairman or a member of the Executive Committee of a Rural Committee, means a member of the general assembly of the Rural Committee;</p> <p>“electoral law” (選舉法) means—</p> <p>(a) the Electoral Affairs Commission Ordinance (Cap. 541); or</p> <p>(b) the Legislative Council Ordinance (Cap. 542); or</p> <p>(c) the District Councils Ordinance (of 1999);</p> <p>“electoral officer” (選舉事務主任) means—</p> <p>(a) the Chief Electoral Officer; or</p> <p>(b) a returning officer; or</p> <p>(c) an assistant returning officer; or</p> <p>(d) the Electoral Registration Officer; or</p> <p>(e) any person who is appointed under an electoral law to exercise functions in connection with an election;</p> <p>“Electoral Registration Officer”(選舉登記主任) means the person holding office as such under section 75 of the Legislative Council Ordinance (Cap. 542), and includes any person appointed to act in the Officer’s place when the Officer is absent from duty or the office is vacant;</p> <p>“force” (武力)</p> <p>(a) includes any form of violence or restraint; and</p> <p>(b) in particular, includes—</p> <p>(i) inflicting harm on a person (whether physical or mental); and</p> <p>(ii) causing damage to, or destruction of, a person’s property;</p>	<p>“Electoral Affairs Commission” (選舉管理委員會) means the Electoral Affairs Commission established by the Electoral Affairs Commission Ordinance (Cap. 541);</p> <p>“Executive Committee” (執行委員會) means the Executive Committee of a Rural Committee;</p>

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<p>“returning officer” (選舉主任) —</p> <ul style="list-style-type: none"> (a) in relation to an election for a Legislative Council constituency, means a Returning Officer appointed for the constituency under section 78 of the Legislative Council Ordinance (Cap. 542); and (b) in relation to an election for a constituency of a District Council, means a Returning Officer appointed for the constituency under section 73 of the District Councils Ordinance (of 1999); and (c) in relation to an election to elect members of the Heung Yee Kuk, means the person appointed under section 7 of the Heung Yee Kuk Ordinance (Cap. 1097) to be the Returning Officer for the election; and (d) in relation to an election to elect the Chairman or Vice-Chairman or a member of the Executive Committee of a Rural Committee, means the District Officer in the Home Affairs Department for the district for which the Rural Committee is established; <p>“Rural Committee” (鄉事委員會) has the same meaning as in section 3(3) of the Heung Yee Kuk Ordinance (Cap. 1097);</p> <p>“valuable consideration” (有值代價) means money or anything worth money;</p> <p>“value”(價值) means, in relation to goods or a service that is donated, the price that could reasonably be expected to be paid for the goods or service if supplied by a willing supplier to a willing buyer on the open market, with both parties acting at arms length.</p>	<p>“returning officer” (選舉主任) —</p> <ul style="list-style-type: none"> (a) in relation to an election to elect a Member of the Legislative Council, means a Returning Officer as defined by section 3 of the Legislative Council Ordinance (Cap. 542); and (b) in relation to an election to elect a representative member, a member of the Executive Committee of a Rural Committee, or the Chairman and Vice-chairman of a Rural Committee, means the District Officer who is the returning officer for the election; <p>“Rural Committee” (鄉事委員會) has the meaning assigned to it in the Heung Yee Kuk Ordinance (Cap. 1097).</p> <p>“money” (金錢) includes—</p> <ul style="list-style-type: none"> (a) any money’s worth; (b) any valuable security or other equivalent of money; (c) any valuable consideration; (section 27)

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<p>3. Objects of this Ordinance</p> <p>The objects of this Ordinance are—</p> <ul style="list-style-type: none"> (a) to ensure that, as far as practicable, elections to elect persons to membership of the Legislative Council, District Councils and certain other public bodies are conducted fairly, openly and honestly and are free from corrupt conduct and illegal conduct; and (b) to regulate electoral advertising so as to ensure, as far as practicable, the fairness and honesty of electoral advertising; and (c) to ensure that candidates properly account for the expenditure of money at elections and the soliciting and receipt of election donations and that they do not exceed the prescribed levels of expenditure. <p>4. What elections does this Ordinance apply to?</p> <p>This Ordinance applies to the following kinds of elections—</p> <ul style="list-style-type: none"> (a) a general election to elect the Members of the Legislative Council; (b) a by-election to fill a vacancy in the membership of the Legislative Council; (c) an election to elect members of the Election Committee; (d) an ordinary election to elect the elected members of a District Council; (e) a by-election to fill a vacancy in the membership of a District Council; (f) an election to elect members of the Heung Yee Kuk; (g) an election to elect a person as the Chairman or Vice-Chairman or a member of the Executive Committee of a Rural Committee. 	<p>NO EQUIVALENCE</p> <p>3. Application of the Ordinance</p> <ul style="list-style-type: none"> (1) This Ordinance applies to and in relation to— <ul style="list-style-type: none"> (a) the Legislative Council and to a general election to elect Members, and a by-election to fill a vacancy in the membership, of that Council; and (b) an election to elect members of the Election Committee established under the Legislative Council Ordinance (Cap. 542); and (c) the Urban Council and an election to elect members of that Council; and (d) the Regional Council and an election to elect members of that Council; and (e) a District Board and an election to elect members of such a Board and an election by members of such a Board to elect a representative member of the Urban Council or the Regional Council; and (f) the Heung Yee Kuk and an election to elect members of that body; (g) any other body to which this Ordinance is applied by another enactment or by a resolution of the Legislative Council and an election to elect the members of the body. (2) This Ordinance, with the exception of sections 9, 24 and 25, applies to and in relation to Rural Committees and to any election to fill a vacancy for the chairman, vice-chairman or a member of the Executive Committee of a Rural Committee.

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<p>5. What conduct does this Ordinance apply to?</p> <p>This Ordinance applies to all conduct concerning an election, whether the conduct is engaged in within Hong Kong or elsewhere.</p> <p style="text-align: center;">PART 2</p> <p style="text-align: center;">CORRUPT CONDUCT</p> <p>6. What penalties can be imposed for corrupt conduct at elections?</p> <p>(1) A person who engages in corrupt conduct at an election commits an offence and is—</p> <ul style="list-style-type: none"> (a) if tried summarily, liable on conviction to a fine of \$200,000 and to imprisonment for 3 years; or (b) if tried on indictment, liable on conviction to a fine of \$500,000 and to imprisonment for 7 years. <p>(2) A person may be convicted of an offence of having engaged in corrupt conduct at an election if the person is found to have engaged in the conduct before, during or after the election period.</p> <p>(3) A court that convicts a person of having engaged in corrupt conduct must order the person to pay to the court—</p> <ul style="list-style-type: none"> (a) the amount or value of any valuable consideration received by the person or the person’s election agents in connection with the conduct; or (b) such part of the amount or value as that court specifies in the order. 	<p>NO EQUIVALENCE</p> <p>4. Definition and punishment of corrupt practices at elections</p> <p>(1) Any person who contravenes the provisions of section 5, 6, 7, 8, 8A or 8B shall be deemed to be guilty of a corrupt practice and shall be liable—</p> <ul style="list-style-type: none"> (a) on summary conviction to a fine of \$100,000 and to imprisonment for 3 years; (b) on conviction on indictment to a fine of \$500,000 and to imprisonment for 7 years. <p>(2) In addition to any penalty under subsection (1) a person convicted of an offence shall be ordered to pay to the court the amount or value of any money, valuable consideration, expense or donation paid, given, lent, received or provided by or to him in connection with the offence or such part thereof as the court may specify.</p>

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<p>7. Corrupt conduct to bribe candidates or prospective candidates</p> <p>(1) A person engages in corrupt conduct at an election if the person—</p> <ul style="list-style-type: none"> (a) offers an advantage to another person as an inducement for the other person— <ul style="list-style-type: none"> (i) to stand, or not to stand, as a candidate at the election; or (ii) if the other person has been nominated as a candidate at the election, to withdraw the nomination; or (b) offers an advantage to another person as a reward— <ul style="list-style-type: none"> (i) for having stood, or not stood, as a candidate at the election; or (ii) if the other person was nominated as a candidate at the election, for having withdrawn the nomination; or (c) offers an advantage to another person as an inducement to the person to get, or try to get, a third person— <ul style="list-style-type: none"> (i) to stand, or not to stand, as a candidate at the election; or (ii) if the third person has been nominated as a candidate at the election, to withdraw the nomination; or (d) offers an advantage to another person as a reward for having got, or having tried to get, a third person— <ul style="list-style-type: none"> (i) to stand, or not to stand, as a candidate at the election; or (ii) if the third person was nominated as a candidate at the election, to withdraw the nomination; or (e) solicits or accepts an advantage as an inducement— <ul style="list-style-type: none"> (i) to stand, or not to stand, as a candidate at the election; or (ii) having been nominated as a candidate at the election, to withdraw the nomination; or (f) solicits or accepts an advantage as a reward— <ul style="list-style-type: none"> (i) for having stood, or not stood, as a candidate at the election; or (ii) if the person was nominated as a candidate at the election, for having withdrawn the nomination; or (g) solicits or accepts an advantage as an inducement to get, or try to get, another person— <ul style="list-style-type: none"> (i) to stand, or not to stand, as a candidate at the election; or (ii) if the other person has been nominated as a candidate at the election, to withdraw the nomination; or 	<p>8A. Bribery or intimidation in relation to standing as a candidate</p> <p>(1) No person shall directly or indirectly by himself or by any other person on his behalf bribe or intimidate another person—</p> <ul style="list-style-type: none"> (a) to stand; (b) to refrain from standing; or (c) having been nominated as a candidate, to withdraw, as a candidate at an election.

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<p>(h) solicits or accepts an advantage as a reward for having got, or having tried to get, another person—</p> <ul style="list-style-type: none"> (i) to stand, or not to stand, as a candidate at the election; or (ii) if the other person was nominated as a candidate at the election, to withdraw the nomination. <p>(2) For the purposes of this section—</p> <ul style="list-style-type: none"> (a) a person offers an advantage if the person confers, undertakes to confer or shows a willingness to confer, an advantage on another person; and (b) a person solicits an advantage if the person asks for, or shows a willingness to receive, an advantage, either for the person’s own benefit or for the benefit of another person; and (c) a person accepts an advantage if the person receives or obtains an advantage, or agrees to receive or obtain an advantage, either for the person’s own benefit or for the benefit of another person. <p>(3) For the purposes of this section, a person is taken to have offered an advantage even though the offer was made by another person, but only if the other person was acting with the person’s authority. That authority may be conferred expressly or by implication.</p>	

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<p>8. Corrupt conduct to use or threaten to use force or duress against candidates or prospective candidates</p> <p>(1) A person engages in corrupt conduct at an election if the person—</p> <ul style="list-style-type: none"> (a) uses force or duress, or threatens to use force or duress, against another person to induce the other person— <ul style="list-style-type: none"> (i) to stand, or not to stand, as a candidate at the election; or (ii) if the other person has been nominated as a candidate at the election, to withdraw the nomination; or (b) uses force or duress, or threatens to use force or duress, against another person to induce the other person to get a third person— <ul style="list-style-type: none"> (i) to stand, or not to stand, as a candidate at the election; or (ii) if the third person has been nominated as a candidate at the election, to withdraw the nomination; or (c) uses force or duress, or threatens to use force or duress, against another person because the other person or a third person— <ul style="list-style-type: none"> (i) stood, or did not stand, as a candidate at the election; or (ii) if the other person or the third person has been nominated as a candidate at the election, withdrew the nomination. <p>(2) A person is taken to have engaged in corrupt conduct of a kind referred to in subsection (1) even though the conduct was engaged in by another person, but only if the other person was acting with the person’s authority. That authority may be conferred expressly or by implication.</p>	<p>8A. Bribery or intimidation in relation to standing as a candidate</p> <p>(1) No person shall directly or indirectly by himself or by any other person on his behalf bribe or intimidate another person—</p> <ul style="list-style-type: none"> (a) to stand; (b) to refrain from standing; or (c) having been nominated as a candidate, to withdraw, as a candidate at an election.

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<p>9. Corrupt conduct to engage in certain deceptive behaviour in relation to candidates and prospective candidates</p> <p>(1) A person engages in corrupt conduct at an election if the person—</p> <p>(a) by a deception, induces another person—</p> <p>(i) to stand, or not to stand, as a candidate at the election; or</p> <p>(ii) if the other person has been nominated as a candidate at the election, to withdraw the nomination; or</p> <p>(b) by a deception, induces another person to get a third person—</p> <p>(i) to stand, or not to stand, as a candidate at the election; or</p> <p>(ii) if the third person has been nominated as a candidate at the election, to withdraw the nomination.</p> <p>(2) A person is taken to have engaged in corrupt conduct of a kind referred to in subsection (1) even though the conduct was engaged in by another person, but only if the other person was acting with the person’s authority. That authority may be conferred expressly or by implication.</p> <p>10. Corrupt conduct to deface or destroy nomination papers</p> <p>A person engages in corrupt conduct at an election if the person, with intent to prevent or obstruct another person from standing for election, defaces or destroys a completed or partly completed nomination paper.</p>	<p>NO EQUIVALENCE</p> <p>(Modelled on the fraudulent device element in section 8(1))</p> <p>8. Undue influence</p> <p>(1) No person shall directly or indirectly by himself or by any other person on his behalf make use of or threaten to make use of any force, violence, or restraint, or inflict or threaten to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or by abduction, duress, or any fraudulent device or contrivance impede or prevent the free exercise of the franchise of any person, or thereby compel, induce, or prevail upon any elector either to give or to refrain from giving his vote at any election.</p> <p>22. Offences in relation to nomination paper</p> <p>No person shall fraudulently deface or attempt to deface or fraudulently destroy or attempt to destroy any nomination paper.</p>

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<p>11. Corrupt conduct to bribe electors and others at elections</p> <p>(1) A person engages in corrupt conduct at an election if the person, without reasonable excuse—</p> <ul style="list-style-type: none"> (a) offers an advantage to another person as an inducement to vote at the election for a particular candidate or particular candidates; or (b) offers an advantage to another person as a reward for having voted at the election for a particular candidate or particular candidates; or (c) offers an advantage to another person as an inducement to get, or try to get, a third person to vote at the election for a particular candidate or particular candidates; or (d) offers an advantage to another person as a reward for having got, or having tried to get, a third person to vote at the election for a particular candidate or particular candidates; or (e) solicits or accepts an advantage as an inducement to vote at the election for a particular candidate or particular candidates; or (f) solicits or accepts an advantage as a reward for having voted at the election for a particular candidate or particular candidates; or (g) solicits or accepts an advantage as an inducement to get, or try to get, another person to vote at the election for a particular candidate or particular candidates; or (h) solicits or accepts an advantage as a reward for having got, or having tried to get, another person to vote at the election for a particular candidate or particular candidates. <p>(2) A person also engages in corrupt conduct at an election if the person, without reasonable excuse—</p> <ul style="list-style-type: none"> (a) offers an advantage to another person as an inducement not to vote at the election, or not to vote at the election for a particular candidate or particular candidates; or (b) offers an advantage to another person as a reward for not voting at the election, or for not voting at the election for a particular candidate or particular candidates; or 	<p>5. Bribery</p> <p>(1) No person shall, in Hong Kong or elsewhere, without lawful authority or reasonable excuse—</p> <ul style="list-style-type: none"> (a) offer any advantage to a person or to any person on behalf of another person as an inducement to or reward for or otherwise on account of that person's voting or refraining from voting, or having voted or having refrained from voting in an election; (b) offer any advantage to any person as an inducement to or reward for or otherwise on account of that person's procuring or endeavouring to procure the vote of another person in an election or the return of any person to serve on any body to which this Ordinance is applied by section 3; (c) solicit or accept any advantage as an inducement to or reward for or otherwise on account of his voting or refraining from voting, or having voted or having refrained from voting in an election; (d) solicit or accept any advantage as an inducement to or reward for or otherwise on account of his procuring or endeavouring to procure the vote of any person in an election or the return of any person to serve on any body to which this Ordinance is applied by section 3. <p>(2) In this section—</p> <ul style="list-style-type: none"> (a) “advantage” (利益) has the same meaning as in section 2(1) of the Prevention of Bribery Ordinance (Cap. 201); (b) a person offers, solicits or accepts an advantage if he does any of the activities specified in section 2(2) of that Ordinance.

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<p>(c) offers an advantage to another person as an inducement to get, or try to get, a third person not to vote at the election, or not to vote at the election for a particular candidate or particular candidates; or</p> <p>(d) offers an advantage to another person as a reward for having got, or having tried to get, a third person not to vote at the election, or not to vote at the election for a particular candidate or particular candidates; or</p> <p>(e) solicits or accepts an advantage as an inducement not to vote at the election, or not to vote at the election for a particular candidate or particular candidates; or</p> <p>(f) solicits or accepts an advantage as a reward for not voting at the election, or for not voting at the election for a particular candidate or particular candidates; or</p> <p>(g) solicits or accepts an advantage as an inducement to get, or try to get, another person not to vote at the election, or not to vote at the election for a particular candidate or particular candidates; or</p> <p>(h) solicits or accepts an advantage as a reward for having got, or having tried to get, another person not to vote at the election, or not to vote at the election for a particular candidate or particular candidates.</p> <p>(3) For the purposes of this section—</p> <p>(a) a person offers an advantage if the person confers, undertakes to confer or shows a willingness to confer, an advantage on another person; and</p> <p>(b) a person solicits an advantage if the person asks for, or shows a willingness to receive, an advantage, either for the person’s own benefit or for the benefit of another person; and</p> <p>(c) a person accepts an advantage if the person receives or obtains an advantage, or agrees to receive or obtain an advantage, either for the person’s own benefit or for the benefit of another person.</p> <p>(4) For the purposes of this section, a person is taken to have offered an advantage even though the offer was made by another person, but only if the other person was acting with the person’s authority. That authority may be conferred expressly or by implication.</p>	

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<p>(5) A candidate or other person does not engage in corrupt conduct in contravention of this section only because the candidate or person has offered or solicited an offer to enter into a voting arrangement.</p> <p>(6) For the purposes of subsection (5), a voting arrangement is an arrangement under which persons agree to vote for, or get others to vote for, a candidate or candidates in return for other persons agreeing to vote for, or get others to vote for, another candidate or other candidates.</p> <p>(7) Subsection (5) applies even when the offers relate to different elections.</p> <p>(8) In a prosecution for an offence against this section, the onus of proving a reasonable excuse lies on the defendant.</p> <p>12. Corrupt conduct to provide others with refreshments and entertainment at election</p> <p>(1) A person engages in corrupt conduct at an election if the person provides, or meets all or part of the cost of providing, food, drink or entertainment for another person for the purpose of inducing the other person or a third person—</p> <p>(a) to vote at the election for a particular candidate or particular candidates; or</p> <p>(b) not to vote at the election, or not to vote at the election for a particular candidate or particular candidates.</p> <p>(2) A person engages in corrupt conduct at an election if the person provides, or meets all or part of the cost of providing, food, drink or entertainment for another person because the other person or a third person—</p> <p>(a) has voted at the election for a particular candidate or particular candidates; or</p> <p>(b) has not voted at the election, or has not voted at the election for a particular candidate or particular candidates.</p>	<p>7. Treating</p> <p>No person shall, before, during or after any election, directly or indirectly, by himself, or by any other person—</p> <p>(a) corruptly give or provide, or pay wholly or in part the expense of giving or providing any meal, drink, entertainment or provision to or for any person for the purpose of influencing that person or any other person to give or refrain from giving his vote at the election, or on account of such person or any other having voted or refrained from voting at such election; or</p> <p>(b) corruptly solicit, accept or take any such meal, drink, entertainment or provision:</p> <p>Provided that—</p> <p>(i) the serving of non-alcoholic beverages incidental to an election meeting shall not of itself prima facie be deemed corrupt within the meaning of this section; and</p> <p>(ii) the serving of meals of any kind incidental to an election meeting shall of itself prima facie be deemed corrupt within the meaning of this section.</p>

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<p>(3) A person engages in corrupt conduct at an election if the person solicits, accepts or takes food, drink or entertainment—</p> <ul style="list-style-type: none"> (a) as an inducement to vote at the election for a particular candidate or particular candidates; or (b) as an inducement not to vote at the election, or not to vote at the election for a particular candidate or particular candidates. <p>(4) A person engages in corrupt conduct at an election if the person solicits, accepts or takes food, drink or entertainment—</p> <ul style="list-style-type: none"> (a) as a reward for having voted at the election for a particular candidate or particular candidates; or (b) as a reward for not having voted at the election, or not having voted at the election for a particular candidate or particular candidates. <p>(5) A person does not engage in corrupt conduct of a kind referred to in subsection (1) only because the person has, at an election meeting, served non-alcoholic drinks of any kind. An election meeting is any meeting held to promote or prejudice the election of a particular candidate or particular candidates.</p> <p>(6) A person is taken to have engaged in corrupt conduct of a kind referred to in subsections (1) to (4) even though the conduct was engaged in by another person, but only if the other person was acting with the person’s authority. That authority may be conferred expressly or by implication.</p>	

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<p>13. Corrupt conduct to use or threaten to use force or duress against electors</p> <p>(1) A person engages in corrupt conduct at an election if the person—</p> <p>(a) uses force or duress, or threatens to use force or duress, against another person to induce the other person to vote at the election, or to vote at the election for a particular candidate or particular candidates; or</p> <p>(b) uses force or duress, or threatens to use force or duress, against another person because the other person voted at the election, or voted at the election for a particular candidate or particular candidates; or</p> <p>(c) uses force or duress, or threatens to use force or duress, against another person to induce the other person to get a third person to vote at the election, or to vote at the election for a particular candidate or particular candidates.</p> <p>(2) A person also engages in corrupt conduct at an election if the person—</p> <p>(a) uses force or duress, or threatens to use force or duress, against another person to induce the other person not to vote at the election, or not to vote at the election for a particular candidate or particular candidates; or</p> <p>(b) uses force or duress, or threatens to use force or duress, against another person because the other person refrained from voting at the election, or refrained from voting at the election for a particular candidate or particular candidates; or</p> <p>(c) uses force or duress, or threatens to use force or duress, against another person to get the other person to induce a third person not to vote at the election, or not to vote at the election for a particular candidate or particular candidates; or</p> <p>(d) by abduction, prevents an elector from voting at the election.</p> <p>(3) A person is taken to have engaged in corrupt conduct of a kind referred to in subsection (1) or (2) even though the conduct was engaged in by another person, but only if the other person was acting with the person’s authority. That authority may be conferred expressly or by implication.</p> <p>(4) A corporate elector does not contravene this section only because it has instructed its authorized representative to cast its vote, or not to cast its vote, at an election for a particular candidate or particular candidates.</p>	<p>8. Undue influence</p> <p>(1) No person shall directly or indirectly by himself or by any other person on his behalf make use of or threaten to make use of any force, violence, or restraint, or inflict or threaten to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or by abduction, duress, or any fraudulent device or contrivance impede or prevent the free exercise of the franchise of any person, or thereby compel, induce, or prevail upon any elector either to give or to refrain from giving his vote at any election.</p> <p>(2) No person shall directly or indirectly by himself or any other person on his behalf make use of or threaten to make use of any force, violence or restraint, or inflict or threaten to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm or loss upon or against any person in order to compel, induce or prevail upon such person to persuade any person to support or refrain from supporting a particular candidate in any election.</p>

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<p>14. Corrupt conduct to engage in certain deceptive behaviour in relation to electors</p> <p>(1) A person engages in corrupt conduct at an election if the person, by a deception —</p> <ul style="list-style-type: none"> (a) induces another person to vote at the election for a particular candidate or particular candidates; or (b) induces another person not to vote at the election, or not to vote at the election for a particular candidate or particular candidates; or (c) gets another person to induce a third person to vote at the election for a particular candidate or particular candidates; or (d) gets another person to induce a third person not to vote at the election, or not to vote at the election for a particular candidate or particular candidates; or (e) obstructs or prevents another person from voting at the election; or (f) gets another person to obstruct or prevent a third person from voting at the election. <p>(2) A person is taken to have engaged in corrupt conduct of a kind referred to in subsection (1) even though the conduct was engaged in by another person, but only if the other person was acting with the person’s authority. That authority may be conferred expressly or by implication.</p> <p>15. Corrupt conduct to impersonate another at election</p> <p>(1) A person engages in corrupt conduct at an election if the person, otherwise than as expressly permitted by an electoral law—</p> <ul style="list-style-type: none"> (a) applies for a ballot paper in the name of another person; or (b) having voted at an election, applies at the same election for a ballot paper in the person’s own name. <p>(2) In subsection (1), the reference to another person includes a reference to a person who has died or is a fictitious person as well as to an actual living person.</p>	<p>8. Undue influence</p> <p>(1) No person shall directly or indirectly by himself or by any other person on his behalf make use of or threaten to make use of any force, violence, or restraint, or inflict or threaten to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or by abduction, duress, or any fraudulent device or contrivance impede or prevent the free exercise of the franchise of any person, or thereby compel, induce, or prevail upon any elector either to give or to refrain from giving his vote at any election.</p> <p>(2) No person shall directly or indirectly by himself or any other person on his behalf make use of or threaten to make use of any force, violence or restraint, or inflict or threaten to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm or loss upon or against any person in order to compel, induce or prevail upon such person to persuade any person to support or refrain from supporting a particular candidate in any election.</p> <p>6. Personation</p> <p>Except where otherwise expressly provided by or under the Legislative Council Ordinance (Cap. 542), no person shall at any election—</p> <ul style="list-style-type: none"> (a) apply for a ballot paper in the name of any other person, whether that name be that of a person living or dead, or of a fictitious person; (b) having once voted at an election, apply at the same election for a ballot paper in his own name.

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<p>16. Corrupt conduct with respect to voting at elections</p> <p>(1) A person engages in corrupt conduct at an election if the person—</p> <ul style="list-style-type: none"> (a) votes at the election knowing that the person is not entitled to do so; or (b) votes at the election after having— <ul style="list-style-type: none"> (i) given to an electoral officer information that the person knew to be materially false or misleading; or (ii) knowingly omitted to give material information to an electoral officer; or (iii) recklessly given to an electoral officer information that was materially false or misleading; or (c) except as expressly permitted by an electoral law— <ul style="list-style-type: none"> (i) votes at the election more than once in the same constituency; or (ii) votes at the election in more than one constituency. <p>(2) A person engages in corrupt conduct at an election if the person invites or induces another person—</p> <ul style="list-style-type: none"> (a) to vote at the election knowing that the other person is not entitled to do so; or (b) to vote at the election knowing that the other person has— <ul style="list-style-type: none"> (i) given to an electoral officer information that was materially false or misleading; or (ii) omitted to give material information to an electoral officer; or (c) except as expressly permitted by an electoral law— <ul style="list-style-type: none"> (i) to vote at the election more than once in the same constituency; or (ii) to vote at the election in more than one constituency. <p>(3) For the purposes of this section, a person who has applied for a ballot paper for the purpose of voting at an election is taken to have voted at the election. However, a person who has applied for, and been given, a ballot paper is not to be regarded as having voted more than once at an election only because the person—</p> <ul style="list-style-type: none"> (a) has spoilt the ballot paper; and (b) after complying with the requirements of any relevant electoral law with respect to spoilt ballot papers, has voted, using another ballot paper. 	<p>14. Voting offences</p> <p>(1) No person shall vote or invite or induce or procure any person to vote at an election—</p> <ul style="list-style-type: none"> (a) knowing that he or such person is prohibited or disqualified from voting, or is not entitled to vote, at that election, whether by virtue of this Ordinance or any other enactment; (aa) knowing that he or such other person, for the purpose of registering as an elector or voting at that election, makes (or has made) any statement which to his knowledge is false in a material particular or omits (or has omitted) a material particular or recklessly makes (or has made) a statement which is false in a material particular; (b) more than once for the same candidate in the same constituency at that election; or (c) in more than one constituency at that election. <p>(1A) Subsection (1)(c) shall not apply to any election to the Legislative Council.</p> <p>(2) For the purposes of this section a person who has applied for a ballot paper for the purpose of voting at an election shall be deemed to have voted, but a person to whom regulations (concerning spoilt ballot papers) in force under the Electoral Affairs Commission Ordinance (Cap. 541) apply shall not be deemed to have voted more than once if he acts in exercise of his rights under those regulations.</p>

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<p>17. Corrupt conduct to destroy or deface ballot papers</p> <p>(1) A person engages in corrupt conduct at an election if the person—</p> <ul style="list-style-type: none"> (a) without lawful authority, supplies a ballot paper to another person; or (b) with intent to deceive, puts into a ballot box a paper other than a ballot paper that the person is lawfully authorized to put into the box; or (c) with intent to deceive, removes a ballot paper from a polling station; or (d) without lawful authority, destroys, defaces, takes, opens or otherwise interferes with a ballot box or with ballot papers then in use at the election. <p>(2) In a prosecution for an offence against this section, the onus of proving lawful authority lies on the defendant.</p> <p>18. Corrupt conduct to make improper use of election donations</p> <p>A candidate or other person who uses election donations for a purpose other than that of meeting, or contributing towards meeting, the candidate’s election expenses engages in corrupt conduct at an election.</p>	<p>23. Offences in relation to ballot papers</p> <p>No person shall—</p> <ul style="list-style-type: none"> (a) fraudulently deface or fraudulently destroy any ballot paper; or (b) without due authority supply a ballot paper to any person; or (c) fraudulently put into a ballot box any paper other than the ballot paper which he is authorized by law to put in; or (d) fraudulently take out of the polling station any ballot paper; or (e) without due authority destroy, take, open or otherwise interfere with any ballot box or packet of ballot papers then in use for the purposes of an election; or (f) fraudulently or without due authority, as the case may be, attempt to do any of the foregoing acts. <p>8B. Use of election expenses</p> <p>(1) Subject to subsection (2), no candidate or election agent and no person on behalf of a candidate shall use any donation within the meaning of Part V for any purpose other than for the purpose of meeting, defraying or contributing to, the cost of that candidate’s election expenses.</p>

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<p>19. How candidate must dispose of certain election donations</p> <p>(1) A candidate must, on receiving an election donation of \$500 or more or, in the case of an election donation consisting of goods or a service, of \$500 or more in value, issue to the donor a receipt for the donation. The receipt must specify the name and address of the donor.</p> <p>(2) If an election donation of \$500 or more or, in the case of an election donation consisting of goods, of \$500 or more in value, is given to a candidate or an agent of the candidate and the candidate does not know the identity of the donor, the candidate must ensure that—</p> <ul style="list-style-type: none"> (a) the donation is not used for the purpose of meeting the candidate’s election expenses; and (b) is given to a charitable institution or trust of a public character chosen by the candidate. <p>(3) If—</p> <ul style="list-style-type: none"> (a) an election donation of money or goods has been given to or for a candidate and the name and address of the donor are known to the candidate or to an agent of the candidate; and (b) the donation has not been used to meet or contribute towards meeting the candidate’s election expenses, <p>the candidate must, subject to subsection (4), ensure that the donation is either returned to the donor or disposed of in accordance with the donor’s instructions.</p> <p>(4) If, in the case of an election donation referred to in subsection (3)—</p> <ul style="list-style-type: none"> (a) the donor fails within a reasonable period to give instructions as to how the donation is to be disposed of; or (b) the donor has died or is not in Hong Kong; or (c) for any other reason it is not possible to return the donation to the donor or to dispose of it in accordance with the donor’s instructions, <p>the candidate must ensure that the donation is given to a charitable institution or trust of a public character chosen by the candidate.</p> <p>(5) If—</p> <ul style="list-style-type: none"> (a) an election donation given to or for a candidate is less than \$500 or, in the case of an election donation consisting of goods, is less than \$500 in value and the name and address of the donor are unknown to the candidate or an agent of the candidate; and (b) the donation is not used to meet or contribute towards meeting the candidate’s election expenses, 	<p>8B. Use of election expenses</p> <p>(2) Any donation which has not been used in accordance with subsection (1) or which exceeds a sum equivalent to the maximum scale of election expenses prescribed under section 13(1) as respects a particular election—</p> <ul style="list-style-type: none"> (a) shall be returned by the candidate to the donor of that donation in accordance with the wishes or instructions of that donor; or (b) shall— <ul style="list-style-type: none"> (i) in the absence of any such wishes or instructions; (ii) in the event of the absence or death of the donor; (iii) by reason of the impracticality of returning that donation for any other reasonable cause (including the size of the donation otherwise to be so returned), <p>be used for the purpose of benefitting such charitable institution or trust of a public character as the candidate may select.</p>

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<p>the candidate must ensure that the donation is given to a charitable institution or trust of a public character chosen by the candidate.</p> <p>(6) If the aggregate of all election donations (excluding donations of services) given to or for a particular candidate or a particular group of candidates exceeds the maximum amount prescribed under section 44, the candidate or the candidates belonging to the group must, except as provided by subsection (7), ensure that the excess is either returned to the donors or disposed of in accordance with the instructions of the donors.</p> <p>(7) If, in the case of an election donation, or a part of an election donation, that forms part of the excess referred to in subsection (6)—</p> <p>(a) the donor—</p> <p>(i) fails within a reasonable period to give instructions as to how the donation or the part of the donation is to be disposed of; or</p> <p>(ii) has died or is not in Hong Kong; or</p> <p>(iii) cannot be identified; or</p> <p>(b) for any other reason it is not possible to return the donation or part to the donor or to dispose of it in accordance with the donor's instructions,</p> <p>the candidate, or the candidates belonging to the group, must ensure that the donation or part is given to a charitable institution or trust of a public character chosen by the candidate or those candidates.</p> <p>(8) A candidate engages in corrupt conduct at an election if the candidate—</p> <p>(a) fails to comply with subsection (1) or (2)(a); or</p> <p>(b) fails to comply with any other requirement of this section before the time when the candidate's election return for the election is lodged in accordance with section 36.</p> <p>(9) In this section, "charitable institution or trust of a public character" (慈善機構或屬公共性質的信託) means a charitable institution or trust of a public character that is exempt from tax under section 88 of the Inland Revenue Ordinance (Cap. 112).</p> <p>20. Corrupt conduct to lodge false or misleading election return</p> <p>A candidate engages in corrupt conduct at an election if the candidate, in an election return lodged under section 36, makes a statement that the candidate knows or ought to know is materially false or misleading.</p>	<p>29. Declaration of election expenses</p> <p>(5) Subject to subsection (8), any candidate who knowingly makes a false statement in the return and declaration or any return of donations, as the case may be, shall be deemed to be guilty of a corrupt practice and shall be guilty of an offence and liable to a fine of \$100,000 and to imprisonment for 3 years.</p>

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<p>21. Corrupt conduct to withdraw election petition or election appeal for a bribe</p> <p>(1) A person engages in corrupt conduct at an election if the person, having lodged an election petition or an election appeal—</p> <p>(a) withdraws the petition or appeal in return for an advantage solicited by the person or offered by another person; or</p> <p>(b) solicits or accepts an advantage as an inducement to withdraw the petition or appeal.</p> <p>(2) A person engages in corrupt conduct at an election if the person—</p> <p>(a) offers an advantage to a person who has lodged an election petition or an election appeal as an inducement to withdraw the petition or appeal; or</p> <p>(b) offers an advantage to another person to get the other person to induce or try to induce a person who has lodged an election petition or an election appeal to withdraw the petition or appeal.</p> <p>(3) A person engages in corrupt conduct at an election if the person solicits or accepts a reward for—</p> <p>(a) having withdrawn an election petition or an election appeal; or</p> <p>(b) having induced another person to withdraw such a petition or appeal.</p> <p>(4) A person engages in corrupt conduct at an election if the person—</p> <p>(a) offers a reward to another person for having withdrawn or agreed to withdraw an election petition or an election appeal; or</p> <p>(b) offers a reward to another person for having got a person who has lodged an election petition or an election appeal to withdraw the petition or appeal.</p> <p>(5) For the purposes of this section—</p> <p>(a) a person solicits an advantage or reward if the person asks for, or shows a willingness to receive, an advantage or reward, either for the person’s own benefit or for the benefit of another person; and</p> <p>(b) a person accepts an advantage or reward if the person receives or obtains an advantage or reward, or agrees to receive or obtain an advantage or reward, either for the person’s own benefit or for the benefit of another person; and</p> <p>(c) a person offers an advantage or reward if the person confers, undertakes to confer or shows a willingness to confer, an advantage or reward on another person.</p>	<p>NO EQUIVALENCE</p>

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<p style="text-align: center;">PART 3</p> <p style="text-align: center;">ILLEGAL CONDUCT</p> <p>22. What penalties can be imposed for illegal conduct at elections?</p> <p>(1) Any person who engages in illegal conduct at an election commits an offence and is—</p> <ul style="list-style-type: none"> (a) if tried summarily, liable on conviction to a fine at level 5 and to imprisonment for 1 year; or (b) if tried on indictment, liable on conviction to a fine of \$200,000 and to imprisonment for 3 years. <p>(2) A person may be convicted of an offence of having engaged in illegal conduct at an election if the person is found to have engaged in the conduct before, during or after the election period.</p> <p>23. Illegal conduct for persons other than candidates and election expense agents to incur election expenses</p> <p>(1) A person, other than a candidate or a candidate’s election expense agent, engages in illegal conduct at an election if the person incurs election expenses at or in connection with the election.</p> <p>(2) If a candidate who belongs to a group of candidates incurs election expenses at or in connection with an election, the candidate engages in illegal conduct at the election unless each other candidate who belongs to the group has authorized the candidate to be the other candidate’s election expense agent.</p> <p>(3) A candidate engages in illegal conduct at an election if election expenses incurred by the candidate or by the candidate’s election expense agent are not included in the candidate’s election return.</p> <p>(4) An election expense agent engages in illegal conduct at an election if the agent incurs election expenses that exceed the amount specified in the agent’s authorization.</p>	<p>10. Definition and punishment of illegal practices at elections</p> <p>Any person who contravenes the provisions of section 12(1), (1A) or (3), 13(2), 14, 15, 16(1) or (1A), 17(1) or (2), 19(1) or (2), 22 or 23 shall be deemed to be guilty of an illegal practice and shall be liable—</p> <ul style="list-style-type: none"> (a) on summary conviction to a fine of \$50,000 and to imprisonment for 1 year; (b) on conviction on indictment to a fine of \$100,000 and to imprisonment for 3 years. <p>12. Expenses incurred by candidate and authorized persons</p> <p>(1) Except in the case of an election in respect of a Rural Committee, no person other than a candidate or a person authorized in writing by the candidate for the purpose in accordance with regulations in force under the Electoral Affairs Commission Ordinance (Cap. 541) shall incur any election expenses.</p> <p>(1A) In the case of an election in respect of a Rural Committee, no person other than the candidate or a person authorized in writing by the candidate for the purpose and whose appointment has been notified to the returning officer shall incur any election expenses.</p> <p>(2) Any election expenses incurred by a person authorized to incur election expenses shall be duly returned as part of the candidate’s election expenses.</p> <p>(3) A person authorized to incur election expenses shall not incur any such expenses in excess of the amount specified in his authorization.</p>

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<p>(5) For the purposes of this Ordinance, a person is an election expense agent of a candidate (other than a candidate who is a member of a group of 2 or more candidates) if—</p> <ul style="list-style-type: none"> (a) the person is authorized in writing by the candidate to incur election expenses at or in connection with the election on behalf of the candidate; and (b) the maximum amount of election expenses that the person is authorized to incur is specified in the authorization; and (c) a copy of the authorization has been served on the appropriate returning officer. <p>(6) For the purposes of this Ordinance, a person (including a candidate) is an election expense agent of a group of 2 or more candidates only if—</p> <ul style="list-style-type: none"> (a) the person is authorized in writing by each of the candidates to incur election expenses at or in connection with the election on behalf of the group; and (b) the maximum amount of election expenses that the person is authorized to incur is specified in the authorization; and (c) a copy of the authorization has been served on the appropriate returning officer. <p>(7) An authorization referred to in subsection (5) or (6) remains in force until the end of the relevant election period unless it is revoked earlier.</p> <p>24. Illegal conduct for candidate to incur election expenses exceeding prescribed amount</p> <p>(1) A candidate engages in illegal conduct at an election if the aggregate amount of election expenses incurred at or in connection with the election by or on behalf of the candidate exceeds the maximum amount of election expenses prescribed for a candidate by regulations in force under section 44.</p> <p>(2) If regulations under section 44 prescribe a maximum amount of election expenses for groups of candidates at an election at which the list system of voting is used, each member of a group of candidates engages in illegal conduct at the election if the aggregate amount of the election expenses incurred at or in connection with the election by or on behalf of the group exceeds the maximum amount of election expenses so prescribed.</p>	<p>13. Election expenses</p> <p>(1) The Governor in Council may by order prescribe the maximum scale of election expenses which may be incurred by or on behalf of a candidate.</p> <p>(2) Subject to such exceptions as may be allowed in pursuance of this Ordinance no candidate shall pay or permit to be paid any sum or incur or permit to be incurred any election expenses in excess of the maximum scale prescribed under subsection (1).</p> <p>(3) It shall be a defence to a charge of an illegal practice contrary to subsection (2) if the candidate proves that the sum was paid or the election expenses were incurred, as the case may be, without negligence on his part and either without his consent or in excess of any authorization under section 12.</p>

Provisions of the Elections (Corrupt and Illegal Conduct) Bill	Provisions of the Corrupt and Illegal Practice Ordinance
<p>(3) In a prosecution alleging illegal conduct under this section by a candidate, it is a defence for the candidate to prove that the election expenses were incurred—</p> <ul style="list-style-type: none"> (a) without negligence by the candidate; and (b) either without the candidate’s consent or in excess of an amount specified in an authorization under section 23. <p>(4) For the purposes of this section, the value of an election donation consisting of goods or services is taken to be an amount of election expense incurred by or on behalf of a particular candidate or particular candidates if the goods or services are used for the purpose of promoting the election of the candidate or candidates or of prejudicing the election of another candidate or other candidates.</p> <p>25. Illegal conduct to publish false statement that a person is or is not a candidate</p> <p>(1) A person engages in illegal conduct at an election if the person publishes a statement, knowing it to be false, that the person or another person is a candidate at the election.</p> <p>(2) A candidate engages in illegal conduct at an election if the candidate publishes a statement, knowing it to be false, that the candidate is no longer a candidate at the election.</p> <p>(3) A person engages in illegal conduct at an election if the person publishes a statement, knowing it to be false, that another person who has been nominated as a candidate is no longer a candidate at the election.</p>	<p>15. Publishing false statement of withdrawal</p> <p>No person shall before or during any election knowingly publish a false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate.</p>

Provisions of the Elections (Corrupt and Illegal Conduct) Bill	Provisions of the Corrupt and Illegal Practice Ordinance
<p>26. Illegal conduct to publish false or misleading statements about a candidate</p> <p>(1) A person engages in illegal conduct at an election if the 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.</p> <p>(2) A candidate engages in illegal conduct at an election if the candidate publishes a materially false or misleading statement of fact about the candidate or candidates with whom the candidate is associated, or about another candidate or other candidates, for the purpose of —</p> <ul style="list-style-type: none"> (a) promoting the election of the candidate or candidates with whom the candidate is associated; or (b) prejudicing the election of the other candidate or candidates. <p>(3) For the purposes of this section, 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.</p> <p>(4) In a prosecution for an offence of having engaged in illegal conduct under subsection (1) or (2), it is a defence to prove that the defendant believed on reasonable grounds that the statement was true at the time when it was made.</p>	<p>16. False statements concerning a candidate</p> <p>(1) No person shall before or during any election for the purpose of affecting the return of any candidate at such election, make or publish any false statement of fact in relation to the personal character, qualifications or conduct of such candidate.</p> <p>(1A) No candidate shall before or during any election for the purpose of promoting or procuring his election at such election, wilfully make or publish any false statement of fact in relation to himself including, but without prejudice to the generality thereof, his character, qualifications or conduct.</p> <p>(1B) No person shall be deemed to be guilty of a contravention of subsection (1) or (1A) if he can show that he had reasonable grounds for believing and did believe the statement made by him.</p> <p>(2) Where a body corporate is guilty of a contravention of subsection (1), every person who, at the time of such contravention, was a director or officer of the body corporate shall be deemed to be guilty of a contravention of the subsection unless he proves that the contravention was without his knowledge or that he exercised all due diligence to prevent the contravention.</p> <p>(3) Any person who shall make or publish any false statement of fact in contravention of subsection (1) or (1A) may be restrained by interim or perpetual injunction by the Court from any repetition of such false statement or any false statement of a similar character in relation to such candidate, and for the purpose of granting an interim injunction prima facie proof of the falsity of the statement shall be sufficient.</p>

Provisions of the Elections (Corrupt and Illegal Conduct) Bill	Provisions of the Corrupt and Illegal Practice Ordinance
<p>27. Illegal conduct to publish election advertisement that includes false claim of support</p> <p>(1) A candidate engages in illegal conduct at an election if the candidate publishes, or authorizes the publication of, an election advertisement that includes—</p> <ul style="list-style-type: none"> (a) the name or logo of or associated with a person or an organization; or (b) a name or logo that is substantially similar to the name or logo of or associated with a person or an organization; or (c) a pictorial representation of a person, <p>in such a way as to imply, or to be likely to cause electors to believe, that the candidate or candidates with whom the candidate is associated have the support of the person or organization.</p> <p>(2) A person engages in illegal conduct at an election if the person publishes, or authorizes the publication of, an election advertisement that includes—</p> <ul style="list-style-type: none"> (a) the name or logo of or associated with another person or an organization; or (b) a name or logo that is substantially similar to the name or logo of or associated with another person or an organization; or (c) a pictorial representation of another person, <p>in such a way as to imply, or to be likely to cause electors to believe, that a particular candidate or particular candidates have the support of the other person or organization.</p> <p>(3) In proceedings for an offence under this section, it is a defence for the defendant to prove that, before the publication of the election advertisement, the affected person or organization consented in writing to the inclusion of the name, logo or pictorial representation concerned.</p> <p>(4) For the purposes of subsection (3), it is sufficient for the defendant to prove that —</p> <ul style="list-style-type: none"> (a) the consent was given by an officer of the affected organization; and (b) the defendant believed on reasonable grounds that the officer had authority to give the consent. 	<p>17. False claim of support</p> <p>(1) No candidate shall, without reasonable excuse, before or during any election for the purpose of promoting or procuring his election at such election use or publish in any form whatsoever the name or device of any person or organization, or a name or device which is substantially similar to the name or device of any person or organization, in such a way as to infer, or to be likely to cause, encourage or persuade any elector to believe, that that candidate has the support of that person or organization unless that candidate or his election agent has obtained or received from that person or organization his or its prior consent or permission in writing to such use or publication of that name or device in connection with the election.</p> <p>(2) No person shall, without reasonable excuse, include or cause to be included in any address, bill, notice, placard or poster referred to in section 19 the name or device of any person or organization, or a name or device which is substantially similar to the name or device of any person or organization, in such a way as to infer, or to be likely to cause, encourage or persuade any elector to believe, that any candidate has the support of that person or organization unless that candidate or his election agent has received or obtained from that person or organization his or its prior consent or permission in writing to such inclusion of that name or device in that address, bill, notice, placard or poster.</p> <p>(3) For the purposes of this section, oral consent or permission obtained from any person or organization referred to in subsection (1) or (2) shall not constitute a reasonable excuse.</p>

Provisions of the Elections (Corrupt and Illegal Conduct) Bill	Provisions of the Corrupt and Illegal Practice Ordinance
<p>(5) A candidate or other person engages in illegal conduct for having published or authorized the publication of an election advertisement of a kind referred to in subsection (1) or (2) despite the fact that the advertisement contains a statement to the effect that the inclusion in the advertisement of a name or logo of or associated with a person or an organization, or a pictorial representation of a person, does not imply support by the person or organization for a candidate or candidates.</p> <p>(6) A person engages in illegal conduct at an election if the person purports to give consent in writing to the inclusion in an election advertisement of the name or logo of or associated with an organization without having been approved by the governing body of the organization or by a resolution of the members of the organization passed at a general meeting.</p> <p>(7) A person engages in illegal conduct at an election if the 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.</p> <p>(8) In a prosecution for an offence against this section, the onus of proving a reasonable excuse lies on the defendant.</p> <p>(9) In this section, “support” (支持), in relation to a person or an organization, includes support for the policies or activities of the person or organization.</p>	

Provisions of the Elections (Corrupt and Illegal Conduct) Bill	Provisions of the Corrupt and Illegal Practice Ordinance
<p>28. Court empowered to restrain person from repeating certain illegal conduct</p> <p>(1) The Court may, on the hearing of an application under this section, grant an injunction restraining a person who is found to have engaged in illegal conduct at an election in contravention of section 25, 26 or 27—</p> <ul style="list-style-type: none"> (a) from continuing or repeating the conduct; or (b) from engaging in any other conduct of a similar nature. <p>(2) An injunction under this section may be granted on such terms as the Court considers appropriate.</p> <p>(3) The Court may, in addition to granting an injunction, make an order requiring a person to do a specified act.</p> <p>(4) The Court may grant an interim injunction pending the determination of an application under this section. Such an injunction may be granted merely on the basis of rebuttable evidence of the illegal conduct alleged to have been engaged in.</p> <p>(5) An application for an injunction under this section can be made by—</p> <ul style="list-style-type: none"> (a) a candidate at the election— <ul style="list-style-type: none"> (i) for the same constituency; or (ii) in the case of an election relating to the Heung Yee Kuk or a Rural Committee, for the same body; or (b) the election agent of such a candidate; or (c) a person who is registered as an elector for the constituency or body concerned; or (d) if the election is one at which corporate electors are eligible to vote, a member of a body that is registered as a corporate elector for the constituency or body concerned; or (e) if the election is to elect a person as a Member of the Legislative Council to represent a functional constituency, a body or natural person referred to in section 25(5) or (6) of the Legislative Council Ordinance (Cap. 542). <p>(6) An application for an injunction under this section can also be made by—</p> <ul style="list-style-type: none"> (a) a person who alleges that the name or logo of or associated with the person, or a pictorial representation of the person; or (b) an organization that alleges that the name or logo of or associated with the organization, <p>has been included in an election advertisement in contravention of section 27.</p>	<p>16. False statements concerning a candidate</p> <p>(3) Any person who shall make or publish any false statement of fact in contravention of subsection (1) or (1A) may be restrained by interim or perpetual injunction by the Court from any repetition of such false statement or any false statement of a similar character in relation to such candidate, and for the purpose of granting an interim injunction prima facie proof of the falsity of the statement shall be sufficient.</p>

Provisions of the Elections (Corrupt and Illegal Conduct) Bill	Provisions of the Corrupt and Illegal Practice Ordinance
<p style="text-align: center;">PART 4</p> <p style="text-align: center;">COURT PROCEEDINGS RELATING TO CORRUPT AND ILLEGAL CONDUCT</p> <p>29. Interpretation: Part 4</p> <p>(1) For the purposes of this Part, 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.</p> <p>(2) For the purposes of this Part, a candidate is not to be regarded as having engaged in corrupt or illegal conduct by an agent if the candidate satisfies the Court that—</p> <ul style="list-style-type: none"> (a) the agent engaged in the conduct without the candidate’s consent; and (b) either— <ul style="list-style-type: none"> (i) the candidate was not aware, and could not be reasonably expected to be aware, of the agent’s conduct; or (ii) if the candidate was or ought to have been aware of the agent’s conduct, the candidate took all reasonable steps necessary to prevent the agent from engaging in the conduct. 	<p>9. Incapacity of candidate reported guilty of corrupt practice</p> <p>(1A) Where upon the hearing of an election petition relating to an election to become a member of a body other than the Legislative Council, it is found by the certificate or report of the Court made in pursuance of the appropriate section of the relevant Ordinance, that any corrupt practice has been proved to have been committed in reference to the election questioned by such petition by or with the knowledge and consent of any candidate at such election, that candidate shall not, for 5 years from the date of that certificate or report (as the case may be), be capable of being elected or of holding office as a member, officer or servant of that body, and he shall further be subject to the same incapacities as if at the date of the said certificate or report he had been convicted of a corrupt practice.</p> <p>24. Incapacity of candidate reported guilty of illegal practice</p> <p>(1) Where upon the hearing of an election petition relating to an election to become a Member of the Legislative Council, it is found by the certificate or report of the Court made in pursuance of the relevant Ordinance that any illegal practice, other than an offence contrary to section 19 of this Ordinance, has been proved to have been committed in reference to the election questioned by or with the knowledge and consent of any candidate at such election, the candidate shall be incapable of—</p> <ul style="list-style-type: none"> (a) being elected as a Member of the Legislative Council; or (b) holding office as an officer or servant of that Council, <p>during a period of 5 years from the date of that certificate or report (as the case may be).</p>

Provisions of the Elections (Corrupt and Illegal Conduct) Bill	Provisions of the Corrupt and Illegal Practice Ordinance
	<p>25. Report exonerating candidate in certain cases of corrupt and illegal practice by agents</p> <p>Where, upon the trial of an election petition, the Court reports that a candidate at the election questioned by the petition has been guilty by his agents of a corrupt practice or of an illegal practice, in relation to such election, and the Court further reports that the candidate has proved to the Court—</p> <ul style="list-style-type: none"> (a) that no corrupt or illegal practice was committed at such election by the candidate or with his knowledge and consent, and the offences mentioned in the said report were committed without the sanction or connivance of such candidate; and (b) that all reasonable means for preventing the commission of corrupt or illegal practices at such election were taken by and on behalf of the candidate; and (c) that the offences mentioned in the said report were of a trivial, unimportant and limited character; and (d) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate and of his agents, <p>then the Court shall, notwithstanding the commission of the offences mentioned in that report, determine that the candidate, whose election is questioned by that election petition, was duly elected, and order that the candidate shall not be subject to any incapacity under this Ordinance or any other enactment.</p>

Provisions of the Elections (Corrupt and Illegal Conduct) Bill	Provisions of the Corrupt and Illegal practice Ordinance
<p>30. Court to declare candidate to be elected in certain circumstances despite corrupt or illegal conduct by agents</p> <p>(1) If, on the hearing of an election petition alleging that a candidate was not duly elected because the candidate engaged in corrupt or illegal conduct at the election, the Court finds that the conduct was engaged in by an agent of the candidate, the Court must nevertheless determine the candidate to have been duly elected if satisfied that—</p> <ul style="list-style-type: none"> (a) the candidate did not personally engage in the conduct and— <ul style="list-style-type: none"> (i) was not aware of the conduct; or (ii) if aware of the conduct, did not consent to or connive at it; and (b) the conduct was of a trivial nature; and (c) the candidate took all reasonable steps to ensure that no corrupt or illegal conduct was engaged in at the election in relation to the candidate; and (d) neither the candidate nor any of the candidate’s agents engaged in any other corrupt or illegal conduct in connection with the election. <p>(2) If the Court makes a determination under subsection (1) in respect of particular conduct, it must also order that the candidate concerned is not to be subject to any disqualification under the relevant electoral law in relation to that conduct.</p>	<p>25. Report exonerating candidate in certain cases of corrupt and illegal practice by agents</p> <p>Where, upon the trial of an election petition, the Court reports that a candidate at the election questioned by the petition has been guilty by his agents of a corrupt practice or of an illegal practice, in relation to such election, and the Court further reports that the candidate has proved to the Court—</p> <ul style="list-style-type: none"> (a) that no corrupt or illegal practice was committed at such election by the candidate or with his knowledge and consent, and the offences mentioned in the said report were committed without the sanction or connivance of such candidate; and (b) that all reasonable means for preventing the commission of corrupt or illegal practices at such election were taken by and on behalf of the candidate; and (c) that the offences mentioned in the said report were of a trivial, unimportant and limited character; and (d) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate and of his agents, <p>then the Court shall, notwithstanding the commission of the offences mentioned in that report, determine that the candidate, whose election is questioned by that election petition, was duly elected, and order that the candidate shall not be subject to any incapacity under this Ordinance or any other enactment.</p>

Provisions of the Elections (Corrupt and Illegal Conduct) Bill	Provisions of the Corrupt and Illegal Practice Ordinance
<p>31. Court may make orders relieving candidates from consequences of certain illegal conduct</p> <p>(1) A candidate, candidate’s agent or any other person who has done or omitted to do an act that, but for this section, would be illegal conduct at an election may apply to the Court for an order under subsection (2).</p> <p>(2) On the hearing of an application under subsection (1), the Court may make an order relieving the applicant from penalties and disqualifications that are imposed by, or could be imposed under an electoral law for any act or omission of the applicant that, but for this section, would be illegal conduct at an election, but only if the Court—</p> <p>(a) is satisfied that—</p> <p>(i) the act or omission was due to inadvertence, an accidental miscalculation or some other reasonable cause and was not due to bad faith; and</p> <p>(ii) where the Court requires notice of the application to be given in Hong Kong, the notice has been given; and</p> <p>(b) believes it to be just that the applicant should not be subjected to one or more of those penalties and disqualifications.</p> <p>(3) The publication of an election advertisement in contravention of section 34(1) or (4) is taken to be illegal conduct for the purposes of this section.</p> <p>32. Witness who is party to corrupt or illegal conduct not to be regarded as accomplice</p> <p>In a prosecution against a person for having engaged in corrupt or illegal conduct at an election, a witness is not to be regarded as an accomplice only because the witness was a party to the conduct.</p>	<p>26. Power of Court to except innocent act from being illegal practices.</p> <p>Where, on application made by a candidate, any agent or other person, it is shown to the Court by such evidence as seems to the Court sufficient—</p> <p>(a) that any act or omission of such candidate or of any agent or other person, would, by reason of being in contravention of any of the provisions of this Ordinance, be, but for this section, an illegal practice; and</p> <p>(b) that such act or omission arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from want of good faith; and</p> <p>(c) that such notice (if any) of the application has been given in Hong Kong as to the Court seems fit; and</p> <p>(d) that in the circumstances it seems to the Court to be just that the said candidate, agent and person, or any of them, should not be subject to any of the consequences under this Ordinance of the said act or omission,</p> <p>the Court may make an order allowing such act or omission to be an exception from the provisions of this Ordinance which would otherwise make the same an illegal practice, and thereupon such candidate, agent, or person shall not be subject to any of the consequences under this Ordinance or any other enactment of the said act or omission.</p> <p>9A. Witness who is also party to offence not to be regarded as accomplice</p> <p>Notwithstanding any rule of law or practice to the contrary, no witness shall, in any proceedings for an offence under this Part, be regarded as an accomplice by reason only of his being a party to the corrupt practice giving rise to the proceedings.</p> <p>24A. Witness who is also party to offence not to be regarded as accomplice</p> <p>Notwithstanding any rule of law or practice to the contrary, no witness shall, in any proceedings for an offence under this Part, be regarded as an accomplice by reason only of his being a party to the illegal practice giving rise to the proceedings.</p>

Provisions of the Elections (Corrupt and Illegal Conduct) Bill	Provisions of the Corrupt and Illegal Practice Ordinance
<p style="text-align: center;">PART 5</p> <p style="text-align: center;">ELECTORAL ADVERTISING</p> <p>33. Interpretation: Part 5 In this Part— “incumbent candidate” (現任議員候選人) means— (a) a serving Member of the Legislative Council, or a person who was a Member of the Legislative Council immediately before its dissolution; or (b) a serving member of a District Council or a Provisional District Board; or (c) a serving member of the Heung Yee Kuk; or (d) a serving Chairman, Vice-Chairman or member of the Executive Committee of a Rural Committee, who is seeking re-election to the same body or election to another body to which this Ordinance applies; “performance report” (工作表現報告) means a document that gives details of activities organized, services performed or work done by an incumbent candidate as— (a) a serving Member of the Legislative Council; or (b) a serving member of a District Council or a Provisional District Board; or (c) a serving member of the Heung Yee Kuk; or (d) a serving Chairman, Vice-Chairman or member of the Executive Committee of a Rural Committee; “printer” (印刷人), of a document, includes any person who reproduces the document by any means; “registered local newspaper” (註冊本地報刊) means a newspaper registered under section 7 of the Registration of Local Newspapers Ordinance (Cap. 268).</p>	<p>19. Provisions as to addresses, bills, notices, etc.</p> <p>(5) For the purposes of this section— “incumbent candidate” (現任議員候選人) means— (a) a serving member of a District Board who seeks election to a District Board; (b) a serving member of the Urban Council or the Regional Council who seeks election either to the Urban Council or the Regional Council; (c) a serving member of the Legislative Council or person who was a member of the Legislative Council immediately prior to its dissolution who seeks election to the Legislative Council; or (d) a serving chairman, vice-chairman or member of the Executive Committee of a Rural Committee who seeks election to be chairman, vice-chairman or member of the Executive Committee of a Rural Committee; “performance report” (工作表現報告) means any printed material giving details of activities organized, services rendered or work done by an incumbent candidate in the capacity of a serving member of a District Board, the Urban Council, the Regional Council or the Legislative Council, or a serving chairman, vice-chairman or member of the Executive Committee of a Rural Committee; “printed material” (印刷品) includes material reproduced by any method of multiplying copies except by means of carbon copies reproduced by manuscript or by typewriter manipulated by hand; “printer” (印刷人) includes any person producing such printed material.</p>

Provisions of the Elections (Corrupt and Illegal Conduct) Bill	Provisions of the Corrupt and Illegal Practice Ordinance
<p>34. Offence to publish election advertisements that do not meet certain requirements</p> <p>(1) A person must not publish a printed election advertisement that fails to show, in the English or Chinese language—</p> <ul style="list-style-type: none"> (a) the name and address of the printer; and (b) the date on which it was printed; and (c) the number of copies printed. <p>(2) Subsection (1) does not apply to an election advertisement that is printed in a registered local newspaper.</p> <p>(3) Subsection (1) is not contravened in relation to the publication of a printed election advertisement if, before the advertisement is published, the publisher, or a person authorized by the publisher, has lodged with the appropriate returning officer a statutory declaration that states—</p> <ul style="list-style-type: none"> (a) the name and address of the printer; and (b) the date on which it was printed; and (c) the number of copies printed. <p>(4) A person must not publish a printed election advertisement unless 2 copies of the advertisement have been lodged with the appropriate returning officer.</p> <p>(5) A person who contravenes subsection (1) or (4) commits an offence and is—</p> <ul style="list-style-type: none"> (a) if tried summarily, liable on conviction to a fine at level 5 and to imprisonment for 1 year; or (b) if tried on indictment, liable on conviction to a fine of \$200,000 and to imprisonment for 3 years. <p>(6) A returning officer must keep each copy of statutory declaration or an election advertisement lodged with the officer under this section for 6 months after the date on which the result of the relevant election is published and may then destroy it or dispose of it in some other manner.</p> <p>(7) Any person who authorizes the publication of an election advertisement is taken to have published the advertisement for the purposes of this section.</p> <p>(8) A performance report published by an incumbent candidate during an election period is an election advertisement for the purposes of this section.</p>	<p>19. Provisions as to addresses, bills, notices, etc.</p> <p>(1) No person shall print, publish, exhibit, distribute or post up or cause to be printed, published, exhibited, distributed or posted up, any address, bill, notice, placard, or poster having reference to an election which, in the case of printed material, fails to bear, in the English or Chinese language, the name and address of the printer together with the date of printing and the number of copies printed.</p> <p>(1A) No person shall be prosecuted for an offence against subsection (1) if, within 7 days of the publication, exhibition, distribution or posting up of the offending printed material, he deposits with the returning officer a statutory declaration giving the name and address of the printer together with the date of printing and the number of copies printed.</p> <p>(2) Any person who publishes, exhibits, distributes or posts up or causes to be published, exhibited, distributed or posted up any address, bill, notice, placard or poster having reference to an election shall, not later than 7 days after the publication, exhibition, distribution or posting up thereof, deposit with the returning officer 2 copies of such address, bill, notice, placard or poster, as the case may be.</p> <p>(3) Each address, bill, notice, placard, poster or statutory declaration deposited with the returning officer in accordance with subsection (1A) or (2) shall be retained by him until the expiration of 6 months after the date upon which the election to which such address, bill, notice, placard, poster or statutory declaration relates and may thereafter be destroyed.</p> <p>(3A) A performance report printed, published, exhibited, distributed or posted up by an incumbent candidate between the date for nomination of candidates and election day shall be deemed to be a form of address, bill, notice, placard or poster having reference to that election.</p> <p>(4) <i>(Repealed 5 of 1980 s. 2)</i></p> <p>(5) For the purposes of this section—</p> <p>“incumbent candidate” (現任議員候選人) means—</p> <ul style="list-style-type: none"> (a) a serving member of a District Board who seeks election to a District Board; (b) a serving member of the Urban Council or the Regional Council who seeks election either to the Urban Council or the Regional Council; (c) a serving member of the Legislative Council or person who was a member of the Legislative Council immediately prior to its dissolution who seeks election to the Legislative Council; or

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<p style="text-align: center;">PART 6</p> <p style="text-align: center;">ELECTION RETURNS</p> <p>35. Interpretation: Part 6</p> <p>For the purposes of this Part, the date on which the result of an election is published is —</p> <ul style="list-style-type: none"> (a) in the case of an election to membership of the Legislative Council or a District Council, the date on which the result of the election is notified in the Gazette; and (b) in the case of an election relating to the Heung Yee Kuk or a Rural Committee, the date on which the result of the election is announced by the returning officer for the election. 	<ul style="list-style-type: none"> (d) a serving chairman, vice-chairman or member of the Executive Committee of a Rural Committee who seeks election to be chairman, vice-chairman or member of the Executive Committee of a Rural Committee; <p>“performance report” (工作表現報告) means any printed material giving details of activities organized, services rendered or work done by an incumbent candidate in the capacity of a serving member of a District Board, the Urban Council, the Regional Council or the Legislative Council, or a serving chairman, vice-chairman or member of the Executive Committee of a Rural Committee;</p> <p>“Printed material” (印刷品) includes material reproduced by any method of multiplying copies except by means of carbon copies reproduced by manuscript or by typewriter manipulated by hand;</p> <p>“printer” (印刷人) includes any person producing such printed material.</p> <p>NO EQUIVALENCE</p>

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<p>36. Candidate to lodge election return with appropriate authority</p> <p>(1) Each candidate at an election must lodge with the appropriate authority an election return setting out—</p> <ul style="list-style-type: none"> (a) the candidate’s election expenses at the election; and (b) all election donations received by or on behalf of the candidate in connection with the election. <p>(2) The candidate must ensure that the return—</p> <ul style="list-style-type: none"> (a) is lodged within 30 days after the date of publication of the result of the election, or within such extended period as may be allowed by the Court under section 39; and (b) is accompanied— <ul style="list-style-type: none"> (i) in the case of each election expense of \$100 or more, by an invoice and a receipt giving particulars of the expenditure; and (ii) in the case of each election donation of \$500 or more or, in the case of an election donation consisting of goods or a service, of \$500 or more in value, by a copy of the receipt issued to the donor giving particulars of the donor and the donation; and (iii) where an election donation or part of an election donation that was received by or on behalf of the candidate in connection with the election was not used for that purpose was disposed of in accordance with section 19, by a copy of the receipt given by the recipient of the donation or part; and (iv) where an election donation or part of such a donation that was received by or on behalf of the candidate in connection with the election was not used for that purpose was not disposed of in accordance with section 19, by an explanation setting out the reason why it was not disposed of in accordance with that section; and (v) by a declaration in a form provided or specified by the appropriate authority verifying the contents of the return. <p>(3) For the purposes of subsection (2), an invoice and a receipt for an election expense may be included in the same document.</p>	<p>29. Declaration of election expenses</p> <p>(1) Subject to subsections (7), (8) and (12), within 30 days of the publication in the Gazette of the result of an election every candidate at such election shall send to the returning officer a return of his election expenses and donations and accompanying declaration in such form as may be specified from time to time by the Electoral Affairs Commission for that purpose.</p> <p>(2) The return of election expenses and donations shall contain—</p> <ul style="list-style-type: none"> (a) a statement of all the election expenses, vouched (except in the case of sums under \$50) by bills stating the particulars and by receipts; (b) a statement of all the donations, vouched (except in the case of donations under \$500) by copies of receipts issued to every person from whom those donations may have been received; and (c) a statement of all the donations returned or used in accordance with section 8B(2), vouched by receipts received from the recipients of those donations.

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<p>37. Offence to fail to lodge election return</p> <p>(1) A candidate who fails to lodge an election return as required by section 36 commits an offence and is—</p> <ul style="list-style-type: none"> (a) if tried summarily, liable on conviction to a fine at level 5 and to imprisonment for 1 year; or (b) if tried on indictment, liable on conviction to a fine of \$200,000 and to imprisonment for 3 years. <p>(2) A candidate is not liable to be convicted of an offence under subsection (1) for failing to have lodged an election return as required by section 36 if—</p> <ul style="list-style-type: none"> (a) the failure is the subject of an order made under section 39; and (b) the further period specified in the order has not yet expired. <p>(3) A candidate who is convicted of an offence under subsection (1) is subject to the same disqualifications as a person convicted of having engaged in illegal conduct.</p> <p>38. Offence to participate in affairs of body if no election return is lodged</p> <p>(1) A person commits an offence if, having been elected to the Legislative Council or some other body to which this Ordinance applies, the person participates in the affairs of the Council or body as a member without having lodged an election return as required by section 36.</p> <p>(2) A person found guilty of an offence under this section is liable on summary conviction to a fine of \$5,000 for each day on which the person participates as a member of the Legislative Council or body without having lodged an election return as required by section 36.</p>	<p>29. Declaration of election expenses</p> <p>(3) Subject to subsection (4), any candidate who fails to comply with subsection (1) or (2) shall be guilty of an offence and shall be liable—</p> <ul style="list-style-type: none"> (a) on summary conviction to a fine of \$50,000 and to imprisonment for 1 year; (b) on conviction on indictment to a fine of \$100,000 and to imprisonment for 3 years. <p>29. Declaration of election expenses</p> <p>(11) Any candidate who sits or votes in any body to which he has been elected after the expiry of the period of 30 days mentioned in subsection (1) or such further or other period as may be specified in any order under subsection (8) and without having sent to the returning officer the return and declaration shall be guilty of an offence and liable to a fine of \$5,000 for every day after such expiry on which he so sits or votes in such body.</p>

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<p>39. Court may grant relief to candidate in certain circumstances</p> <p>(1) A candidate who has failed to lodge an election return as required by section 36 within the permitted period can apply to the Court for an order allowing the candidate to lodge with the appropriate authority an election return within such further period as the Court specifies.</p> <p>(2) On the hearing of an application made under subsection (1), the Court may make the order sought, but only if it is satisfied that the failure to lodge an election return as required by section 36 was attributable to—</p> <ul style="list-style-type: none"> (a) the applicant’s illness or absence from Hong Kong; or (b) the death, illness, absence from Hong Kong or misconduct of an agent or employee of the applicant; or (c) inadvertence or an accidental miscalculation by the applicant or any other person; or (d) some other reasonable cause, <p>and was not due to the applicant’s bad faith.</p> <p>(3) A candidate can also apply to the Court for an order enabling the candidate to correct any error or false statement in an election return or in any document accompanying the return.</p> <p>(4) On the hearing of an application made under subsection (3), the Court may make the order sought, but only if it is satisfied that the error or false statement was due to—</p> <ul style="list-style-type: none"> (a) misconduct of an agent or employee of the applicant; or (b) inadvertence or an accidental miscalculation by the applicant or any other person; or (c) some other reasonable cause, <p>and was not due to the applicant’s bad faith.</p> <p>(5) In making an order under this section, the Court may impose such conditions as it considers to be appropriate for carrying into effect the objects of this Ordinance.</p> <p>(6) A person who fails to comply with a condition imposed in an order made under this section commits an offence and is—</p> <ul style="list-style-type: none"> (a) if tried summarily, liable to a fine at level 5 and to imprisonment for 1 year; or (b) if tried on indictment, liable on conviction to a fine of \$200,000 and to imprisonment for 3 years. 	<p>29. Declaration of election expenses</p> <p>(7) A candidate who fails to comply with subsection (1) or (2) may apply to the Court for an order permitting the return and declaration to be sent to the returning officer within such period as to the Court seems just or an order to enable the candidate to correct any error or false statement in the return or declaration on the grounds that the failure to make the return or declaration, or either of them, or any error or false statement therein has arisen by reason of his illness or absence or of the absence, death, illness, or misconduct of any agent, clerk, or officer, or by reason of inadvertence, or of any reasonable cause of a like nature, and not by reason of want of good faith on the part of the applicant.</p> <p>(7A) A candidate who sends to the Electoral Affairs Commission a return of donations may apply to the Court for an order to enable the candidate to correct any error or false statement in that return of donations on the grounds that any error or false statement therein has arisen by reason of his illness or absence or of the absence, death, illness or misconduct of any agent, clerk, or officer, or by reason of inadvertence, or of any reasonable cause of a like nature, and not by reason of want of good faith on the part of the applicant.</p> <p>(8) The Court may, after reasonable notice of the application and on production of such evidence of the grounds stated in the application and of the good faith of the applicant as to the Court seems fit, make an order referred to in subsection (7) or (7A), as the case may be.</p> <p>(9) An order under subsection (8) may be conditional upon compliance with such terms as to the Court seem calculated for carrying into effect the objects of this Ordinance.</p> <p>(10) A candidate who fails to comply with an order under subsection (8) shall be guilty of an offence and shall be liable—</p> <ul style="list-style-type: none"> (a) on summary conviction to a fine of \$50,000 and to imprisonment for 1 year; (b) on conviction on indictment to a fine of \$100,000 and to imprisonment for 3 years.

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<p>(7) A candidate who is convicted of an offence under subsection (6) is subject to the same disqualifications as a person convicted of having engaged in illegal conduct.</p> <p>40. Appropriate authority to keep election returns</p> <p>(1) The appropriate authority must keep at the office of the authority all election returns lodged with the authority in accordance with section 36.</p> <p>(2) The appropriate authority must, during the relevant period, ensure that copies of the election returns are made available for inspection by any person who, during the authority’s business hours, asks to inspect any of the returns.</p> <p>(3) If a person asks for a copy of an election return or part of a return kept under this section, the appropriate authority must provide the person with such a copy, subject to payment of a copying fee not exceeding an amount calculated in accordance with a rate fixed in accordance with subsection (4).</p> <p>(4) The appropriate authority is required, by notice published in the Gazette, to fix a rate for the purposes of subsection (3). The fixing of the rate is subject to the approval of the Financial Secretary. Such a notice is not subsidiary legislation for the purposes of the Interpretation and General Clauses Ordinance (Cap. 1).</p> <p>(5) After the end of the relevant period, the appropriate authority may arrange for the election returns lodged with the authority to be destroyed, but if, by the end of that period, a candidate who has lodged an election return with the authority asks for it to be returned to the candidate, the authority must comply with the request.</p> <p>(6) For the purposes of this section, the relevant period, in relation to an election return lodged with the appropriate authority, is the period beginning with the time when the return is lodged with the authority and ending with the first anniversary of the date on which the result of the relevant election is published.</p>	<p>29A. Return and declaration to be kept by returning officer</p> <p>(1) The return and declaration sent to the returning officer shall be kept at his office, and shall, at all reasonable times during the period commencing on the day on which they are received by him and ending on the day being the anniversary of the 12 months next after the expiry of the period of 30 days mentioned in section 29(1), be open to inspection by any person on payment of the fee of \$5, and the returning officer shall, on demand, furnish copies thereof or of any part thereof at the price of \$2 for every page.</p> <p>(1A) Any return of donations sent to the Electoral Affairs Commission shall be kept at its office, and shall, at all reasonable times during the period commencing on the day on which it is received by it and ending on the day being the anniversary of the 12 months next after the expiry of the period of 30 days mentioned in section 29(1), be open to inspection by any person on payment of the fee of \$5, and the Electoral Affairs Commission shall, on demand, furnish copies thereof or of any part thereof at the price of \$2 for every page.</p> <p>(2) After the expiry of the 12 months referred to in subsection (1) or (1A) respectively—</p> <p>(a) in the case of subsection (1), the returning officer may cause the return and declaration to be destroyed, or, if the candidate so requires, shall return the same to him; or</p> <p>(b) in the case of subsection (1A), the Electoral Affairs Commission may cause any return of donations to be destroyed, or, if the candidate so requires, shall return the same to him.</p> <p>(3) This section shall have effect with regard to returns and declarations in respect of elections of Rural Committees as if references in subsections (1A) and (2) to the Electoral Affairs Commission were references to the Secretary for Home Affairs.</p>

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<p>44. Chief Executive in Council may make regulations</p> <p>(1) The Chief Executive in Council may make regulations prescribing the maximum amount of election expenses that can be incurred—</p> <p>(a) by or on behalf of a candidate at an election; or</p> <p>(b) where the list system of voting is used at an election, by or on behalf of a group of candidates.</p> <p>(2) A regulation under this section may prescribe different maximum amounts for different kinds of elections and for different constituencies and for different bodies to which this Ordinance applies.</p> <p>45. Repeal of Corrupt and Illegal Practices Ordinance</p> <p>The Corrupt and Illegal Practices Ordinance (Cap. 288) is repealed.</p> <p>46. Consequential amendments to other Ordinance</p> <p>The Ordinances specified in column 2 of the Schedule are respectively amended as set out in column 3 of that Schedule.</p>	<p>13. Election expenses</p> <p>(1) The Governor in Council may by order prescribe the maximum scale of election expenses which may be incurred by or on behalf of a candidate.</p> <p>NO EQUIVALENCE</p> <p>NO EQUIVALENCE</p>