

IMPORTANT

1. These Guidelines come into operation on 5 December 2001 and will apply to all ordinary elections and by-elections of the Election Committee subsectors to be held after that date.
2. In these Guidelines, “he” means “he” or “she” as far as the context permits.
3. The law stated in these Guidelines is that prevailing as at the date of publication.
4. All specified forms referred to in these Guidelines are obtainable from the Registration and Electoral Office, tel: 2891 1001; fax: 2891 1180; e-mail: reoeng@reo.gov.hk and its website at <http://www.reo.gov.hk>.
5. Electioneering, campaigning and canvassing activities referred to in these Guidelines include any positive and negative campaigning conducted for the purpose of promoting or prejudicing the election of a candidate or candidates at the election.
6. These Guidelines were first revised and produced in loose-leaf format in April 2005. In the event that future amendments to these Guidelines are necessary, loose-leaf amendment sheets would be issued. Amendment sheets will be obtainable from the Registration and Electoral Office (tel: 2891 1001; website: <http://www.reo.gov.hk>).

2006 ELECTION COMMITTEE SUBSECTOR ELECTIONS

Key Information

- | | | | | |
|-----|--|---|---|-----------|
| (1) | Polling Date | : | 10 December 2006 (Sunday) | |
| (2) | Polling Hours | : | 7:30 am to 10:30 pm | |
| (3) | Nomination Period of Candidature | : | 1 to 8 November 2006 | |
| (4) | Application Period for Nominations Advisory Committee's Service by Candidate | : | 11 August to 31 October 2006 | |
| (5) | Chairman's Briefing for Candidates | : | 11 November 2006 | |
| (6) | Maximum Scale of Election Expenses | : | (a) for an election for one of the following 8 EC subsectors, viz, Agriculture and Fisheries, Insurance, Transport, Hotel, Chinese People's Political Consultative Conference, Heung Yee Kuk, Hong Kong and Kowloon District Councils, and New Territories District Councils subsectors | \$100,000 |
| | | | (b) for an election for an EC subsector other than those in (a) above with not more than 5,000 registered voters | \$160,000 |
| | | | (c) for an election for an EC subsector with between 5,001 and 10,000 registered voters | \$320,000 |
| | | | (d) for an election for an EC subsector with over 10,000 registered voters | \$480,000 |

- (7) Deadline to remove all Election Advertisements on display : Not later than 20 December 2006
- (8) Submission of Return and Declaration of Election Expenses and Donations by Candidate : Not later than 13 January 2007
(if uncontested, not later than 16 December 2006)
- (9) Deadline to lodge Appeal against Result of Election : Not later than 21 December 2006
(if uncontested, not later than 23 November 2006)

ABBREVIATIONS

AR, ARs	authorised representative, authorised representatives
ARO, AROs	Assistant Returning Officer, Assistant Returning Officers
Cap	Chapter of the Laws of Hong Kong
CE	Chief Executive
CEEEO	Chief Executive Election Ordinance (Cap 569)
CEO	Chief Electoral Officer
CPPCC	Chinese People's Political Consultative Conference
CRO	Chief Returning Officer
CSB	Civil Service Bureau
DC, DCs	District Council, District Councils
DCO	District Councils Ordinance (Cap 547)
EAC	Electoral Affairs Commission
EAC (EP) (EC) Reg	Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap 541I)
EAC (NAC) (EC) Reg	Electoral Affairs Commission (Nominations Advisory Committees (Election Committee)) Regulation (Cap 541H)
EAC (ROE) (FCSEC) Reg	Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap 541B)
EACO	Electoral Affairs Commission Ordinance (Cap 541)

EC	Election Committee
EC (Appeals) Reg	Election Committee (Appeals) Regulation (Cap 569A)
EC Subscribers & Deposit Reg	Election Committee (Subscribers and Election Deposit for Nomination) Regulation (Cap 569C)
ECICO	Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554)
ERO	Electoral Registration Officer
FC, FCs	functional constituency, functional constituencies
FR	final register
GC	geographical constituency
HYK	Heung Yee Kuk
ICAC	Independent Commission Against Corruption
IR	interim register
LCO	Legislative Council Ordinance (Cap 542)
LegCo	Legislative Council
NAC, NACs	Nominations Advisory Committee, Nominations Advisory Committees
NCZ, NCZs	no canvassing zone, no canvassing zones
NPC	National People's Congress
NSZ	no staying zone
para., paras.	paragraph, paragraphs
PD (P) O	Personal Data (Privacy) Ordinance (Cap 486)
POBO	Prevention of Bribery Ordinance (Cap 201)

PR	provisional register
printing details	name and address of printer, date of printing and number of copies printed
PRO	Presiding Officer
REO	Registration and Electoral Office
RO, ROs	Returning Officer, Returning Officers
S, s, Ss, ss	section, sections
TD	Transport Department
VR	village representative
VREO	Village Representative Election Ordinance (Cap 576)

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CHAPTER 1

INTRODUCTION

PART I : THE ELECTION COMMITTEE AND THE SUBSECTOR ELECTIONS

1.1 The Election Committee (“EC”), which consists of 800 members, is constituted under the Chief Executive Election Ordinance (Cap 569) (“CEEEO”) for the purpose of electing the Chief Executive (“CE”) of the Hong Kong Special Administrative Region. The CE is elected by the EC as prescribed in Annex I to the Basic Law and appointed by the Central People’s Government [s 7 of the CEEEO]. *[Amended in September 2006]*

1.2 The members of the EC must be Hong Kong permanent residents. The EC has 4 sectors, each composed of a number of subsectors (with a total of 38 subsectors). Amongst the 38 EC subsectors, members of 35 subsectors are returned by elections. The Hong Kong deputies to the National People’s Congress (“NPC”) and members of the Legislative Council (“LegCo”) are all ex-officio members of the EC, while members of the religious subsector are all nominated to the EC by 6 designated bodies of that subsector. Details of the composition of the EC are found in Chapter 2. *[Amended in September 2006]*

1.3 The term of office of the EC is 5 years and will commence on 1 February in the year during which the term of office of the CE is to expire [s 9 of the CEEEO]. The term of the EC therefore ties in with the 5-year term of the CE and with the electoral cycle. For a new term EC, a subsector ordinary election will be held to elect members assigned to each of the 35 subsectors by voters of the relevant subsector. A subsector ordinary election

is to be held on a date specified by the CE [s 16 of the Schedule to the CEEO].
[Amended in September 2006]

1.4 The CE for a new (5-year) term will be elected by the new term EC. If a vacancy arises during the term of office of the CE, the current term EC will be responsible for electing a new CE. If an election for a new (5-year) term CE will be held within 6 months after a vacancy in office of the CE has arisen, it will not be necessary to hold a by-election [ss 6 and 9 of the CEEO]. Before a by-election is held to elect a CE, a subsector by-election and/or supplementary nomination will be held to update the membership of the EC if there are vacancies among the EC members [s 5(1)(b) of the Schedule to the CEEO]. However, no subsector by-election and/or supplementary nomination will be held if the membership of the EC has been updated within one year before a by-election is held to elect a CE. *[Amended in September 2006]*

Governing Legislation

1.5 The EC subsector elections and nominations of the religious subsector are governed by the statutory requirements provided in 3 different ordinances, namely the CEEO, the Electoral Affairs Commission Ordinance (Cap 541) (“EACO”) and the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) (“ECICO”). *[Amended in September 2006]*

1.6 The CEEO provides, among other things, for the constitution, membership and term of office of EC, registration of voters, conduct of subsector elections, election appeals and other related matters.

1.7 The EACO tasks the Electoral Affairs Commission (“EAC”) with the conduct and supervision of elections and matters incidental thereto.

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

1.9 These ordinances are complemented by a number of pieces of subsidiary legislation, including the eight set out in paras. 1.10 - 1.17 below, which provides the detailed procedures for the conduct of the EC subsector elections. *[Amended in September 2006]*

1.10 The electoral procedures for conducting EC subsector elections are provided in the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap 541I) (“EAC (EP) (EC) Reg”). *[Amended in September 2006]*

1.11 The Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap 541B) (“EAC (ROE) (FCSEC) Reg”) sets out the procedures for registration of voters for the EC subsectors. *[Amended in September 2006]*

1.12 The Election Committee (Registration) (Voters for Subsectors) (Members of Election Committee) (Appeals) Regulation (Cap 569B) sets out the procedures for hearing and ruling by Revising Officers concerning the registration of voters for the EC subsectors¹. *[Amended in September 2006]*

1.13 The Electoral Affairs Commission (Nominations Advisory Committees (Election Committee)) Regulation (Cap 541H) (“EAC (NAC) (EC) Reg”) stipulates the appointment and functions of the Nominations Advisory Committees (“NACs”) and the procedures for seeking the NAC’s advice on the candidates’ eligibility for nomination for the EC subsector elections. *[Amended in September 2006]*

¹ The Revising Officer is a magistrate or any legal officer within the meaning of the Legal Officers Ordinance (Cap 87), appointed by the Chief Justice.

1.14 The Election Committee (Subscribers and Election Deposit for Nomination) Regulation (Cap 569C) (“EC Subscribers & Deposit Reg”) sets out the requirements for subscription and the payment and return of election deposit for the EC subsector elections. *[Amended in September 2006]*

1.15 The Election Committee (Appeals) Regulation (Cap 569A) (“EC (Appeals) Reg”) sets out the procedures for appeal against result of subsector election to the Revising Officer and in relation to registration of nominees declared by the Returning Officer (“RO”) as members of the EC. *[Amended in September 2006]*

1.16 The distribution of the number of members of the EC among 6 religious bodies is provided in the Distribution of Number of Members Among Designated Bodies (Election Committee) Order 2001 (Cap 569D). *[Added in September 2006]*

1.17 The Maximum Scale of Election Expenses (Legislative Council) (Election Committee) Order (Cap 288I) sets out the maximum scales of election expenses that may be incurred by or on behalf of a candidate for election to the Election Committee. *[Added in September 2006]*

PART II : THE GUIDELINES

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

- (a) the conduct or supervision of or procedure at an election;
- (b) election-related activities of a candidate, an agent of a candidate

or any other person assisting a candidate, or any other person;

- (c) election expenses;
- (d) the display or use of election advertisements or other publicity material; and
- (e) the procedure for making a complaint.

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

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

1.21 In the context of this set of Guidelines, the term "election" means ordinary election and by-election, as appropriate.

PART III : SANCTION

1.22 Members of the public, particularly voters of the subsectors, candidates and their agents as well as government officials engaged in election-related duties should read, familiarise themselves with, and strictly comply with these guidelines.

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

CHAPTER 2

COMPOSITION OF THE ELECTION COMMITTEE

PART I : THE SECTORS AND SUBSECTORS

2.1 The EC is composed of 4 sectors. The 4 sectors of the EC, their 38 constituent subsectors, and the number of EC members allocated to each of the subsectors [s 2 of the Schedule to the CEEO] are shown in **Appendix B**.

2.2 The 4 sectors comprise:

- (a) industrial, commercial and financial sectors;
- (b) the professions;
- (c) labour, social services, religious and other sectors; and
- (d) members of LegCo, representatives of district-based organisations, Hong Kong deputies to NPC, and representatives of Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference ("CPPCC").

2.3 The 38 subsectors comprise:

- (a) the NPC subsector;
- (b) the LegCo subsector;

- (c) the religious subsector;
- (d) 24 subsectors and the social welfare subsector (the part for individual voters only) having the same constituents as the corresponding functional constituencies (“FCs”) of the same name. These subsectors and their constituents are shown in **Appendix C**; *[Amended in September 2006]*
- (e) 3 pairs of subsectors, each pair corresponding to 1 FC. They are: the education subsector and the higher education subsector corresponding to the education FC, the tourism subsector and the hotel subsector corresponding to the tourism FC, and the Hong Kong and Kowloon District Councils (“DCs”) subsector and the New Territories DCs subsector corresponding to the DCs FC. Their constituents are shown in **Appendix D**; and
- (f) 5 subsectors having no equivalent FCs and are known as “optional subsectors”. They are the Chinese medicine, CPPCC, Employers’ Federation of Hong Kong, Hong Kong Chinese Enterprises Association and social welfare (the part for corporate bodies only) subsectors. Their constituents are shown in **Appendix E**.

2.4 Members are returned to the EC through an election by the voters of each subsector, with the exception of the NPC subsector, the LegCo subsector and the religious subsector. The Hong Kong deputies to the NPC and the members of the LegCo are ex-officio members of the EC, whilst members from the religious subsector are returned by way of nomination by the 6 designated bodies of the subsector.

**PART II : COMPILATION OF INTERIM REGISTER AND FINAL
REGISTER OF EC MEMBERS AFTER THE CONDUCT
OF AN EC SUBSECTOR ORDINARY ELECTION**

2.5 Before the office of the CE becomes vacant on the expiry of a 5-year term, subsector ordinary elections/nominations of the religious subsector will be conducted to form a new term EC which will then elect the new term CE. An interim register (“IR”) of the members of the new term EC shall be compiled and published within 7 days after the results of the EC subsector ordinary elections are published. The Electoral Registration Officer (“ERO”) shall compile a final register (“FR”) of members of the new term EC on the basis of the IR of EC members, taking into account any amendments made, and publish the FR on the date when the term of office of the new EC commences [s 40 of the Schedule to the CEEO]. The FR of the current term EC members will not cease to have effect upon publication of the IR but will cease to have effect on the publication of the new FR [s 43 of the Schedule to the CEEO].
[Added in September 2006]

2.6 Subject to any appeal against the result of the subsector ordinary election or the registration of nominees declared by the RO as members of the EC in the IR, and the determination of the Revising Officer on such appeal, an EC member whose name and other relevant particulars appear in the new EC FR will be eligible to make nomination at the CE election and to vote at the poll unless he has become disqualified to do so under ss 16(5) and 26 of the CEEO. *[Added in September 2006]*

**PART III : COMPILATION OF PROVISIONAL REGISTER AND
FINAL REGISTER OF EC MEMBERS FOR EC
SUBSECTOR BY-ELECTION**

2.7 The ERO may from time to time update the membership of the EC to reflect changes in the ex-officio membership of the EC by publishing a notice listing the names so added or removed [s 41 of the Schedule to the CEEO]. *[Amended in September 2006]*

Provisional Register of EC Members and Omissions List

2.8 When a vacancy arises in the office of the CE otherwise than due to expiry of the term of office, the ERO shall compile a provisional register (“PR”) of members of the existing EC within 14 days after the declaration of the vacancy. In compiling the PR, the ERO shall scrutinise the existing FR of the members of the EC, and strike out the names of persons (other than ex-officio members) whom the ERO is satisfied on reasonable grounds that they have passed away, resigned or deemed to have resigned from the EC², or ceased to be eligible to be registered, or have been disqualified from being registered, under the Legislative Council Ordinance (Cap 542) (“LCO”) as an elector for a geographical constituency (“GC”). The name of such members would be entered on an omissions list [ss 4(1), (3), (4)(a) and (b) of the Schedule to the CEEO]. The ERO will make the PR and the omissions list available for public inspection at the Registration and Electoral Office (“REO”)

² According to section 3(2) of the Schedule to the CEEO, an EC member (other than an ex-officio member) is deemed to have resigned from the membership of EC if he is also registered as an ex-officio member of the EC (ie a Hong Kong deputy to the NPC or a LegCo member). Besides, if EC members representing the Hong Kong and Kowloon DCs, New Territories DCs, CPPCC or the Heung Yee Kuk (“HYK”) subsector cease to be members of the DC, Hong Kong members of the National Committee of the CPPCC, or the Chairman or Vice-chairmen or Councillors of the Full Council of the HYK respectively, they are deemed to have resigned from the membership of the EC. They will cease to be EC members unless the cessation of membership is due to the expiry of the term of office in their respective representing bodies, and they are members in the immediately following term of office of the bodies concerned. [S 3(1), (1A), (1B) and (1C) of the Schedule to the CEEO.]

for a period of 7 days. The time and place where they can be inspected will be published in the Gazette and in newspapers [s 4(5) of the Schedule to the CEEO and ss 25(1) and (2) and 29(1) of the EAC (ROE) (FCSEC) Reg]. In addition the PR and the omission list will be made available for public inspection at District Offices for the specified period. The ERO may make available for public inspection a specific part of the PR at specified places. The ERO may require persons who want to inspect the PR to produce an identity card. *[Added in September 2006]*

Objections and Claims

2.9 On or before the last day of the specified period, any person can lodge with the ERO an objection against any entry in the PR, and any person whose name has been included in the omissions list can lodge a claim with the ERO in respect of the omission of his name [s 48 of the Schedule to the CEEO]. *[Added in September 2006]*

Final Register of EC Members

2.10 Based on the EC PR published, the EAC will ascertain the number of members representing each subsector (other than the NPC and LegCo subsectors) to see if the number of members representing a subsector is less than the number of members allocated to the subsector. For subsectors where vacancies are identified, supplementary nomination(s) (in the case of the religious subsector) and/or subsector by-election(s) will be arranged to fill such vacancies [s 5 of the Schedule to the CEEO]. *[Added in September 2006]*

2.11 **Within 7 days after the results of the subsector by-election(s) are published, the ERO will compile and publish the FR of the existing EC** [s 40(2) of the Schedule of the CEEO]. For supplementary nomination(s) (in the case of the religious subsector), the ERO shall compile and publish the EC

FR within 7 days after a nominee is declared as an EC member, unless the period during which the nomination is to be made and the nomination period for a subsector by-election coincide or partly coincide [s 40(3) of the Schedule of the CEEO]. This EC FR, which will be made available for public inspection at the REO and all of the District Offices, will include:

- (a) changes, if any, in the ex-officio membership of the EC (see para. 2.7); and
- (b) new members returned by the supplementary nomination(s) and/or subsector by-election(s) (see para. 2.10).

The time and place where the FR can be inspected will be published in the Gazette and in newspapers. Publication of the notice is to be taken as the publication of the FR. The ERO may also make available for public inspection a specific part of the FR at a specified place. The ERO may require persons who want to inspect the FR to produce an identity card. [S 39(1), (2), (4) and 4(A) of the EAC (ROE) (FCSEC) Reg.] *[Added in September 2006]*

2.12 Subject to any appeal against the result of the subsector by-election(s) or the registration of nominees declared by the RO as members of the EC in the FR, and the determination of the Revising Officer on such appeal, an EC member whose name and other relevant particulars appear in this EC FR will be eligible to make nomination and to vote at the CE election unless he has become disqualified to do so under ss 16(5) and 26 of the CEEO. *[Added in September 2006]*

CHAPTER 3

REGISTRATION OF VOTERS AND VOTING SYSTEM

PART I : GENERAL

3.1 According to the CEEO, the EC shall be constituted on 1 February in the year in which the term of office of the CE is to expire, and a subsector ordinary election will be held to elect members of the EC for a new term of office of the EC (see paras. 1.3 - 1.4 of Chapter 1). Subsector by-elections will be conducted, if necessary, to fill any vacancy in the EC membership before the EC is required to elect a new CE if a vacancy arises during the term of office of the CE. *[Amended in September 2006]*

3.2 Members of the EC from the religious subsector are returned by nomination. For any vacancy in the EC membership in the religious subsector, a supplementary nomination will be arranged to fill the vacancy, if necessary.

PART II : REGISTRATION OF VOTERS FOR SUBSECTORS

Eligibility to Vote

3.3 Only a registered voter for a subsector, ie a person whose name appears on the subsector FR which is in force at the time of the subsector election is eligible to vote at a subsector election to elect members of the EC for that subsector. A corporate voter may vote at a subsector election only by

its authorised representative (“AR”). [S 28 of the Schedule to the CEEO.]
[Amended in September 2006]

Qualification for Registration as a Voter

3.4 There are 2 kinds of voters for most of the subsectors of the EC: natural persons (ie individuals) and bodies (ie corporate voters). An individual is eligible to be registered as a voter for a subsector only if he is registered as an elector for a GC or is eligible to be registered as an elector for a GC and has applied to be so registered. A corporate voter is required to select an eligible individual to be its AR for the purpose of casting its vote at the election, otherwise it cannot vote [s 28(3) of the Schedule to the CEEO]. An individual is eligible to be appointed as an AR of a corporate voter only if he:

- (a) is registered, or eligible to be and has applied to be registered, as an elector of a GC;
- (b) has a substantial connection with the corporate voter;
- (c) is not registered, and has not applied to be registered, as a voter for the subsector of the corporate voter; and
- (d) is not disqualified from being registered or voting under s 31 or 53 of the LCO.

[S 13(2) of the Schedule to the CEEO.]

An AR of a corporate voter is not eligible to be selected as the AR of another corporate voter. An AR must be registered with the ERO. **A corporate voter is required to give notice of appointment of its AR to the ERO in its**

application form for registration as a corporate voter. It may thereafter from time to time appoint a replacement AR by sending a specified form to reach the ERO not later than 14 days before the polling day of its subsector. If the ERO is satisfied that the AR is dead or seriously ill or physically or mentally incapacitated, the deadline of 14 days for replacement is extended to 3 working days before the relevant polling day. [S 20 of the EAC (ROE) (FCSEC) Reg.]

3.5 An elector of an FC is eligible to become a voter of the corresponding subsector or, in respect of the education, tourism and DCs FCs, the appropriate one of the two corresponding subsectors.

3.6 Except a person who is only eligible to be registered in any one of the 5 optional subsectors in para. 2.3(f) of Chapter 2 but not in any of the other subsectors, every person who is registered as a voter for a subsector with the same name as an FC must be registered for that FC and vice versa. The individual/corporate voter cannot choose to be registered only in a subsector but not an FC, or only registered in an FC but not a subsector [s 12(10)(a) and (b) of the Schedule to the CEEQ].

3.7 An individual/corporate voter is not entitled to be registered for more than one subsector. He/it is only entitled to be registered for the subsector which is corresponding to the FC (“corresponding subsector”) in which he/it is registered. But if a person/corporate voter is eligible to be registered in one or more of the 5 optional subsectors and also eligible for any corresponding subsector, then he/it is eligible to choose between one of the 5 optional subsectors or the corresponding subsectors.

3.8 A list showing the 28 FCs and 38 EC subsectors, the relationship between them, and whether a choice is available to the voter, etc is shown in **Appendix F** for easy reference.

Disqualifications from Voting

3.9 A person registered as a voter for a subsector is disqualified from voting at a subsector election for that subsector if he:

- (a) has ceased to be eligible to be registered as a voter for that subsector;
- (b) has in Hong Kong, or in any other place, been sentenced to death or imprisonment (by whatever name called) and has not either served the sentence or any substitute sentence or received a free pardon;
- (c) on the date of the relevant subsector election, is serving a sentence of imprisonment;
- (d) is or has been convicted within 3 years before the polling day:
 - (i) of having engaged in corrupt conduct or illegal conduct in contravention of the ECICO;
 - (ii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap 201) (“POBO”); or
 - (iii) of any offence prescribed by the EAC Regulations;
- (e) is found for the time being under the Mental Health Ordinance (Cap 136) to be incapable, by reason of mental incapacity, of managing and administering his property and affairs; or
- (f) is a member of the armed forces of the People’s Republic of

China or any other country or territory.

[S 30 of the Schedule to the CEEO.] *[Added in September 2006]*

Roll-over of Voters

3.10 A subsector FR takes effect on the date of its publication and continues to have effect until the publication of the next subsector FR. [S 15 of the Schedule to the CEEO.]

Application for Registration

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

3.12 A person (either an individual or a body) may send in his application for voter registration on the specified form to the ERO any time in the year. However, for inclusion of his name in the PR to be published not later than 15 June in each year other than a DC ordinary election year (or 15 August for a DC election year), his application form must have been received by the ERO on or before 16 May in that year (or 16 July for a DC election year). [S 19 of the EAC (ROE) (FCSEC) Reg.] *[Amended in September 2006]*

3.13 A voter should notify the ERO of any change of any of his particulars in writing or by sending in a new registration form with the altered particulars. If the voter wishes to have the alteration of his particulars effected in the FR of voters for the current year, he must notify the ERO on or before 29 June if the current year is not a DC election year (or 29 August if the current year is a DC election year). *[Amended in September 2006]*

The Provisional Register and the Omissions List

3.14 The PR of voters for subsectors will be published by the ERO not later than 15 June in each year in a non DC election year (or 15 August for a DC election year). It includes:

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

This PR is available for public inspection at the REO and some of the District Offices of the Home Affairs Department not later than 29 June in a non DC election year (or 29 August for a DC election year) [s 29 of the EAC (ROE) (FCSEC) Reg]. *[Amended in September 2006]*

3.15 At the same time when the subsector PR was published, the ERO also publishes an omissions list in respect of the subsectors containing the names and addresses of persons who were formerly registered as subsector voters, but are taken out from the PR and proposed to be omitted from the next FR, based on the information received by the ERO who is satisfied on reasonable grounds that the persons concerned are no longer eligible to be registered or are disqualified. The names and addresses of the persons included in the omissions list will not appear in the PR [s 24 of the EAC (ROE) (FCSEC) Reg]. The time and place where the PR and the omission list can be

inspected will be published in the Gazette and in newspapers. Publication of the PR is done by publication of that notice. The ERO may also make available for public inspection a specific part of the PR at a specified place. The ERO may require persons who want to inspect the PR to produce an identity card. [Ss 25(1) and (2) and 29 (4), (5) and (6) of the EAC (ROE) (FCSEC) Reg.] *[Amended in September 2006]*

Objections and Claims

3.16 Members of the public may lodge with the ERO objections as regards entries in the subsector PR not later than 29 June in a non DC election year (or 29 August for a DC election year). On or before that date, a dissatisfied applicant or a person whose name has been included in the omissions list may lodge a claim in respect of the entry or any omission concerning himself/itself. Cases of objections and claims will be referred to the Revising Officer for consideration. The Revising Officer will rule on each objection or claim and decide on the inclusion, exclusion, or correction of the entry concerned in the FR. [Ss 30 and 31 of the EAC (ROE) (FCSEC) Reg.] *[Amended in September 2006]*

The Final Register

3.17 The subsector FR is to be published not later than 25 July in a non DC election year (or 25 September for a DC election year). It will include the entries in the PR, the updated names and addresses of voters who have applied to alter their particulars on or before 29 June in that year (or 29 August for a DC election year), and the names and addresses of those who were subject to a notice of objection or claim, updated and corrected to reflect the decisions of the Revising Officer as appropriate. The ERO will also take the opportunity to remove those entries of voters who are known to be dead and to correct any mistakes in the PR. The FR for the subsectors will be valid

until the publication of the next FR. It will be available for public inspection at the REO and some of the District Offices of the Home Affairs Department. [S 38 of the EAC (ROE) (FCSEC) Reg.] The time and place where the FR can be inspected will be published in the Gazette and in newspapers. The publication of the notice is to be taken as the publication of the FR. The ERO may make available for public inspection a specific part of the FR at a specified place and may require persons who wish to inspect the FR to produce his identity card. [Ss 38(1), (2), (4), (4A) and (6) of the EAC (ROE) (FCSEC) Reg.] *[Amended in September 2006]*

IMPORTANT :

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

PART III : THE VOTING SYSTEM FOR SUBSECTOR ELECTIONS

3.18 The voting system adopted for the EC subsector elections is the simple or relative majority system, commonly known as the “first past the post” system [s 29(1) of the Schedule to the CEEO]. A voter may vote for as many candidates as the number of members allocated to a subsector at subsector ordinary elections, or the number of members to be returned at the by-elections, and no more. In the case of a single vacancy to be filled, the candidate that obtains the highest number of votes will be elected. In the case of 2 or more vacancies, the candidates elected will be the candidate that obtains

the highest number of votes followed by the candidate with the second highest number of votes, and so on, until all vacancies have been filled.

3.19 In the event that there is still one more vacancy to fill and the remaining successful candidates have the same number of votes, the RO will have to arrange the drawing of lots to determine which one of these candidates should be elected to fill the last vacancy. *[Amended in September 2006]*

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

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

- (c) Where there are 3 candidates having an equal number of votes and there are only 2 vacancies to be filled, if the 3 candidates have obtained respectively the largest, the larger and the smallest numbers, the 2 candidates who have obtained the largest and the larger numbers should be successful in getting the 2 vacancies, and the remaining candidate will fail. If the 3 candidates have obtained respectively 2 larger equal and 1 smaller numbers, then again the 2 candidates who have obtained the larger equal numbers will be the winners to fill the 2 vacancies. If the 3 candidates have obtained respectively a larger and 2 equal smaller number, the candidate who has obtained the larger number will be successful and the remaining 2 candidates will participate in a second draw. The same principle will apply where there are more than 3 candidates having an equal number of votes and the number of vacancies to be filled is less than the number of candidates. *[Amended in September 2006]*

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

3.22 In the event that before the declaration of the result of the elections, proof is given to the RO's satisfaction that the successful candidate or one of the successful candidates has passed away or has been disqualified from being elected, then the RO should not declare that candidate as elected. His place will then be taken by another candidate who has not yet been returned, if any, or a remaining candidate with the next highest number of votes, if any.

CHAPTER 4

NOMINATION OF CANDIDATES

PART I : QUALIFICATION AND DISQUALIFICATION FOR NOMINATION

4.1 The law governing the qualification and disqualification for the nomination of candidates for the election of the EC subsectors is contained in the Schedule to the CEEO. The procedure for nomination of candidates for the EC subsector election is provided in the EAC (EP) (EC) Reg and EAC (NAC) (EC) Reg made by the EAC. *[Amended in September 2006]*

Qualifications

4.2 A person is eligible to be nominated as a candidate at an EC subsector election if he:

- (a) has reached the age of 18 years;
- (b) is both registered and eligible to be registered for a GC; and
- (c) is both registered and eligible to be registered as a voter for the relevant EC subsector or satisfies the RO for the relevant EC subsector that he has a substantial connection with the EC subsector.

[S 17 of the Schedule to the CEEO.]

Disqualifications

4.3 A person is disqualified from being nominated as a candidate at a subsector election and from being elected as a member of the EC if he:

- (a) has ceased to have a substantial connection with the subsector concerned;
- (b) has ceased to be registered or eligible to be registered as an elector for a GC;
- (c) has in Hong Kong, or in any other place, been sentenced to death or imprisonment (by whatever name called) and has not either served the sentence or any substitute sentence or received a free pardon;
- (d) on the date of nomination or of the subsector election, is serving a sentence of imprisonment;
- (e) is or has been convicted within 3 years before the polling day:
 - (i) of having engaged in corrupt conduct or illegal conduct in contravention of the ECICO;
 - (ii) of an offence against Part II of the POBO; or
 - (iii) of any offence prescribed by the EAC Regulations;

- (f) is found for the time being under the Mental Health Ordinance to be incapable, by reason of mental incapacity, of managing and administering his property and affairs; or
- (g) is a member of the armed forces of the People's Republic of China or any other country or territory.

[S 18 of the Schedule to the CEEO.] *[Amended in September 2006]*

4.4 If a person is not a member of the Hong Kong and Kowloon DCs, New Territories DCs, a Hong Kong member of the National Committee of the CPPCC or the Chairman, a Vice-Chairman or a Councillor of the Full Council of the HYK, he is disqualified from being nominated as a candidate at a subsector election for the respective subsector, or from being elected as an EC member representing the respective subsector [s 18A of the Schedule to the CEEO]. *[Added in September 2006]*

PART II : NOMINATIONS ADVISORY COMMITTEES

4.5 The EAC has the power to appoint NACs to provide advice, on request, to prospective candidates and ROs on the candidates' eligibility for nomination [s 3 of the EAC (NAC) (EC) Reg]. Each of these NACs is in the charge of either a Senior Counsel or a legal practitioner of not less than 10 years standing in accordance with established practice who, in the opinion of the EAC, is unconnected to any candidate or political organisation in Hong Kong, and is independent and impartial. *[Amended in September 2006]*

NAC's Service to Candidates

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

4.7 The application must be:

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

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

4.8 An NAC may, before giving its advice, request the applicant to make available to it within a specified period any information, particulars and evidence relating to his intended candidature. The NAC may also request the applicant to present himself before it at a specified time and place to assist it in the consideration of the application. The applicant may, at the specified time and

place, make representations to the NAC personally or through any person authorised by him in writing for the purpose.

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

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

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

4.11 The NAC's service is also available to designated bodies in the religious subsector nomination process, regarding the qualification or disqualification of persons proposed to be nominated by such designated bodies and the proposed nominees themselves.

4.12 Any advice given by an NAC or a refusal to give any such advice does not preclude a person from seeking nomination as a candidate in an election or proceeding with a nomination, if he so wishes.

[S 6 of the EAC (NAC) (EC) Reg.]

NAC's Service to ROs

4.13 NAC's service will be provided to ROs **at both EC subsector ordinary elections and by-elections**. During the period from the commencement, up to 1 day after the close, of the nomination period, ROs may seek the advice of an NAC, where they consider necessary, on the eligibility for nomination of (a) the candidates who have submitted their nominations; and (b) for the religious subsector, the nominees proposed by designated bodies.

4.14 The RO is required, in making a decision as to (a) whether a particular candidate is validly nominated in respect of the subsector for which the candidate seeks nomination, or (b) whether a particular nominee is validly nominated in respect of the religious subsector for which a designated body proposes the nomination, to have regard to any advice given by an NAC on that candidate/nominee [s 14 of the EAC (EP) (EC) Reg]. The decision on the validity of nomination, however, remains with the RO alone.

[S 7 of the EAC (NAC) (EC) Reg.]

PART III : WHEN AND HOW TO NOMINATE

When to Nominate

4.15 Nominations may be made during the **nomination period** specified in the Notice of Election published in the Gazette [ss 4 and 5 of the EAC (EP) (EC) Reg]. An election timetable will be provided to each candidate by the RO. The ordinary business hours on each working day (ie any day other than a general holiday or Saturday) in the nomination period for the ROs to

accept nominations are from 9 am to 5 pm, and on a Saturday, from 9 am to 12 noon. **Candidates are encouraged to submit their nominations well before the expiration of the nomination period to allow time for any errors in their nomination forms to be corrected.**

How to Nominate

4.16 Nomination forms specified by the EAC are available from any District Office of the Home Affairs Department or from the REO.

4.17 The nomination form comprises:

(a) **The nomination**

It must be subscribed by not less than **5 voters registered for the EC subsector concerned** (other than the candidate himself), and each voter may only subscribe **as many nominations** regarding a particular EC subsector **as there are vacancies** to be filled [s 8(1), (2) and (3) of the EC Subscribers & Deposit Reg]. *[Amended in September 2006]*

If, however, the nomination subscribed by a voter has been held to be invalid, or the candidate withdraws his nomination, he may subscribe another one instead before the end of the relevant nomination period, and his signature shall not be inoperative on that other nomination form. Under this scenario, if he subscribes more than 1 nomination form in contravention of the regulations, his signature shall be operative only on the first one delivered [s 8(4) of the EC Subscribers & Deposit Reg]. *[Amended in September 2006]*

IMPORTANT :

A candidate who submits a nomination form on the last few days of the nomination period is advised to include more than the minimum required number of subscribers for his nomination, to avoid the risk of invalidation of the nomination should one or more of the subscribers be subsequently found not to be qualified as subscribers. A candidate should make his best endeavour to ensure that the voters subscribing his nomination form are eligible. Voters subscribing a nomination should sign the nomination form **personally**. *[Amended in October 2006]*

No illegal act shall be used to cause a voter to subscribe or not to subscribe a nomination. Intimidation is an offence under s 24 of the Crimes Ordinance (Cap 200), punishable by a fine or up to 5 years' imprisonment. Bribery is also an offence punishable by fine or imprisonment. *[Amended in September 2006]*

(b) The candidate's consent to nomination and declarations

This must be completed and signed by each candidate and endorsed by a witness. A candidate must sign a declaration to the effect that the candidate is eligible to be nominated as a candidate for the particular subsector, is not disqualified from being so nominated, and consents to being so nominated.

[For details, see s 8 of the EAC (EP) (EC) Reg.]

IMPORTANT :

In the EC subsector election, no person shall be nominated for more than 1 EC subsector [s 20 of the Schedule to the CEEO]. When a person submits his nomination form, he must have withdrawn all his prior nominations, if any, and make a declaration (contained in the specified form) that either he has not been nominated before for any other subsector in the election, or if he has been so, he has withdrawn all those prior nominations. Where a candidate stands nominated [see para. 4.24 below], any of his subsequent nominations will be rejected as invalid.

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

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

4.19 The completed nomination form must be lodged with the RO for the subsector concerned by the candidate **in person** during ordinary business hours, ie the hours between 9 am and 12 noon on a Saturday and the hours between 9 am and 5 pm on any day other than a general holiday, within the nomination period. The CEO may, in exceptional circumstances, eg the nominee's temporary absence from Hong Kong or incapacity due to illness, authorise any other form of delivery of the nomination form to the RO [s 8(13) of the EAC (EP) (EC) Reg].

False Declarations

4.20 A candidate who knowingly and wilfully makes a statement which is false in a material particular in the declaration in the nomination form shall be guilty of an offence under the Crimes Ordinance punishable by a fine and imprisonment for up to 2 years. Under the EAC (EP) (EC) Reg, he shall be punishable by a fine and imprisonment for 6 months with the disqualifying effect as described in paras. 16.38 and 17.31 of these Guidelines [s 101(4) of the EAC (EP) (EC) Reg]. *[Amended in September 2006]*

PART IV : ELECTION DEPOSIT

Payment of Election Deposit

4.21 Each nomination form must be presented with the payment of an election deposit of \$1,000, in cash or by cheque, as prescribed by regulation made by the CE in Council [s 19 of the Schedule to the CEEO and s 3 of the EC Subscribers & Deposit Reg].

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

IMPORTANT :

Candidates are encouraged to pay their election deposit by cash or cashier order although they may pay by crossed cheque. In the event that a cheque is dishonoured, the nomination will be ruled

invalid unless the sum of deposit is made good before the expiration of the nomination period. In order to avoid the risk of invalidation of the nomination due to dishonoured cheque, candidates are strongly advised to submit the election deposit in cash or cashier order if they submit nomination in the last 3 working days (excluding Saturday) of the nomination period.

Return of Election Deposit

4.23 The deposit will be returned to the candidate:

- (a) if he is not validly nominated;
- (b) if his nomination has been withdrawn;
- (c) if he has passed away or is disqualified from being nominated;
- (d) if he is elected; or
- (e) if he secures in his favour not less than 2.5% of the total number of ballot papers containing valid votes received in the EC subsector election or 5 such ballot papers, whichever is the greater.

The deposit will be forfeited if none of the above conditions is satisfied.

[For details, see ss 4 and 5 of the EC Subscribers & Deposit Reg.]

PART V : VALIDITY OF NOMINATIONS

[Ss 13, 14 and 15 of the EAC (EP) (EC) Reg and s 22 of the Schedule to the CEEO]

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

4.25 The RO will make a decision as to the validity of a nomination as soon as practicable after receipt of the nomination form and will publish a notice stating which persons are validly nominated as candidates [s 22 of the Schedule to the CEEO].

4.26 Where the RO has doubts as to whether or not a particular candidate is qualified to be nominated, he may apply to an NAC for advice.

4.27 Where a nomination appears to the RO to be invalid because of some errors that can be corrected within the nomination period, the RO will, if practicable, give the candidate a reasonable opportunity of correcting the errors before making a decision that the nomination is invalid. For example, if the entitlement of any subscriber is in doubt, a prospective candidate may be allowed to make a substitution as soon after the submission of his nomination form as practicable. However, no substitution for any subscriber or re-submission of a nomination form will be accepted after the close of the nomination period.

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

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

4.30 A nomination will not be valid unless it contains all the information and signatures required to be shown on the nomination form or by the RO and the candidate has made the declaration referred to in para. 4.17(b) above.

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

- (a) the number or qualifications of the subscribers are not as required by the regulation made by the CE in Council regarding the EC subsector election [s 8 of the EC Subscribers & Deposit Reg];
- (b) the nomination form, including the nomination and declaration, has not been completed or signed as required by s 8 of the EAC (EP) (EC) Reg;
- (c) he is satisfied that the candidate is not qualified to be, or is disqualified from being, nominated as a candidate, having regard to any advice given by the NAC to an application made by him or by that candidate [see paras. 4.14 and 4.26 above];
- (d) the candidate has been nominated in another subsector and the RO is not satisfied that he has withdrawn that candidature;
- (e) the cheque for the payment of the election deposit of the candidate is dishonoured and has not been made good before the expiration of the nomination period;

- (f) he is sure that the candidate has passed away; or
- (g) the nomination form is not duly lodged within the nomination period [see paras. 4.15 and 4.19 above].

4.32 If, having decided that a candidate is validly nominated, but before the polling day, proof is given to the satisfaction of the RO that the candidate has passed away, he must publicly declare that the candidate has passed away and further declare which candidate is or candidates are validly nominated by the subsector. The RO does not have to make any such declaration if the candidate who has died is uncontested in the election by the subsector and the RO has publicly declared that the candidate was duly elected. [S 23 of the Schedule to the CEEO and s 20 of the EAC (EP) (EC) Reg.]

4.33 If, having decided that a candidate is validly nominated, but before the polling day, proof is given to the satisfaction of the RO that the candidate is disqualified from being nominated as a candidate, the RO must vary the decision to the effect that the candidate is not validly nominated. He must then publicly declare his varied decision and which candidate is or candidates are validly nominated. The RO may not vary his decision if the candidate who has been disqualified is uncontested and the RO has publicly declared that the candidate was duly elected. [S 23 of the Schedule to the CEEO and s 21 of the EAC (EP) (EC) Reg.]

PART VI : WITHDRAWAL OF CANDIDATURE

4.34 An EC subsector election candidate may withdraw his candidature only before the close of nomination. He should complete and sign a specified

form titled “Withdrawal of Candidature” and lodge it with the RO concerned [s 21 of the Schedule to the CEEEO].

IMPORTANT :

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

PART VII : NOTICE OF NOMINATION

4.35 The RO concerned will publish a notice in the Gazette within 14 days after the close of the nomination period, stating the name and address of each of all the validly nominated candidates, together with the number (which will be shown on the ballot paper) allocated by the drawing of lots to each candidate [s 18 of the EAC (EP) (EC) Reg]. Each validly nominated candidate will also be separately informed. *[Amended in September 2006]*

PART VIII : PUBLICITY

4.36 After the close of nomination, the RO will inform each validly nominated candidate the time and date on which he will draw lots to allocate a number to each candidate to be shown on the ballot paper and they may attend if they so wish. Thereafter, the REO will publish a brief introduction of the candidates in the form of a leaflet. The number of each candidate on the ballot

paper allocated to him by the drawing of lots will also be shown on this introductory leaflet. The leaflet will be mailed to the voters close to the time of the polling day.

4.37 Candidates are free to make use of this introductory leaflet to promote themselves. Any candidate who so wishes should submit the following to the relevant RO **before the close of the nomination**:

- (a) an introductory message in a specified form provided by the RO;
and
- (b) 3 identical copies of his photograph with his name on the back, which must be in specified size, in colour and taken within the last 6 months.

4.38 The contents, nature and presentation of the candidate's messages in the introductory leaflet are exclusively the idea and work of the candidate himself. They will not be subject to alteration or edition by the REO unless they are considered to be indecent, defamatory or in any other way unlawful. Candidates are reminded that some voters are only able to read English.

CHAPTER 5

POLLING AND COUNTING ARRANGEMENTS

PART I : BEFORE THE POLL

5.1 The CEO will, in respect of a subsector election, designate one or more places for conducting a poll and the counting of votes [s 28 of the EAC (EP) (EC) Reg].

5.2 Out of the 38 subsectors, the NPC subsector as well as the LegCo subsector are filled by ex-officio members and the religious subsector nominates its EC members (see Chapter 2). No election is therefore necessary for these 3 EC subsectors.

5.3 Depending on the circumstances, there may be one central polling station or a number of polling stations [s 28 of the EAC (EP) (EC) Reg]. In the latter case, the polling station allocated to a voter or AR will be based on his registered residential address. The RO for each subsector will, at least 1 working day before polling day, give notice of time and place of counting of votes to candidates [s 63 of the EAC (EP) (EC) Reg]. *[Amended in September 2006]*

5.4 At least 5 days before the polling day, voters of contested subsectors will be sent poll cards, addressed to their last addresses known to the REO, notifying them of the date, time and place of the poll [s 31 of the EAC (EP) (EC) Reg]. In the case where the number of validly nominated candidates for a subsector does not exceed the number of vacancies, the candidate(s) will be

declared elected [s 19 of the EAC (EP) (EC) Reg]. Voters in respect of that subsector do not need to vote, and a notice to that effect will be sent to them.

5.5 A voter (and AR of a corporate voter) **may vote only at the polling station(s) allocated to him** by the CEO. Many of the polling stations are accessible to persons with a disability including those who have difficulty in walking. Voters/ARs with a disability finding it difficult for them to access the polling station allocated to them may **at least 3 days** before the polling day apply to the CEO for re-allocation of a polling station specifically designated for such voters (“special polling station”). Whether the polling station allocated to a voter/AR is accessible to persons with mobility difficulty will be specified clearly in the location map attached to the poll card sent to each voter/AR, together with a note indicating that if any voter/AR allocated to this polling station has any difficulty in mobility and wishes to vote at a special polling station, he may apply to the CEO for re-allocation. If a special polling station is re-allocated to him, then he can vote only at that polling station. If circumstances permit, free Rehabus service will also be arranged to take those voters/ARs to the special polling station. In case circumstances require, the CEO may allocate to a voter or AR an alternative polling station, in addition to or in substitution of the one originally allocated to him [s 30(4) of the EAC (EP) (EC) Reg]. Voters and ARs concerned can make enquiries with the REO on this subject by telephone or facsimile. *[Amended in September 2006]*

PART II : INSIDE THE POLLING STATION

5.6 About 15 minutes before the commencement of polling, the Presiding Officer (“PRO”) will show the candidates, their election agents and polling agents, if they are present, the empty ballot boxes before proceeding to

lock and seal them. Candidates concerned and their agents may observe the locking and the sealing of the ballot boxes.

5.7 The PRO will also inform and show to the relevant candidates, their election agents and polling agents, if they are present, the number of unissued ballot papers in respect of each subsector which are in his possession. The ballot papers are distinguishable by different colour patterns and code numbers.

PART III : OUTSIDE THE POLLING STATION

5.8 Where circumstances permit, the PRO will arrange an enlarged copy of the relevant introductory leaflets on candidates published by the REO to be displayed outside the polling station to facilitate easy reference by voters. A no canvassing zone (“NCZ”) will be designated outside each polling station to ensure the free and safe passage of voters into the polling station. Door-to-door canvassing and for the purpose of such canvassing, the display of any badge, emblem, clothing or head-dress, which may promote or prejudice the election of a candidate or candidates at the election, or makes direct reference to a body any member of which is standing as a candidate in the election or to a political body in Hong Kong, will be allowed on the storeys above or below street level in a building within a NCZ other than a building in which there is a polling station, provided that permission has been obtained for entry to the building for canvassing votes, and that obstruction is not posed to voters and no sound amplifying device is used. Apart from this, the RO or the PRO of the relevant polling station will allow no other canvassing activities within a NCZ except for static display of election advertisements that are authorised. A notice of the declaration of a NCZ and a map or plan showing the boundary of the area will be

put up at or near the polling station. A “no staying zone” (“NSZ”) in which no one is allowed to stay or loiter will also be designated immediately outside the entrance/exit of a polling station to avoid any obstruction of entry/exit. [See Chapter 14: Prohibition Against Canvassing Activities Outside Polling Stations]
[Amended in September 2006]

5.9 On the polling day, a person must not:

- (a) other than the door-to-door canvassing activities stated in para. 5.8 above, engage in canvassing (including suggesting not to vote for any candidate) within the NCZ;
- (b) use a sound amplifying system or device for any purpose within the NCZ;
- (c) use a sound amplifying system or device, for canvassing, so that the sound emitted by it can be heard in the NCZ;
- (d) without reasonable excuse, display in the NCZ any badge, emblem, clothing or head-dress, which:
 - (i) may promote or prejudice the election of a candidate or candidates at the election; or
 - (ii) makes direct reference to a body any member of which is standing as a candidate in the election or to a political body in Hong Kong; or
- (e) stay or loiter in the NSZ without the express permission of the PRO;

otherwise he commits an offence with a maximum penalty of a fine at level 2 (up to \$5,000) and imprisonment for 3 months [ss 40 and 45 of the EAC (EP) (EC) Reg]. *[Amended in September 2006]*

PART IV : ADMISSION TO THE POLLING STATION

5.10 Other than voters, the following persons may also be admitted to a polling station:

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

- (i) any person authorised in writing by a member of the EAC;
- (j) a person authorised in writing by the RO for liaison purposes; and
- (k) a child who accompanies a voter to the polling station for the purpose of voting (if the PRO considers that the child should not be left unattended while that voter is in the polling station and the child will not disturb or cause inconvenience to any person in the polling station).

[S 44(4) of the EAC (EP) (EC) Reg.] *[Amended in September 2006]*

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

NOTE :

For the purpose of ensuring that polling takes place smoothly and efficiently, the PRO may regulate the number of voters, candidates, election agents and polling agents to be admitted to the polling station at any one time. Only one such person may be present in the polling station: a candidate or his election agent or his polling agent. [See also Part V of Chapter 7.]

5.11 Except for a voter or a police officer on duty or a member of the Civil Aid Service on duty, all other persons permitted to enter a polling station are required to sign a **Declaration of Secrecy** on a specified form and observe the provisions governing the secrecy of voting [s 92 of the EAC (EP) (EC) Reg].

PART V : CONDUCT INSIDE THE POLLING STATION

5.12 On arrival at the polling station, a voter or AR should show to the polling staff at the ballot paper issuing desks his identity card or such other identity document or documents, which show the identity card/document number, name and photograph of the voter/AR, to the satisfaction of the PRO. The polling staff will check the voter/AR's identity document against the entries on the copy of registers of voters to ascertain if the voter/AR is registered in respect of the subsector concerned. If so, the polling staff will inform him. The polling staff will then call out the name of the voter/AR as stated in the entry in the copy of the register of voters and cross out the name and the identity document number of that entry, before giving him either 1 or 2 different ballot papers, as appropriate. A voter/AR may be asked to check his own entry on the register to ensure that he has been given the correct ballot paper(s). No record will be made as to which particular ballot paper(s) is given to a voter/AR.

5.13 For control purpose regarding the total number of ballot papers issued, the counterfoil of each ballot paper bears a serial number on its front. The serial number on the counterfoil will not, however, be recorded or related to the particular voter to whom the ballot paper is issued.

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

- (a) Are you the person registered in the subsector FR now in effect for this subsector, as follows (reads the whole of the relevant entry or entries in the register)?

- (b) Have you already voted for this subsector?

A person will not be issued with any ballot paper unless he has answered the questions to the satisfaction of the PRO. [S 51 of the EAC (EP) (EC) Reg.]

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

5.16 If a voter/AR has been issued with a ballot paper but chooses not to take it, he cannot return to the polling station later on and claim for that or another one. If for a reason considered justified by the PRO, a voter/AR who has not marked the ballot paper issued to him, may, with the permission of the PRO, hand back the ballot paper to the PRO and return later to cast his vote. If, after having been issued with a ballot paper, a voter/AR has become incapacitated by physical illness and has left the polling station without marking his ballot paper, he may return to the polling station to cast his vote before the close of the poll, provided that before he leaves the polling station, his ballot paper has been retrieved by the PRO. Under either of the above circumstances, the PRO must keep that ballot paper in his custody and return it, in the presence of a police officer, to the voter/AR in question when the latter returns before the close of poll to cast his vote. But if at the close of poll, the voter/AR has not returned, the PRO shall endorse the ballot paper with the word “UNUSED”; such ballot paper shall not be counted. [Ss 55 and 77 of the EAC (EP) (EC) Reg.] *[Amended in September 2006]*

5.17 The PRO would need to keep a ballot paper left in the polling station in his custody in the circumstances described in para. 5.16 above only when he knows which voter/AR had left the ballot paper behind. Otherwise, a

ballot paper found to be left in the polling station should be regarded as “UNUSED”; such ballot paper shall not be counted. *[Amended in September 2006]*

5.18 When issued with ballot paper(s), a voter/AR will also be provided with a cardboard to indicate the number of ballot papers issued (ie, white for one ballot paper and red for two ballot papers). The cardboard will be collected by the polling staff after the voter/AR has inserted his ballot paper(s) into the ballot box(es) before leaving the polling station. This arrangement is to facilitate the polling staff manning the ballot boxes to ensure that a voter has cast all his votes (one or two) before leaving the polling station and that no person can take away any ballot paper from the polling station.

5.19 After being issued with the ballot paper(s), the voter/AR should immediately proceed to one of the voting compartments where he should mark his ballot paper(s) to indicate his choice of candidate(s) in the following manner, as appropriate :

- (a) when a specially designed ballot paper with **ovals** against the names of the candidates is used, the voter/AR should shade the ovals for the choice of candidates up to the number of vacancies to be filled; *or*
- (b) when the usual type of ballot papers with **circles** against the names of the candidates and a chop with a “✓” sign (provided by the polling staff) are used, the voter/AR must use the chop to mark his choice of candidate(s) in the circles up to the number of vacancies to be filled. The chop is to be affixed to give a single “✓” in the circles on the ballot paper opposite the names of the candidates of the voter’s or AR’s choice.

After marking the ballot paper, the voter/AR should cast his vote in the manner as directed by the EAC. The various ways of casting the vote are as follows:

- (a) to put the ballot paper, unfolded, into the ballot box with the marked side facing down;
- (b) to –
 - (i) fold the ballot paper so that the marked side is inside; and
 - (ii) put the folded ballot paper into the ballot box;
- (c) to –
 - (i) put the ballot paper, unfolded, into an envelope provided at the polling station; and
 - (ii) put the ballot paper contained in the envelope into the ballot box; or
- (d) to –
 - (i) fold the ballot paper so that the marked side is inside;
 - (ii) put the folded ballot paper into an envelope provided at the polling station; and
 - (iii) put the ballot paper contained in the envelope into the ballot box.

[Ss 54 and 56 of the EAC (EP) (EC) Reg.] *[Amended in September 2006]*

5.20 Immediately after a voter/AR comes out of the voting compartment, he should put his marked ballot paper(s) into the sealed ballot box as directed by the polling staff and return the cardboard to the polling staff, after which the voter should leave the polling station immediately. *[Amended in September 2006]*

NOTE :

A voter/AR must not remove a ballot paper from a polling station. It is an offence under s 54(4) of the EAC (EP) (EC) Reg for a person to bring out a ballot paper from a polling station. Any person who removes a ballot paper from a polling station with an intent to deceive may commit an offence under s 17(1)(c) of the ECICO and may be prosecuted. It will also be a corrupt conduct under s 17(1)(d) of the ECICO if any person, without lawful authority, destroys, defaces, takes or otherwise interferes with a ballot paper at the election.

5.21 A visually impaired voter/AR who so requests will be provided with a **template** to facilitate his marking of the ballot paper without any assistance from anyone [s 57 of the EAC (EP) (EC) Reg]. [For details about the template, see para. 7.35 of Chapter 7.] The template should be returned to the polling staff after use.

5.22 **The ballot is secret. No one can force a person to vote or not to vote for any particular candidate** [s 13 of the ECICO]. **Also, no one is required to tell which candidate he has voted for or is going to vote for.** A person who, without lawful authority, requires or purports to require a voter/AR to disclose the name of, or any particular relating to, the candidate for whom the voter/AR has voted is guilty of a criminal offence and will be liable to a fine at

level 2 (up to \$5,000) and imprisonment for 6 months [s 93(10) of the EAC (EP) (EC) Reg and s 37 of the Schedule to the CEEO]. *[Amended in September 2006]*

5.23 Any voter/AR who has inadvertently torn or damaged any ballot paper or has made an error in marking any ballot paper issued to him may ask the PRO to exchange it for another unmarked ballot paper. Such spoilt ballot papers will be endorsed on the front with the word '**SPOILT**' and will be kept by the PRO. The spoilt ballot papers will not be counted at the counting of the votes. [Ss 60 and 77 of the EAC (EP) (EC) Reg.]

5.24 Where a person, representing himself to be a particular voter or AR of a corporate voter entered on the register, applies for any ballot paper after a person has been issued with any ballot paper as such a voter or AR of such a corporate voter, he may be issued with ballot paper(s) with the word '**TENDERED**' endorsed on the front. Such ballot paper(s) will not be counted at the counting of the votes. [Ss 58 and 77 of the EAC (EP) (EC) Reg.] However, if a voter who has been issued with a ballot paper chooses not to cast his vote and leaves the polling station and returns later to claim for that or another ballot paper, the PRO may issue a tendered ballot paper to the voter **ONLY IF** he is not certain that the voter is the one who has been issued with a ballot paper earlier.

5.25 Ballot papers which have been issued (whether marked or unmarked) are sometimes abandoned or found left behind by voters in the voting compartments or lying on the floor of the polling station, or otherwise not used. The intention of the voters is not clear in such cases. Any person who discovers such a ballot paper is required to hand it to the PRO. Such a ballot paper will be endorsed with the word '**UNUSED**' (unless it is not reasonably practicable to do so) and will be kept by the PRO. In no circumstances will the ballot paper be put into a ballot box. Such a ballot paper will not be counted at the counting of the votes. [Ss 59 and 77 of the EAC (EP) (EC) Reg.]

5.26 A voter/AR who is unable to mark a ballot paper to indicate the choice of candidate(s) (eg being unable to read or write or incapacitated by visual deficiency or other physical cause) may ask the PRO, Deputy PRO or Assistant PRO to mark the ballot paper on his behalf. The marking of the ballot paper will be made to show the voter/AR's choice in the presence of one of the Polling Officers as a witness. [S 57 of the EAC (EP) (EC) Reg.]

5.27 Inside a polling station, a voter/AR must not interfere with or attempt to influence any other voter/AR, specifically:

- (a) speak to or communicate with any other voter/AR if the RO, the ARO, the PRO or any polling officer has given direction to him not to do so;
- (b) attempt to obtain information, or disclose any knowledge acquired, concerning the vote of another voter/AR;
- (c) exhibit or distribute any campaign material;
- (d) without any reasonable excuse, display any propaganda material, eg any badge, emblem, clothing or head-dress, which:
 - (i) may promote or prejudice the election of a candidate or candidates at the election; or
 - (ii) makes direct reference to a body any member of which is standing as a candidate in the election, or to a political body in Hong Kong; or

- (e) use a mobile telephone or any telephone or paging machine or any other form of electronic communication device if the RO, the ARO, the PRO, or any polling officer has given direction to him not to do so.

If a person contravenes any of the above prohibitions, he commits an offence and will be liable to a fine at level 2 (up to \$5,000) and imprisonment for 3 months [s 45 of the EAC (EP) (EC) Reg]. *[Amended in September 2006]*

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

5.29 Only the following persons may speak to, or communicate with, voters/ARs within a polling station:

- (a) the PRO and other polling staff;
- (b) the ROs and AROs;
- (c) members of the EAC;
- (d) the CEO;

- (e) police officers and members of the Civil Aid Service on duty at the polling station;
- (f) a person authorised in writing by the ROs for liaison purposes; and
- (g) any person authorised in writing by a member of the EAC.

[S 45(1) and (6) of the EAC (EP) (EC) Reg.] *[Amended in September 2006]*

5.30 No person may canvass or display any election advertisement within a polling station. Any person who undertakes photographing, filming and video or audio recording within a polling station without the express permission of the PRO, or a member of the EAC, or the express permission, in writing, of the RO, commits an offence and will be liable to a fine at level 2 (up to \$5,000) and imprisonment for 6 months [s 45(2) and (8) of the EAC (EP) (EC) Reg]. Normally such permission is only granted to members of the media or government photographers for publicity purposes. *[Amended in September 2006]*

PART VI : CLOSE OF POLL

5.31 Voters/ARs who intend to vote but are not at the door of their designated polling station by the close of poll will not be allowed in afterwards. At the close of poll, the ballot boxes will be locked and sealed by the PRO in the presence of the relevant candidates and their agents, if they are present. The PRO will also inform them of the numbers of unissued ballot papers, spoilt ballot papers and unused ballot papers in his possession. All such ballot papers and the marked copies of the register(s) will then be made up into sealed packets. Not more than 2 candidates of the subsectors (or their agents), if they so wish, will be

allowed to accompany the PRO in the delivery of the ballot boxes, together with the sealed packets and the ballot paper account prepared by the PRO, from the polling station to the counting station under police escort. Where there are more than 2 such persons remaining at the polling station who wish to accompany the PRO in the delivery of the ballot boxes, the PRO will draw lots to determine which 2 candidates or their agents will participate in the delivery. Thereafter, candidates and their agents are allowed to remain in the polling station only until they see that the police escort for the delivery is available. Thereafter, all of them, except those 2 persons who are to participate in the delivery, must leave the polling station. *[Amended in September 2006]*

PART VII : THE COUNT

5.32 A central counting station will be set up to conduct the count and announce the election results. The RO for each subsector will, at least 1 working day before polling day, give notice of time and place of counting of votes to candidates [s 63 of the EAC (EP) (EC) Reg]. The CRO (Subsectors) is to supervise the central counting station and the respective ROs for the subsectors are to be in charge of the counting zone for the relevant subsector. The RO for each subsector, assisted by his AROs and counting staff, will be responsible for the conduct of the count. *[Amended in September 2006]*

5.33 All the ballot boxes will first be delivered to the counting station. The ballot box(es) and ballot paper accounts from a polling station will be given into the charge of the RO (“the relevant RO”). Each ballot box will then be checked to see if it is properly sealed. The seal on the ballot box will be broken by the relevant RO in the presence of the relevant candidates or their election agents or counting agents, if they are present at the time. The ballot box will then

be opened and the contents emptied onto a counting table. Thereafter, the relevant RO will -

- (a) sort the ballot papers according to each subsector,
- (b) count the ballot papers for each subsector for verification of the ballot paper account for each subsector,
- (c) hand the ballot papers for those subsectors for which he is not appointed together with the relevant ballot paper accounts (verified) over to the ROs for the respective subsectors,
- (d) count the votes recorded on the ballot paper for the subsector retained by him (for which he is appointed),
- (e) count the votes recorded on the ballot papers for the subsector (for which he is appointed) handed over to him from other ROs,
- (f) determine the validity of questionable ballot papers, and
- (g) compile the final counting results.

The above steps will be appropriately modified if counting is done by computer [ss 73 and 74 of the EAC (EP) (EC) Reg].

5.34 Only the following persons may be present at the counting of votes:

- (a) the CRO (Subsectors);
- (b) the ROs, AROs and counting staff for the relevant subsectors;

- (c) members of the EAC;
- (d) the CEO;
- (e) candidates and their election and counting agents, of the relevant subsectors;
- (f) police officers and members of the Civil Aid Service on duty at the counting station;
- (g) public officers authorised in writing by the CEO;
- (h) any person authorised by the CRO (Subsectors) or the RO in charge of the counting zone of the central counting station; and
- (i) any person authorised in writing by a member of the EAC.

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

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

[S 66 of the EAC (EP) (EC) Reg.]

5.35 Before entry, every person authorised to be present at a counting station, other than the police officers and members of the Civil Aid Service on duty, must make a **Declaration of Secrecy** on a specified form and observe the provisions governing the secrecy of voting [s 92 of the EAC (EP) (EC) Reg].

5.36 The CRO (Subsectors) or the RO as the case may be, may designate an area at the counting station for the public to observe the count at a distance [s 66(6) of the EAC (EP) (EC) Reg]. Persons present within that designated area will not be required to make a Declaration of Secrecy. Except with the express permission of the CRO (Subsectors) or the relevant RO or a member of the EAC, as the case may be, any person who undertakes photographing, filming and video or audio recording within a counting zone during the period commencing from the time at which the counting of the votes is to begin at the zone and ending upon the completion of the counting and re-count, if any, at the zone commits an offence [s 67(1) and (2) of the EAC (EP) (EC) Reg].

5.37 A person must not misconduct himself in or in the vicinity of a counting station or fail to obey any lawful order of the CRO (Subsectors) or the RO, otherwise he commits an offence punishable with a fine and imprisonment and may be ordered by the CRO (Subsectors) or the RO to leave the area. A person misconducts himself if he disrupts the counting of votes or disturbs or causes inconvenience to any person in the counting station. The RO may also order a person to leave the counting station if the person conducts himself in such way that the purpose of his presence is not that for which he was authorised or permitted to enter or remain in the counting station. If he fails to leave immediately, he may be removed by a police officer or by any other person authorised in writing by the CRO (Subsectors) or the RO. The person so removed may not re-enter the counting station except with the permission of the CRO (Subsectors) or the RO. [Ss 67 and 68 of the EAC (EP) (EC) Reg.]

5.38 The RO will conduct the count in the presence of the relevant candidates and their election or counting agents, if they are present. After the RO has opened the ballot boxes, the candidates and their agents may request to inspect any papers other than ballot papers taken from the ballot boxes before they are disposed of. **At no time should a candidate, his election agent or counting agent touch any ballot papers.**

Invalid Ballot Papers

5.39 A ballot paper is invalid if:

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

These ballot papers will be set aside as invalid on the spot. They will not be counted and will not be treated as questionable ballot papers. A candidate, an election agent or a counting agent may inspect these ballot papers but is not entitled to make representations to the relevant RO concerning these ballot papers. [Ss 74A(b) and 77 of the EAC (EP) (EC) Reg.] *[Amended in September 2006]*

Questionable Ballot Papers

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

- (a) it has any writing or mark by which the voter can possibly be identified;
- (b) it is not marked in accordance with s 56 of the EAC (EP) (EC) Reg, ie
 - (i) not marked by shading the ovals opposite the names of the candidates of a voter/AR's choice; or
 - (ii) in case where a chop with a "✓" is to be used:
 - (aa) not marked with the chop; or
 - (bb) not marked by affixing the chop to give a single "✓" in the circle opposite the names of the candidates of the voter/AR's choice (however, the RO may count the vote on that ballot paper if he is satisfied that the intention of the voter/AR is clear); or
 - (iii) votes given for more than the number of vacancies for a subsector;
- (c) it is substantially mutilated; or
- (d) it is void for uncertainty.

[Ss 56, 74A(a), 77 and 78 of the EAC (EP) (EC) Reg.] *[Amended in September 2006]*

5.41 The validity of all questionable ballot papers will be decided by the RO of the relevant subsector. When deciding on the validity of the ballot papers

in (a) above, where appropriate, the RO will make reference to the judgment made by the Court on an election petition case (HCAL 127/2003). In that case, the Court ruled that the handwritten tick found on the ballot paper in question in the said election petition was considered a mark by which the voter could possibly be identified. The validity of ballot papers with any other writings or mark will remain to be determined by the RO on a case-by-case basis. For ballot papers at (b) above, the RO may count that ballot paper if he is satisfied that the intention of the voter/AR is clear notwithstanding that the vote is not marked by affixing the chop to give a single “✓” in the circle opposite the name of the candidate as the voter’s or AR’s choice. [S 77 of the EAC (EP) (EC) Reg.] Before the RO makes his decision, a candidate or his election agent or counting agent, if present at the counting zone, may inspect and make representations to the RO on the questionable ballot paper. After considering the representation, if any, the RO will decide on the validity of the questionable ballot paper. *[Amended in September 2006]*

5.42 A relevant candidate or his election agent or counting agent may object to the acceptance or rejection of a questionable ballot paper by making his objection known to the RO for the particular EC subsector, who will decide whether the ballot paper (or the vote recorded thereon) is valid or to be rejected and, in the latter event, endorse on the ballot paper the word “rejected”. [S 78(5) of the EAC (EP) (EC) Reg.] *[Amended in September 2006]*

5.43 A relevant candidate or his election agent or counting agent may object to the rejection of a ballot paper by the RO, in which case the RO shall add to the endorsement the words “rejection objected to”. Questionable ballot papers which are accepted by the RO but objected to by a relevant candidate or his election agent or counting agent will be marked “acceptance objected to”. [S 78(5) and (6) of the EAC (EP) (EC) Reg.] *[Amended in September 2006]*

5.44 The decision of the RO for a particular subsector in regard to any question arising in respect of any ballot paper relating to that subsector shall be **final**, but may be subject to appeal [s 79 of the EAC (EP) (EC) Reg]. The appeal is to be heard by the Revising Officer and an application has to be made to him.

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

5.46 After the count, the RO for a particular subsector will make known the result to the relevant candidates or their election or counting agents present. Such a candidate or his election agent may request the RO to re-count the votes and the relevant RO shall comply with any such request unless in his opinion it is unreasonably made. [S 76 of the EAC (EP) (EC) Reg.]

PART VIII : DECLARATION OF RESULT

5.47 When the counting of votes and re-counts, if any, are completed and a result obtained, the RO for a particular subsector shall declare the candidate(s) elected for that subsector. The RO shall display a notice of result of the election of that subsector in a prominent place outside the counting station [s 80 of the EAC (EP) (EC) Reg]. The result will also be published in the Gazette within 7 days of the declaration of the result [s 81 of the EAC (EP) (EC) Reg].

PART IX : DISPOSAL OF DOCUMENTS

5.48 As soon as practicable after the RO has ascertained the result of the poll, he will seal all the relevant documents and ballot papers into packets. Candidates and their agents may observe the packaging, if they so wish. [S 82 of the EAC (EP) (EC) Reg.]

5.49 These sealed packets of documents will then be deposited with the CEO for safe custody for 6 months before they are destroyed. [Ss 83 and 85 of the EAC (EP) (EC) Reg.]

5.50 **Except pursuant to a court order** in relation to an appeal or a criminal proceeding, **no person may inspect any ballot paper in the custody of the CEO.** [S 84 of the EAC (EP) (EC) Reg.]

CHAPTER 6

APPEALS

PART I : APPEALS AGAINST RESULT OF AN ELECTION

6.1 A person claiming to be a candidate at an EC subsector election may appeal to a Revising Officer against the result of that election by lodging an appeal in the form of an appeal notice. The appeal notice may be lodged only on the ground that the person declared by the RO in accordance with the regulations in force under the EACO to have been elected as a member of the EC at that election was not duly elected because:

- (a) the person was not eligible to be, or was disqualified from being, a candidate at the election; or
- (b) material irregularities occurred in relation to the election, to the poll or the count.

6.2 The appeal notice may be lodged only during the period of 7 days following the date on which the RO has published in the Gazette the result being appealed against and such notice must reach the Revising Officer on a date not later than the last day of such period.

[S 39 of the Schedule to the CEEO and s 3 of the EC (Appeals) Reg.]

**PART II : APPEALS IN RELATION TO REGISTRATION OF
NOMINEES OF RELIGIOUS SUBSECTOR DECLARED BY
THE RO AS MEMBERS OF THE EC**

6.3 A person who considers that a declared member is not eligible to be registered as a member of the EC on the ground that –

- (a) the declared member was not eligible to be selected as, or was disqualified from being, a nominee;
- (b) material irregularities occurred in relation to the process of nomination;
- (c) material irregularities occurred in relation to the determination of the RO as to the validity of the nomination of the declared member; or
- (d) material irregularities occurred in relation to the determination of the RO under s 7(6) of the Schedule to the CEEO,

may object to the registration of the declared member as a member of the EC in the IR or the FR, as the case may be³T, and request the Revising Officer to determine whether some other nominee nominated by the designated body concerned (of the religious subsector) should be declared and registered as an EC member instead, by submitting a written representation to the Revising Officer during the period of 7 days following the date of the publication of the IR or the FR. Such written representation must reach the Revising Officer on a date not later than the last day of such period. [S 4 of the EC (Appeals) Reg.]
[Amended in September 2006]

³ IR in the case of a subsector ordinary election, and FR in the case of a subsector by-election.

PART III : HEARING OF APPEAL AND RULING OF REVISING OFFICER

6.4 When the Revising Officer receives an appeal notice or a written representation, as the case may be, he will, as soon as practicable, arrange to hold a hearing. At the hearing, the appellant is entitled to appear in person and to be represented by a legal practitioner or any other person authorised by the appellant. At the end of a hearing, the Revising Officer shall determine whether the person whose election is questioned was or was not duly elected or whether the declared member concerned should have been registered as a member of the EC. The determination of the Revising Officer on such an appeal is final. Moreover the Revising Officer may review any ruling made and for that purpose, may rehear the matter and reverse or confirm his previous ruling. The Revising Officer will direct the ERO to amend the IR or the FR, as the case may be⁴, after the hearings. [S 39 of the Schedule to the CEEO and ss 3 to 10 of the EC (Appeals) Reg.] *[Amended in September 2006]*

⁴ IR in the case of a subsector ordinary election, and FR in the case of a subsector by-election.

CHAPTER 7

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

PART I : GENERAL

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

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

PART II : TYPES AND NUMBERS OF AGENTS

7.3 If he so wishes, a candidate may appoint the following agents to assist him in an election:

- (a) **1** election agent [s 23(1) of the EAC (EP) (EC) Reg];
- (b) **any number** of election expense agents [s 23 of the ECICO and s 25 of the EAC (EP) (EC) Reg] [*Amended in September 2006*];

- (c) not more than **2** polling agents for **each polling station** in respect of the EC subsector for which he is nominated [s 42(3) of the EAC (EP) (EC) Reg]; and
- (d) not more than such number of counting agents as will be specified by the EAC [s 64(2) of the EAC (EP) (EC) Reg].

PART III : QUALIFICATIONS

7.4 The election, polling and counting agents should be holders of the Hong Kong identity card and have attained the age of 18 years [ss 23(2), 42(4) and 64(3) of the EAC (EP) (EC) Reg] while an election expense agent needs to be a person who has attained the age of 18 years [s 25(1) of the EAC (EP) (EC) Reg].

PART IV : CIVIL SERVANTS ACTING AS AGENTS

7.5 Civil servants, other than Directorate Officers, Administrative Officers, Police Officers and Information Officers and those officers acting in the above grades and ranks with a view to substantive appointment thereto, may act as agents or assist in electioneering activities provided that they are not already appointed by the CEO as polling or counting staff, that there is no conflict of interest with their official duties, that no use of public resources is involved, and that no government uniform is worn. However, to avoid any unfairness, semblance of unfairness or conflict of interest, civil servants who work in a subsector or have extensive contacts with the public in a subsector are

well advised not to accept appointment by a candidate in the subsector to be his agent. Civil servants who are allowed to participate in electioneering activities, including the seeking of election donations, for any candidate should not use or be seen to use any public resources in such activities.

PART V : ELECTION AGENT

Appointment

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

7.7 The candidate must give notice of such appointment to the RO for the subsector for which the candidate is nominated [s 23(3) of the EAC (EP) (EC) Reg]. The notice must be in the specified form and signed by both the candidate and the agent [s 23(5) and (6) of the EAC (EP) (EC) Reg]. The appointment will not be effective until the notice of appointment is received by the RO [s 23(4) of the EAC (EP) (EC) Reg].

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

Revocation

7.9 The appointment of an election agent may be revoked by the candidate at any time. The candidate must also give notice of the revocation in writing to the RO. A revocation of an appointment of an election agent will not be effective until such notice is received by the RO [s 23(8), (9) and (10) of the EAC (EP) (EC) Reg].

7.10 If an election agent passes away or has his appointment revoked, the candidate may appoint another election agent. In such a case, the candidate must give notice of the replacement appointment in the specified form to the RO in accordance with para. 7.7 above [s 23(11), (12) and (13) of the EAC (EP) (EC) Reg].

Notification

7.11 Not later than 5 days after the expiration of the nomination period, and thereafter as required, each validly nominated candidate or his election agent will receive from the RO a notice containing the details of all the election agents appointed by all candidates for the subsector concerned [s 24 of the EAC (EP) (EC) Reg]. The RO will also display outside his office a notice of the particulars of the election agents [s 24(5) of the EAC (EP) (EC) Reg].

Role of an Election Agent

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

- (a) anything a candidate is required to do in relation to his nomination;
- (b) to withdraw the candidate's candidature;
- (c) to incur election expenses unless he has been so authorised (ie as an election expense agent at the same time) by the candidate; and
[Amended in September 2006]
- (d) to authorise an election expense agent to incur election expenses.

[S 23(14) and (15) of the EAC (EP) (EC) Reg.]

IMPORTANT :

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

7.13 Candidates and their election agents are entitled to be present at the counting of the votes and are normally allowed admission to all polling stations. However, the PRO of a polling station may regulate the number of candidates and their agents to be admitted to the polling station at any one time, for the purpose of maintaining order in the polling station and ensuring that the polling is conducted smoothly. **Whilst inside a polling station or a counting station, the**

provisions to be observed by polling agents and counting agents are also applicable to candidates and their election agents. They are therefore advised to familiarise themselves also with the guidelines set out in Parts VII and VIII of this chapter.

PART VI : ELECTION EXPENSE AGENTS

Authorisation

7.14 A candidate may authorise any number of election expense agents to incur election expenses on his behalf in an election.

7.15 The authorisation shall be in writing on a specified form and state the name, identity document number and address of the election expense agent, and must specify the maximum amount of election expenses the agent may incur [s 25(2) and (3) of the EAC (EP) (EC) Reg]. It should be signed by both the candidate and the agent [s 25(4) of the EAC (EP) (EC) Reg]. A copy of the authorisation must be lodged with the relevant RO, or the CEO if the RO has not been appointed, by the candidate [s 25(5) of the EAC (EP) (EC) Reg].

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

Revocation

7.17 The authorisation of an election expense agent may be revoked by a candidate at any time. The candidate must give notice of the revocation as soon as possible in writing to the RO, or the CEO if the RO has not been appointed. The RO or the CEO, as the case may be, will only regard a revocation as effective when he receives the notice [s 25(10) of the EAC (EP) (EC) Reg]. The election expenses already incurred will still be counted as election expenses of the candidate.

Role of Election Expense Agents

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

Candidate's Duty to Know the Details of Election Expenses Incurred by His Election Expense Agents

7.19 Every candidate is under a **duty**, subject to criminal penalty for breach, to submit to the CEO a return and declaration of his election expenses and donations with supporting vouchers not later than 30 days after the publication in the Gazette of the result of the election, or not later than 30 days after the declaration of the termination of the election proceedings under the relevant electoral law, or not later than 30 days after the declaration of the failure of the election under the relevant electoral law [s 37 of the ECICO and Part IV of Chapter 16]. For the efficient and effective discharge of his duty, the candidate should **make sure** that his election expense agents will keep account of all election expenses incurred on his behalf and will provide to him, as soon as

practicable but not later than the same 30-day period, a detailed statement of expenditure in which each item of expenditure of \$100 or above has to be supported by an invoice and a receipt. If any item of expenditure incurred by the election expense agents is paid or defrayed or contributed to by a donation, the candidate should **make sure** that they will provide him with a statement stating the expenses. If an item is not explicit in monetary terms, it should be assessed at a reasonable value; and if any item is more than \$1,000, it should be supported by a copy of receipt issued to a donor (in a specified form signed by the donor). Without such statements and vouchers provided by the election expense agents, the candidate will no doubt have difficulty in discharging his duty to file the return and declaration of election expenses and donations, which **may render him liable for a criminal offence.** *[Amended in September 2006]*

Public Inspection of Authorisation

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

PART VII : POLLING AGENTS

Appointment

7.21 A candidate may appoint **not more than 2 polling agents** for each polling station in respect of the subsector for which he is nominated [s 42(3) of the EAC (EP) (EC) Reg].

7.22 The appointment shall be made on a specified form. The candidate must give notice of such appointment in writing signed by him to the CEO at least **1 week** before the polling day [s 42(5) and (8) of the EAC (EP) (EC) Reg]. Where a candidate appoints a polling agent after the above deadline, he is required to give notice of the appointment to the PRO of the polling station for which that agent has been appointed. Such a notice must be given by the candidate or the election agent **personally** by delivering the notice of appointment to the PRO (or the Deputy PRO or an Assistant PRO) at the relevant polling station on the polling day and before the agent concerned enters the polling station [s 42(6) of the EAC (EP) (EC) Reg]. The appointment will not be effective until the notice of appointment is received by the CEO or the PRO, as the case may require [s 42(7) of the EAC (EP) (EC) Reg].

Revocation

7.23 The appointment of a polling agent may be revoked by the candidate at any time. The candidate must also give notice of revocation in writing and in the specified form to the CEO before polling day or to the PRO on the polling day in the manner specified in the preceding paragraph [s 42(10) and (11) of the EAC (EP) (EC) Reg]. A revocation of an appointment of a polling

agent will not be effective until the notice thereof is received by the CEO or the PRO, as the case may be [s 42(12) of the EAC (EP) (EC) Reg].

Role of a Polling Agent

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

Provisions which the Polling Agents should be Aware of

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

NOTE :

The PRO of a polling station may regulate the number of candidates, election agents and polling agents to be admitted to the polling station at any one time, for the purpose of maintaining order in the polling station and ensuring that polling is conducted smoothly. A notice will be displayed outside each polling station to inform all parties concerned about the capacity of the area designated inside the polling station for candidates and their agents to observe the poll. Admission will be on a first-come-first-served basis. In order that as many candidates, election agents and polling

agents as possible will have a chance to attend at the polling station to observe the conduct of the poll, any candidate, election agent or polling agent who has been admitted to the polling station will only be allowed to stay in for 1 hour. Thereafter he must leave the polling station unless the designated area is not yet full and no other candidate, election agent or polling agent is waiting to be admitted. The fact that a candidate, election agent or polling agent has left after attending at a polling station will not preclude him from being admitted to the polling station again, on a first-come-first-served basis and subject to the capacity of the designated area not being exceeded. Everyone admitted is required to sign in with the time of entry written down by him. Each person queuing outside the polling station will be issued a number chit to record the order of his application to get into the designated area; and when the turn of his number is reached, the number will be called, but if he is not there at that time, he will be automatically discounted from the queue and he will have to get another number chit when he returns. The bearer of the chit with a number next after the absentee's number will be allowed to get in instead.

7.26 Before entering a polling station, every person, other than a voter/AR or a police officer on duty or a member of the Civil Aid Service on duty, must make a Declaration of Secrecy on a specified form and observe the provisions governing the secrecy of voting [s 92 of the EAC (EP) (EC) Reg]. This is to make sure that, subject to penalty of making a false declaration, all persons inside a polling station will observe the secrecy of the vote of the voter and, in particular, not to divulge which voter/AR has voted for which candidate.

7.27 On attending the polling station for which he has been appointed, a polling agent shall report to the PRO and produce his identity card and the

Declaration of Secrecy completed by him for inspection [s 44(10) of the EAC (EP) (EC) Reg].

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

(a) Before

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

(b) During

- (i) In the course of polling, the PRO will show to each candidate or his election or polling agent, who is present at the relevant time, any abandoned ballot papers that have been issued or any torn pieces of such ballot papers found lying anywhere in the polling station (“**UNUSED** ballot papers”). Such ballot papers will not be put into a ballot box and will not be counted at the counting of votes. [Ss 59 and 77 of the EAC (EP) (EC) Reg.]

- (ii) Where a person, representing himself to be a particular voter entered on the register, applies for any ballot paper after a person has been issued with any ballot paper as such a voter, he may be issued with a ballot paper with the word “**TENDERED**” endorsed on the front. Such ballot paper will not be counted at the counting of votes. [Ss 58 and 77 of the EAC (EP) (EC) Reg.]
- (iii) Any voter who has inadvertently torn or damaged any ballot paper or has made an error in marking any ballot paper issued to him may ask the PRO to exchange it for another ballot paper. Such spoilt ballot paper will be endorsed on the front with the word “**SPOILT**” and will be kept by the PRO. The spoilt ballot papers will not be counted at the counting of votes. [Ss 60 and 77 of the EAC (EP) (EC) Reg.]

(c) After

The PRO will, in the presence of persons present, lock the flap on the lid of the ballot boxes and seal it. He will also inform each candidate or his agent who is present of the number of the following types of ballot papers in his possession: unissued ballot papers, unused ballot papers, and spoilt ballot papers.

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

- (a) leave the polling station at any time during the poll in which case his place may be taken by a candidate, an election agent or another polling agent appointed to attend at the polling station [see para. 7.25];
- (b) observe the locking and sealing of empty ballot boxes before the poll commences and the locking and sealing of the ballot boxes at the close of poll;

NOTE :

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

- (c) observe the issue of ballot papers to voters and ARs and the crossing out of the relevant entries from the copy of the register of voters, subject to the condition that they cannot interfere with the work of the polling staff;
- (d) where there is reasonable ground for questioning the bona fides of a voter/AR, ask the PRO to put the following prescribed questions (subject to necessary modifications) to that person at the time of his application for a ballot paper (but not afterwards):
 - (i) Are you the person registered in the subsector FR now in effect for this subsector, as follows (reads the whole of the relevant entry in the register)?

- (ii) Have you already voted for this subsector?

NOTE :

The person will not be issued with any ballot paper unless he has answered the questions to the satisfaction of the PRO. [S 51(5) of the EAC (EP) (EC) Reg.]

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

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

- (a) interfere with or attempt to influence any voter/AR.
- (b) speak to or communicate with any voter/AR if the RO, the ARO, the PRO or any polling officer has given direction to him not to do so, or interfere with or attempt to interfere with any ballot boxes, ballot papers, the marked copy of the register or other relevant election materials. In this regard, a polling agent should station within the designated area demarcated by red adhesive tape, and must not enter, or move close to, the restricted zone delineated with yellow tapes about 1 metre, or 2 metres if the configuration allows, around the voting

compartments. Moreover, it is most improper for a polling agent to ask a voter/AR about his identity card number, let alone check a voter/AR's identity card.

- (c) attempt to obtain information, or disclose any knowledge acquired, concerning the vote of any voter/AR. A polling agent should read and observe carefully the provisions governing the secrecy of voting issued with the form of Declaration of Secrecy.
- (d) exhibit or leave or distribute any campaign material.
- (e) without reasonable excuse, display any badge, emblem, clothing or head-dress which:
 - (i) may promote or prejudice the election of a candidate or candidates at the election; or
 - (ii) makes direct reference to a body any member of which is standing as a candidate in the election or to a political body in Hong Kong.

[Amended in September 2006]

- (f) use a mobile telephone or any telephone or paging machine or any other form of electronic communication device if the RO, the ARO, the PRO or any polling officer has given direction to him not to do so.

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

Other Useful Information for Polling Agents

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

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

7.34 Only the PRO, the Deputy PRO or an Assistant PRO may, in the presence of one of the Polling Officers as a witness, help a voter who claims he is unable to read or write or incapacitated by visual deficiency or other physical cause to mark a ballot paper to indicate the choice of the voter [s 57 of the EAC (EP) (EC) Reg]. The responsible officer should inform the candidates or their agents who are present when such a request for assistance is received. A candidate or his polling agent in the polling station may request the PRO, the

Deputy PRO or an Assistant PRO to choose a particular Polling Officer who is not working at the issuing counter as the witness, but the final decision as to which Polling Officer should be the witness remains with the PRO, Deputy PRO or Assistant PRO. An incapacitated voter's relatives, friends or any other persons are in no circumstances allowed to accompany the voter in the course of voting.

7.35 In each polling station, a number of **templates** are made available for the use of the visually impaired voter, if he chooses, to facilitate him to mark his vote on the ballot paper [s 57(3) of the EAC (EP) (EC) Reg]. The template contains the following features:

- (a) the template for each subsector is of the same width as the ballot paper and it is as long as, if not longer than, the ballot paper;
- (b) the template contains embossed numbers or numbers in braille starting with the first numeral (or code + numeral) in a sequence assigned to the candidates on the top followed downwards by other numerals in that sequence, and on the right hand side against each of the number is a round hole;
- (c) the **left hand top corner** of the ballot paper and the template is cut so as to enable the voter to place the template on top of the face of the ballot paper in the proper direction; and
- (d) when the template is placed properly on the ballot paper, each embossed or brailled number corresponds with the candidate number, and each of the holes on the template corresponds with the circle on the ballot paper against the candidate number. The

number of candidates in the EC subsector equals the number of holes under which there is the ballot paper.

The choice of candidate is made by the visually impaired voter by shading the oval, or pressing the chop with a “✓” sign provided on the circle, as the case may be, (through the holes on the template) against the candidate’s number. Whenever it is necessary, the polling staff will help the visually impaired voter to identify the different ballot papers before the voter proceeds to mark his vote.

7.36 No person may canvass or display any election propaganda material relating to any candidates or the election within a polling station. Candidates and their agents should not bring electioneering literature into the polling station or leave them there and should remove any promotional badges, emblems, clothing or head-dress before entering. A person must not use a sound amplifying system or device for any purpose within the NCZ; nor should he use such system or device or conduct any activities (eg lion dance), for canvassing, so that the sound emitted by it can be heard in the NCZ [s 40(14) of the EAC (EP) (EC) Reg]. Also a person must not stay or loiter in the NSZ without the express permission of the PRO. [S 41 of the EAC (EP) (EC) Reg.] Any person who undertakes photographing, filming and video or audio recording within a polling station without the express permission of the PRO, or the RO, or a member of the EAC, commits an offence [s 45(2) of the EAC (EP) (EC) Reg]. Normally such permission is only granted to members of the media or government photographers for publicity purposes. Polling agents should also read Parts I – VI of Chapter 5 on all matters relating to polling and in particular, paras. 5.27 and 5.28 for activities that are prohibited, and the consequences of conducting such activities, in a polling station. *[Amended in September 2006]*

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

PART VIII : COUNTING AGENTS

Appointment

7.38 A candidate may appoint not more than such number of counting agents as will be specified by the EAC [s 64(2) of the EAC (EP) (EC) Reg]. The same persons may, but need not, be appointed also as polling agents.

7.39 The appointment should be made on a specified form [s 64(8) of the EAC (EP) (EC) Reg]. The candidate must give notice of such appointment in writing to the RO at least **1 week** before the polling day [s 64(4) and (5)(a) of the EAC (EP) (EC) Reg]. Where a candidate appoints a counting agent after the above deadline, the notice of the appointment must be given by the candidate or the election agent **personally** by delivering the notice of appointment to the RO (or ARO) during the period from the commencement of the poll to the conclusion of the count, but before the agent concerned enters the counting station [s 64(6) of the EAC (EP) (EC) Reg]. The appointment will not be effective until the notice of appointment is received by the RO [s 64(7) of the EAC (EP) (EC) Reg].
[Amended in September 2006]

Revocation

7.40 The appointment of a counting agent may be revoked by the candidate at any time. The candidate must also give notice of revocation in

writing and in the specified form to the RO [s 64(9) and (10) of the EAC (EP) (EC) Reg]. Any such notice given after the commencement of the poll shall be given by the candidate or his election agent **personally** by delivering the notice to the RO (or ARO) [s 64(11) of the EAC (EP) (EC) Reg]. A revocation of an appointment of a counting agent will not be effective until the notice thereof is received by the RO [s 64(12) of the EAC (EP) (EC) Reg].

Role of Counting Agents

7.41 Counting agents are appointed to attend at the counting station **to observe the breaking of the seals on the ballot boxes, the sorting, separation and counting of ballot papers and the counting of votes recorded on the valid ballot papers**. This arrangement ensures the transparency of the counting process and is conducive to openness and fairness. [See Part VII of Chapter 5.]

Provisions which the Counting Agents should be Aware of

7.42 Before the counting commences, every person authorised to be present at a counting station, other than the police officers and members of the Civil Aid Service on duty, must make a Declaration of Secrecy on a specified form and observe the provisions governing the secrecy of voting [s 92 of the EAC(EP) (EC) Reg]. This is to make sure that, subject to penalty of making a false declaration, all persons inside a counting station will observe the secrecy of the vote of the voter. Members of the public present within the area designated by the CRO (Subsectors) or the RO will not be required to make a Declaration of Secrecy.

7.43 On attending the counting station, a counting agent shall report to the relevant RO and produce his identity card and the Declaration of Secrecy completed by him for inspection [s 92(2) of the EAC (EP) (EC) Reg].

7.44 Generally speaking, counting agents are entitled to be present throughout the count to observe the counting proceedings. They will be allowed by the RO to stay close and around the counting table to monitor the count. Nevertheless, they must not handle any ballot papers. A counting agent **MAY**:

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

7.45 A counting agent **MUST NOT**:

- (a) handle, separate or arrange ballot papers; and
- (b) misconduct himself in or in the vicinity of a counting station or fail to obey any lawful order of the CRO (Subsectors) or the RO in-charge of the subsector, as the case may be; otherwise he commits an offence punishable with a fine and imprisonment and may be ordered by the CRO (Subsectors) or the RO to leave the area. If he fails to leave immediately, he may be removed by a police officer or by any other person authorised in writing by the CRO (Subsectors) or the RO to remove him. The person so removed may not re-enter the counting station except with the

permission of the CRO (Subsectors) or the RO, as the case may be.
[S 68 of the EAC (EP) (EC) Reg.]

Other Useful Information for Counting Agents

7.46 Counting agents should read Part VII of Chapter 5 on all matters relating to counting and in particular, paras. 5.36 and 5.37 for activities that are prohibited and the consequences of conducting such activities within the counting station.

CHAPTER 8

ELECTION ADVERTISEMENTS

PART I : GENERAL

8.1 Election advertisement, in relation to the subsector election, means:

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

published for the purpose of promoting or prejudicing the election of a candidate or candidates at the election.

IMPORTANT :

“Candidate” includes a person who has publicly declared an intention to stand for election at any time before the close of nominations for the election, whether or not he has submitted a nomination form [s 2 of the ECICO].

8.2 Election advertisement includes the following if they are published for the purpose of promoting or prejudicing the election of any candidate in the election:

- (a) any address, notice, bill, placard, poster, board, banner, flag, standard, colour, sign, message, sound, image or picture and any article, thing or material;
- (b) audio/video cassette tapes, discs, diskettes, electronic messages, website (except those discussion forums on websites), facsimile transmissions, balloons, caps, badges, emblems, carrier bags, head-dress and clothing; or *[Amended in September 2006]*
- (c) any things or materials published by any person or any organisation, including political organisation, professional or trade organisation, owners' corporation, mutual aid committee, tenants association, owners' committee, etc (irrespective of whether or not the candidate concerned is an office bearer or member) showing his or its support for any candidate or advertising the platform or services of such an organisation with reference to a candidate by name or photograph or in any other form or manner.

8.3 Election advertisement also includes:

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

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

- (b) any printed performance report published or distributed **during** the election period by-
 - (i) a serving member of the LegCo; or
 - (ii) a serving member of a DC; or
 - (iii) a serving member of the HYK; or
 - (iv) a serving chairman or vice-chairman or member of the Executive Committee of a Rural Committee; or
 - (v) a serving village representative (“VR”),

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

8.4 A performance report whether in the format of a website or a printed document published or distributed by an incumbent candidate **during** or **before** the election period will also be regarded as an election advertisement **if it is published for the purpose of promoting or prejudicing the election of a candidate or candidates at the election.** It is important to note that a performance report which is treated as an election advertisement must comply with all the requirements for an election advertisement.

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

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

Election Advertisements Prejudicing the Election of a Candidate

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

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

produces that election advertisement. The expenditure incurred will have to be included in candidate A's election expenses.

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

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

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

8.10 Subject to the maximum amount that can be incurred by a candidate for election expenses [s 24 of the ECICO], there is no restriction as to

the quantity of election advertisements employed by him. The maximum amounts allowed for the election of the subsectors are specified in the Maximum Scale of Election Expenses (Legislative Council) (Election Committee) Order. [See para. 16.8 of Chapter 16.]

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

PART II : PERIOD AND AREA OF DISPLAY

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

8.13 Display spots are classified into two types:

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

Government or Private Land/Property - Designated Spots

8.14 Designated spots on public land for the use of contested candidates to display their election advertisements will be designated by the RO. Some of the government land and property have been allocated to some public authorities, such as the Housing Authority, and are under their respective control. The RO will designate public spots in coordination with the said authorities. **Each candidate** will be as far as practicable allocated **the same number of designated spots**.

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

NOTE :

Suggestions should reach the CEO not later than **6 weeks before the polling day**.

Other Land/Property : Private Spots

8.16 Candidates who wish to display their election advertisements on land/property other than government land/property and other than the designated spots must obtain the **prior written permission or authorisation** of the owner or occupier [s 104A of Cap 132]. The obtaining of written permission or authorisation from the private owner or occupier is a matter for private arrangement between the candidate and the owner or occupier, and they are therefore called “**private spots**”. A copy of the written permission or

authorisation must be deposited with the RO relevant to the subsector before display. [Please also see para. 8.20 below.] Any consideration, fee or money incurred or agreed to be paid by or on behalf of the candidate to the owner or occupier for display of his election advertisements forms part of his election expenses. If a commercial advertising space for rent is allowed by the private owner or occupier to be used free of charge by a candidate for display of his election advertisements, a reasonable market value for the use of that space will have to be accounted for by the candidate as an election donation and counted as election expenses. Such a provision is to ensure that the candidate concerned will not have unfair advantage over the others who do not have access to such facilities. If the private spot for displaying the election advertisement is normally used for commercial purpose, the actual rent charged or the usual rent or market rent that would normally be charged should be counted as the election expenses of the candidate concerned, irrespective of whether it is owned by the candidate or whether the owner of it allows the candidate to use it free of charge (in which case it would be a donation of the rent). Where a space provided by a particular private owner or occupier for a candidate to display election advertisements is not used for commercial advertising, but similar space belonging to other owners or occupiers is available for commercial advertising, the market value of the space should also be accounted for. The provision of this kind of rent-free space should be regarded as donation. For details on how the estimated value should be assessed, please refer to para. 16.21 of Chapter 16. If a space is not normally used by any private owners or occupiers for commercial advertising, there is no need for the candidate to account for its value.

8.17 The EAC appeals to owners and occupiers of private premises to give all candidates competing in the same subsector **fair and equal treatment** in the display of election advertisements. [For details, please see Chapter 9 : Electioneering at the Living or Working Places of Voters/ARs, Premises of

Organisations to which Voters/ARs belong and Buildings which Voters/ARs frequent.]

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

General Principle in Allocating Designated Spots

8.19 The RO will allocate the designated spots, as the case may be, to candidates either in accordance with the mutual consent of the candidates or by the drawing of lots after the close of nomination, when the number of candidates contesting will have been ascertained. **No display of election advertisements will be allowed on any designated spots before the allocation.** [Also see the requirements in para. 8.25 and Part V below.] A candidate will be provided with a list of the designated spots allocated to him, together with a set of maps to help identify the locations.

Written Permission or Authorisation

8.20 The RO will have already obtained prior approval from the relevant authorities under s 104A of Cap 132 and s 4 of Cap 28 for candidates to display their election advertisements at designated spots. Immediately after the allocation of designated spots is made, a copy of the necessary written permission or authorisation under the relevant legislation will be provided to the candidates by the RO [see Part III below]. For any display at private premises, written permission or authorisation of the private owner or occupier will have to be obtained by the candidates themselves. A person displaying an election advertisement without the necessary written permission or authorisation commits

an offence punishable by a fine of up to \$10,000 and, where the offence is a continuing offence, by an additional daily penalty of \$300 for each day during which it is proved to the satisfaction of the court that the offence has continued [s 104A of Cap 132]. The fines so incurred will also be treated as election expenses. **A copy of the written permission or authorisation must be deposited by the candidate with the RO before display or distribution** [s 100(9)(a) of the EAC (EP) (EC) Reg].

No-Display Areas

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

8.22 Election advertisements on display must not distract motorists or interfere with the sight lines of motorists and pedestrians, obscure any traffic sign or traffic light signal, or obstruct the circulation of pedestrians. Thus, there will be no public spots or designated spots on or over flyovers, bridges including

footbridges, lamp posts, road signs and railings at corners of road junctions or at or near pedestrian crossings, bus stops and bus termini.

PART III : ALLOCATION OF DESIGNATED SPOTS

8.23 The RO will make known to each contested candidate at the time of receipt of the nomination form the following information:

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

8.24 The RO(s) for the subsector(s) will need to know the exact number of candidates who wish to display election advertisements at designated spots, so

that he can finalise the number of designated spots and their size for allocation. Therefore, candidates concerned must contact the relevant RO to register their interest in writing when they submit their nomination forms or before the close of nominations.

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

8.26 A copy of all the permissions or authorisations obtained by a candidate himself, as opposed to those provided to him by the RO, must be provided by him to the relevant RO **before the display or distribution** [s 100(9)(a) of the EAC (EP) (EC) Reg].

8.27 Designated spots allocated are not transferable. Nor are they exchangeable with other spots. Where a candidate of a particular subsector informs the RO of that subsector in writing that he no longer wishes to use one or more of such designated spots allocated to him, upon request by any other candidate of the same subsector, the RO, if he considers appropriate, will re-allocate by agreement or by the drawing of lots the designated spots amongst all candidates of the same subsector except the one first mentioned. In such a case, paras. 8.25 and 8.26 above apply.

NOTE :

In some cases, designated spots allocated in the first round of allocation are left unused for various reasons. The RO may

re-allocate such spots to the relevant candidates by mutual consent or the drawing of lots. Candidates may wish to plan accordingly their resources in respect of election advertisements.

8.28 An election advertisement advertising two or more subsector candidates is allowed to be displayed on the designated spots allocated to the candidates concerned. Nevertheless, it is important to ensure that the total number of spots as well as the total area of all the spaces actually occupied for joint advertisements and for advertising each one of the joined candidates (ie measured by the dimension of election advertisements) do not exceed the total number of spots as well as the total area of the designated spots allocated to each of the candidates. Through joint advertisement, the candidates concerned promote themselves at the election, and so each of the candidates would benefit from the joint advertisement. The expenses incurred for the joint election advertisements will therefore have to be borne by the candidates concerned in equal or unequal shares as their respective election expenses, to be calculated by the proportion of the size of the portion advertising each [see para. 18.9 of Chapter 18 : Namedropping]. In this connection, it is important to note that only a candidate himself or his election expense agent may incur election expenses on his behalf [s 23 of the ECICO]. *[Amended in September 2006]*

PART IV : CONDITIONS AND LIMITATIONS ON DISPLAY

Name of the Subsector

8.29 To avoid possible confusion to voters, election advertisements of all candidates of the subsector must bear the name of the subsector for which the candidate concerned is standing. Similarly, in respect of joint election advertisements, the name of the subsector should be stated clearly in relation to

each of the candidates advertised. Either the full name of the subsector or its abbreviated name (to be advised by the RO for the subsector) may be used, dependent on the choice of the candidate.

8.30 Likewise, all candidates should make known to the voters the name of their respective subsectors when they conduct joint canvassing activities.

Re-use of Old Publicity Boards

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

Size

8.32 Election advertisements displayed at railings and fences must not exceed the height and length of these structures, and in no circumstances be more than 1 metre high and 2.5 metres long.

Mounting and Installation

8.33 The mounting and display of election advertisements must not cause any risk to life or property.

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

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

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

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

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

Dismounting

8.39 All candidates should remove all their election advertisements displayed on government land/property **within 10 days** following an election. Failure to do so may result in prosecution being brought against the offending candidate and such advertisements removed and seized by the relevant authority. The **cost of removal** will be recovered from the candidate concerned and will be construed as **election expenses**. Relevant authorities will issue demand notes for the removal costs to the candidates concerned within 21 days after the election results have been published in the Gazette (normally the immediate Friday after the polling day). This is to allow sufficient time for the candidates to include all these costs in their election returns which must be submitted not later than 30

days after the publication in the Gazette of the election results, or not later than 30 days after the declaration of the termination of the election proceedings under the relevant electoral law, or not later than 30 days after the declaration of the failure of the election under the relevant electoral law [s 37 of the ECICO]. *[Amended in September 2006]*

PART V : SERIAL NUMBERING, DECLARATIONS AND COPIES

Serial Numbering

8.40 Save where the exemption applies, all copies of each type of all election advertisements intended to be displayed by a candidate must be marked distinctly and legibly on the face with **consecutive serial numbers** starting from “1” [s 100(1) and (2) of the EAC (EP) (EC) Reg]. Printed materials are exempted from the requirement of serial numbering if each of them:

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

Examples of the above may include handbills, leaflets and simulated ballot papers. Election advertisements printed in a registered local newspaper/magazine or sent to voters through the free postage service [see Part IX] or transmitted by electronic means (eg facsimile, electronic mail, computer network, electronic display boards) and balloons, badges, carrier bags,

head-dress and clothing, or of such other class or types as the EAC may specify by notice published in the Gazette are exempted from the requirement of serial numbering [s 100(15) and (16) of the EAC (EP) (EC) Reg]. *[Amended in September 2006]*

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

Declarations

8.42 **Before display, distribution or otherwise use of any election advertisement**, a candidate must make a **declaration in a specified form** to the RO for the subsector (or to the CEO, if the RO has not yet been appointed) declaring the **quantity**, with the **serial numbers** (save those covered by the exemption referred to in para. 8.40 above), of each type of all election advertisements intended to be displayed and **the date of printing/publication**. Such declaration should also show all the **intended places** of display (designated spots or private spots) which may be identified by reference to the permissions or authorisations obtained by the candidate. [S 100(3), (4) and (5) of the EAC (EP) (EC) Reg.] A candidate can submit as many declarations as circumstances may from time to time require. A candidate must ensure the correctness and accuracy of all the details contained in his declarations.

8.43 Where an election advertisement is to be distributed by facsimile transmission and where the exemption referred to in para. 8.40 applies (which includes election advertisements sent to voters through the free postage service detailed in Part IX below or transmitted by electronic means), it will not be

necessary to state the serial numbers in the declaration. Only the quantity of that election advertisement is to be stated in the declaration.

8.44 A candidate must ensure that every time the contents of his website are changed or updated, he must make a new declaration to the RO and deposit 2 copies of the modified pages with the RO accordingly [see also para. 8.45(a)(iii) below].

Copies

8.45 **Before display, distribution or otherwise use of any election advertisement**, any person, including a candidate, must deposit with the RO for his subsector (or with the CEO if the RO has not yet been appointed):

- (a) in respect of election advertisements
 - (i) 2 copies of all printed advertisements bearing in Chinese or English, the name and address of the printer together with the date of printing and the number of copies printed (“printing details”);
 - (ii) 2 identical copies of any video/audio tapes or discs or diskettes containing election advertisements;
 - (iii) 2 copies of any electioneering message sent by electronic means (including 2 copies of any modified webpages if the contents of the website are changed or updated); and

- (iv) 2 identical postcard sized colour photographs of each type of election advertisements which cannot be practically or conveniently photocopied;

[s 100(6), (7) and (8) of the EAC (EP) (EC) Reg]

For the avoidance of doubt, for printed election advertisements, by depositing 2 copies with the relevant RO prior to the display, distribution or otherwise use of such election advertisements as stated above, the candidate would have complied with **both** the requirement in s 100(6), (7) and (8) of the EAC (EP) (EC) Reg (which requires prior deposit) and that in s 34(4) of the ECICO (which requires deposit not later than 7 days after publication). Details of the relevant section in the ECICO and the reasons for the two different requirements under the two legislation are provided in paras. 17.13 - 17.14 of Chapter 17. *[Amended in September 2006]*

- (b) in respect of permissions or authorisations for display

a copy each of all permissions or authorisations for display given or obtained for the purposes of s 104A of Cap 132 [s 100(9)(a) of the EAC (EP) (EC) Reg]; and

- (c) in respect of consent of support

a copy each of all consent of support referred to in s 27(1) or (2) of the ECICO, as the case may be [s 100(9)(b) of the EAC (EP) (EC) Reg].

8.46 If a candidate has difficulty in depositing with the RO for his subsector an original copy of a declaration and 2 copies of an election advertisement before its display, distribution or otherwise use, he may first send to the relevant RO by fax the declaration together with a copy of each election advertisement or by e-mail with an image or digital photo of each election advertisement. The candidate should ensure any submissions sent by fax or e-mail should reach the relevant RO properly. The candidate must, within 24 hours during weekdays (ie Monday to Friday) or within 48 hours during weekends (ie Saturday to Sunday) after sending the fax or e-mail, submit to the relevant RO the original copy of the declaration form and 2 copies of each such election advertisement. *[Added in September 2006]*

8.47 Speeches orally delivered by a candidate during election meetings or ad hoc visits will not be treated as election advertisements unless copies of the speech are provided to the audience or media. If the candidate would like to create certain impact by talking first before providing copies of the speech to the audience or media, he could, after delivering the speech, send a copy of the speech, together with the declaration, to the RO by fax or e-mail prior to distributing them to the audience or media. The candidate should ensure proper submissions by fax or e-mail to the relevant RO. The candidate must submit to the relevant RO the original copy of the declaration form and 2 copies of each speech within 24 hours during weekdays (ie Monday to Friday) or within 48 hours during weekends (ie Saturday to Sunday) after sending the fax or e-mail. Since copies of speeches distributed to the audience are regarded as printed election advertisements, candidates concerned are also required to comply with s 34 of the ECICO. *[Added in September 2006]*

8.48 In the rare circumstances where candidates contesting different subsectors use identical copies of an election advertisement, the RO of the relevant subsector may exercise his discretion to accept a joint declaration by all

the candidates concerned and a joint submission of 2 copies of the election advertisement.

8.49 Where a declaration of election advertisements under s 100 of the EAC (EP) (EC) Reg made by a candidate and deposited with the relevant RO contains a mistake or where the candidate's declared intention as to the number of any type of election advertisements to be displayed or the location of display, etc has changed, the candidate should make a corrective declaration to correct the mistake or record the change. All such corrective declarations must be deposited with the relevant RO at the **latest by 12 noon on the day preceding the polling day**. If no corrective declaration has been so deposited, then the declaration of election advertisements will be used as one of the bases for examining and checking the candidate's return and declaration of election expenses and donations, and as the basis for removal of unauthorised or offending displays.

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

8.51 A candidate must not display his election advertisements other than at the places set out in his declaration.

8.52 The RO for the relevant subsector will make available a copy of the declarations, election advertisements, photographs, permissions or authorisations and consent at a specified address for inspection by the public as soon as practicable after such documents and photographs have been furnished until the expiration of the same period as declarations of election returns lodged by candidates are available for inspection under s 41 of the ECICO, ie until the first anniversary of the date on which the result of the relevant election is published [s 100(10) of the EAC (EP) (EC) Reg].

PART VI : REQUIREMENTS RELATING TO PRINTED ELECTION MATERIALS

Printing Details

8.53 S 34 of the ECICO requires all printed election advertisements, with the exception of those printed in a registered local newspaper/magazine, to bear printing details, ie they must bear, in Chinese or English, the name and address of the printer together with the date of printing and the number of copies printed. It applies to all materials reproduced by any method of multiplying copies (eg printing machines, duplicators or photocopiers). The following are some suggested formats:

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

or

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

Election Advertisements Placed in Print Media

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

PART VII : NON-COMPLIANCE AND CONSEQUENCES

Inadvertent Omission of Printing Details

8.55 A candidate who has inadvertently omitted the printing details from his printed election advertisements can make a statutory declaration giving the omitted details, and deposit such declaration with the relevant RO **not later than 7 days after** the publication of the offending election advertisement [s 34(3) of the ECICO]. Having taken this remedial step, he will not be prosecuted for contravention of s 34(1) of the ECICO. The statutory declaration will be retained by the relevant RO for 6 months after the result of the election is published [s 34(7) of the ECICO].

Enforcement and Penalties

8.56 A candidate who fails to provide the printing details or deposit copies of printed election advertisements with the relevant RO commits an offence punishable by a fine of up to \$200,000 and imprisonment for up to 3 years [s 34(6) of the ECICO]. However, he may apply to the court for an order allowing the publication of the above election advertisements be excepted from the relevant requirements and relieving him from the penalties, provided that the court is satisfied that the non-compliance was due to inadvertence, an accidental miscalculation or any reasonable cause and was not due to bad faith [s 35 of the ECICO]. Non-compliance with the requirements of s 100 of the EAC (EP) (EC) Reg is punishable with a fine at level 2 (up to \$5,000) and imprisonment for up to 6 months.

8.57 Each candidate must observe and comply with the conditions imposed by the permissions or authorisations for the display of election

advertisements. Any election advertisements displayed in contravention of these guidelines will be removed and seized. Other candidates and their supporters should report any non-compliance to the RO and should not take removal action themselves.

8.58 Any unauthorised or offending election advertisements displayed may be seized and disposed of, or destroyed, obliterated or covered by the RO or any person authorised by him as he thinks fit [s 100(14) of the EAC (EP) (EC) Reg]. The candidate or his election agent responsible may also be prosecuted and if convicted may be liable to a fine or imprisonment. The cost of removal, being a civil debt, will be counted as election expenses. Such civil debt must be reported to the relevant RO in the candidate's return and declaration of election expenses. The seized articles may be kept as evidence and will be disposed of or returned upon application, in accordance with Cap 132 or the Housing Ordinance (Cap 283), as the case may be, and the procedures of the relevant authority. [S 104C of Cap 132 and s 6 of Cap 283.] *[Amended in September 2006]*

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

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

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

8.61 Any thing or material published by any organisation, including political organisation, professional or trade organisation, owners' corporation, mutual aid committee, tenants association, owners' committee, etc (irrespective of whether or not the candidate concerned is its officer or member) which advertises its platform or services during or **even before the election period with reference to the candidate** by name or photograph or otherwise may be treated as election advertisement put up by, or on behalf of, or on account of the candidate. The expenses for doing so may be construed as election expenses incurred by or on behalf of the candidate. It is therefore a prudent step for the relevant organisations to suspend their advertising activities. However, if the material published by the organisation concerned, as opposed to the candidate himself, advertises only a particular activity, which:

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

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

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

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

8.64 To sum up the important points, where any organisation, including a political organisation, publishes an election advertisement promoting a candidate,

- (a) the expenses incurred will be treated as the candidate's own election expenses;
- (b) the officer-in-charge of the organisation needs to be authorised by the candidate to be the candidate's election expense agent, or else it or the responsible person commits an offence under s 23 of the ECICO;
- (c) such advertisement must comply with the requirements of s 34 of the ECICO and s 100 of the EAC (EP) (EC) Reg; and
- (d) such advertisement can only be displayed at the spots authorised to the candidate.

PART IX : FREE POSTAGE FOR ELECTION ADVERTISEMENTS

Conditions for Free Postage

8.65 A candidate of a subsector who is validly nominated in the notice of nomination published in the Gazette in accordance with regulations made under the EACO is permitted to post free of postage **1** letter to each voter of the subsector for which the candidate is nominated [s 38 of the Schedule to the CEEO]. However, before the publication of the notice of nomination, a candidate wishing to exercise his right to free postage may be required to furnish the Postmaster General with a security for the payment of postage in the event that his name is not subsequently shown in the notice [s 6(2)(a) of the Post Office Regulations (Cap 98A)].

8.66 The purpose of the free postage is to enable the candidate to mail election advertisements to promote or advertise himself and in relation to that election to voters. The free postage, which is the candidate's own privilege, cannot and should not be used for any other purpose or any other election or for promoting or advertising any other person.

8.67 Specifically, the letter must:

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

It is important to note that under s 99(3)(a) of the EAC (EP) (EC) Reg, a candidate sending letters to voters in bulk is liable for payment of postage for all letters in that bulk if any letter in the bulk does not meet requirement (a), (b), (c) or (d) above.

Make-up

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

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

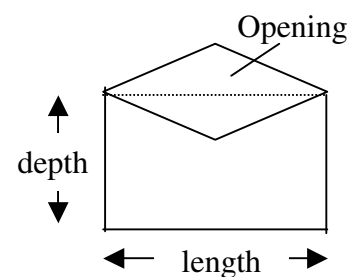
8.70 When a wrapper is used, it must extend over the full length of the item which it encloses. Envelopes must not be fastened with staples or with paper fasteners with sharp edges or points, but they may be closed by means of an adhesive flap or tape.

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

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

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

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



8.72 Folders of A4 size with openings should be closed by means of adhesive flap or tape so as to avoid entrapping smaller letters. For details, please refer to the illustration in **Appendix G**.

8.73 **The characters “選舉廣告” or words “Election Advertisement” must be printed on the address (front) side of the envelope, or the address side of the folder (unenveloped advertisement).**

Addressing

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

Name of addressee

Floor and flat number and name of building

Street number, name of street

Name of district

8.75 Addressing slips may be used for the mailing of election advertisements provided that they are legible and **securely pasted** onto the envelopes.

8.76 The name of the candidate and other propaganda slogans, including photographs, should appear on the back of the item or on the left-hand half of the address side reserving the right-hand half of the front exclusively for the address.

8.77 No postage-free election advertisement bearing an address outside Hong Kong will be accepted.

Posting Arrangements

8.78 In order to allow adequate time for the Post Office to process the extremely large volume of election mail during the election period, candidates are advised to make their postage-free election advertisement postings **within a period to be specified by the Post Office**. Candidates and their agents are therefore **warned** that **postings made after the deadline may fail to reach the addresses before the polling day**.

8.79 At least **2 clear working days' notice** must be given to the relevant Manager of the posting office before the postings are made. Candidates should present two unsealed specimens of their election advertisements, together with a notice of posting of election mail (which will be provided by the REO at the time of candidates submitting their nominations), for inspection 2 clear working days before the postings are made.

8.80 When handing in the specimens, the candidates may indicate any one of the posting offices to be designated by the Post Office where they intend to make their postings. In this connection, the Manager concerned will arrange and confirm the request after approving the specimens.

8.81 The postings should be made up, preferably in bundles of 50 or 100 for easy counting. All letters should face the same direction.

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

- (a) stating the quantity of packets in the posting and the name of the candidate;
- (b) declaring that the posting is his postage-free communication;
- (c) declaring that each packet contains material relating to the election only; is identical to the unsealed specimen submitted by the candidate or his representative for inspection and retention by the Post Office; and is addressed by name to a duly registered voter in respect of the subsector for which the candidate has been nominated; and
- (d) declaring that not more than one postage-free communication has been or will be sent to any of the voters.

The declaration form will be provided to the candidates by the REO at the time of their submission of nominations. It is important to note that under s 99(3)(b) of the EAC (EP) (EC) Reg, a candidate sending letters to voters in bulk is liable for payment of postage for all the letters in that bulk if the declaration made by him or his representative is false in any particular.

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

8.84 Government reserves the right to charge a candidate postage where any of the above requirements is not met or the free postage arrangements are abused in any way [s 99(3) of the EAC (EP) (EC) Reg]. The charge counts towards the candidate's election expenses and must be included in his return and declaration of election expenses and donations to be sent to the relevant RO.

The EAC may also issue public statements in such manner as it deems fit to denounce any abuse of the free postage arrangements.

Enquiries

8.85 For general enquiries concerning the posting of election advertisements, please contact:

Senior Manager (Retail Business)
M/F, Middle Road Carpark Building,
15 Middle Road,
Tsim Sha Tsui,
Kowloon.

Telephone: 2926 1484

Fax: 2312 1455

CHAPTER 9

ELECTIONEERING AT THE LIVING AND WORKING PLACES OF VOTERS/ARs, PREMISES OF ORGANISATIONS TO WHICH VOTERS/ARs BELONG AND BUILDINGS WHICH VOTERS/ARs FREQUENT

PART I : GENERAL

9.1 There are occasions when candidates may wish to target their electioneering activities at an individual voter/AR or a group of voters/ARs at:

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

These electioneering activities include visits to, personal contact with people, using amplifying devices to advertise in the common parts of the building, display or distribution of election advertisements and holding of election meetings at, the places mentioned above. **Appendix H** gives some kind of reference as to what activity is to be regarded as electioneering activity. This chapter explains the general guidelines to be observed by candidates in conducting electioneering activities, the rights of all concerned and appeals to the voters/ARs, the management bodies of the organisations to which the voters/ARs belong and the management bodies of the buildings which the voters/ARs

frequent to **provide fair and equal treatment** to all candidates so as to ensure that the election is conducted fairly. *[Amended in September 2006]*

9.2 Candidates are reminded that different organisations may have their own guidelines to allow or disallow the conduct of electioneering activities on the premises under their management. To ensure the smooth conduct of electioneering activities in public or private places, it is always desirable for candidates to consult the relevant authorities or management in advance and to obtain permission from them for the conduct of electioneering activities in the places within their jurisdiction, if required. *[Added in September 2006]*

9.3 The general guidelines to be observed for conducting electioneering activities at the living and working places of voters/ARs, premises of organisations to which voters/ARs belong and buildings which voters/ARs frequent are set out in Part II below. The specific guidelines to be observed for conducting electioneering activities in the premises managed by the Housing Department and the Hong Kong Housing Society are set out in **Appendix I**. *[Added in September 2006]*

9.4 For the purpose of ensuring fair treatment and equal opportunity of access to all candidates in conducting electioneering activities and to avoid causing undue disturbance to the public, Part III below provides the owners/management of premises and organisations with some guidelines in handling applications for conducting electioneering activities in the premises under their control. *[Added in September 2006]*

PART II : GUIDELINES TO BE OBSERVED BY CANDIDATES IN THE CONDUCT OF ELECTIONEERING ACTIVITIES

Visits to Living and Working Places of Voters/ARs

9.5 Candidates should note that voters/ARs are free to invite, or accept the request from, a particular candidate(s), but not the others, to visit them at their own living or working places. However, access to a private office may require the approval of the management of the office building or the companies which employ the voters/ARs, and such management when making a decision should have due regard to the fair and equal treatment principle mentioned in Part III below. In conducting electioneering activities at the common parts of the living or working places of voters/ARs, candidates should observe the general guidelines set out in paras. 9.7 to 9.12 below. *[Amended in September 2006]*

9.6 Any government offices, which are working places of voters/ARs, will be treated in the same manner as the premises referred to in this chapter. Government offices may allow or disallow electioneering activities as they wish, but such decision should comply with the fair and equal treatment principle mentioned in Part III below. *[Amended in September 2006]*

Respect for the Decision and Privacy

9.7 After a candidate has been notified of the decision of an organisation or a building relating to electioneering activities, he should ensure that he and his followers comply with the decision. *[Amended in September 2006]*

9.8 If a decision to disallow electioneering in an organisation or a building has been made, the candidate or his followers should conduct no

electioneering activity in such places. If the candidate concerned acts against the decision of the organisation or building and electioneers in whatever manner, then he commits trespass and the organisation or building management can simply stop him doing the contravening act or carry out the decision to exclude the candidate concerned. If the candidate refuses to leave, it would be wise in such circumstances for the organisation or building management, as the case may be, to report the matter to the Police in the first instance and then to the EAC or its Complaints Committee which will decide whether to publish a **reprimand** or **censure** against the candidate concerned. *[Amended in September 2006]*

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

9.10 **Privacy of the voters/ARs should be respected.** A guidance note on personal data privacy in respect of electioneering activities, prepared by the Office of the Privacy Commissioner for Personal Data, is at **Appendix J**. It serves as a general reference on compliance with the requirements of the Personal Data (Privacy) Ordinance (Cap 486) ("PD (P) O") in relation to electioneering activities that may involve the collection and use of personal data of an individual. Candidates are supplied by the REO with an extract of the subsector FR which contains the name, gender and residential address of the voters/ARs of the relevant subsectors, but not their telephone numbers. Some members of the public do not like or detest being called over the **telephone** or the

entrance intercom system and others do not like their names being called out aloud. Their disapproval may be reflected in their choice of candidates on polling day. It is therefore unwise to telephone voters/ARs who find such approaches objectionable or to act in any other way that may antagonise them. As a matter of good practice, candidates and their supporters should maintain a list of voters/ARs that they know finding such electioneering telephone calls or visits objectionable and avoid approaching these voters/ARs again. On the other hand, voters/ARs who receive objectionable telephone calls can just disconnect them. If the caller does not desist from calling and causes a nuisance, the voter/AR should report the matter as soon as possible to the **Police** who may take action against the caller. *[Amended in September 2006]*

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

Identification of Canvassers

9.12 For security reasons and for prevention of abuse, the EAC advises that each candidate should provide some forms of identification to his canvassers for them to enter the premises of an organisation or a building for electioneering purposes. The EAC suggests that the candidate should devise an authenticated identification document containing the name and photograph of his canvasser

who should produce this identification document together with his identity card for inspection to gain entry into the premises of an organisation or a building. Candidates should note that the production costs of this kind of identification document will be counted as election expenses.

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

**Electioneering at Premises of Organisations to which Voters/ARs Belong
and Buildings which Voters/ARs Frequent**

9.13 The premises of the organisations to which the voters/ARs belong and the buildings which voters/ARs frequent usually do not belong to a particular voter/AR or group of voters/ARs. They are usually under the control of the management bodies of the organisations or the buildings concerned. *[Amended in September 2006]*

9.14 The EAC appeals to all management bodies of the organisations or buildings concerned to provide **equal opportunity** to all candidates competing in the same EC subsector for the purposes of electioneering. However, if it is decided **not** to allow a particular candidate to conduct electioneering activities in the premises of the organisation or in the common parts of the building, no other candidate in the same EC subsector should be allowed to do so, for **it is important to provide fair and equal treatment to all candidates** so as to ensure that the election is conducted fairly.

9.15 The **common parts** of a building are usually under the control and management of the owners of the various units in the building. Where there is an owners' corporation of the building incorporated under the former Multi-storey Buildings (Owners Incorporation) Ordinance or the present Building Management Ordinance (Cap 344), the control and management of the common parts are exercised by the owners' corporation representing all the owners of the building.

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

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

9.18 As a motion on whether or not electioneering by candidates should be allowed in a building concerns the rights of tenants and occupiers more than those of owners, it is advisable for owners or owners' corporations to allow occupiers who are not owners to vote on the motion and a secret ballot is always the fairest way of voting on such a controversial subject. If approval or consent has been obtained from the owners having the control of the common parts of the

building or the owners' corporation, the building management organisation may conduct a questionnaire survey to collect the views of the occupiers of each flat and act according to the majority view relating to matters covered by and in accordance with this chapter.

Notification of Decision

9.19 The management bodies of organisations and buildings are urged to notify the relevant RO in writing as soon as possible of their decision on electioneering by candidates, so as to equip the relevant RO(s) with the correct information to be provided to the candidates who may make inquiries with him. A **form** of the notification to the RO can be obtained from the REO. **Where no notification is received by the RO after the expiration of the nomination period, he may assume that there is no objection from the organisation regarding electioneering by candidates in the building.** Nevertheless, candidates are advised to note that some buildings may not be able to make a decision on electioneering by candidates before the close of nomination and therefore have not given the notification to the RO as required. When candidates come across these buildings, they should respect the interim decision of the management bodies of these buildings not to allow electioneering. *[Amended in September 2006]*

Display of Election Advertisements

9.20 If the management bodies of the organisations or buildings decide that the display of election advertisements (which is a form of electioneering activity) is allowed in their premises, the management bodies of the organisations or buildings concerned should avoid handling applications by candidates for display of election advertisements on a first-come-first-served basis as this may create unfairness. For example, if one candidate knows the decision and applies

to put up posters and banners on all available spots in the common parts of the building, no space will be left for other candidates who apply after him. To ensure fairness, management bodies are advised to:

- (a) ascertain all the available spots in their premises for candidates to display posters and banners;
- (b) decide on the maximum size of posters and banners to be allowed;
- (c) after the close of nomination of candidature, find out from the RO(s) how many candidates are contesting in the EC subsector(s) concerned;
- (d) divide all the available spaces according to quality and quantity to ensure equality as far as possible into portions equivalent to the number of candidates;
- (e) when one of the candidates applies for display, allow him to draw lots to obtain a portion of the spots still available at the time of his application; and
- (f) where two or more candidates wish to display their joint election advertisements, they should be allowed to do so but the joint election advertisements should occupy no more than the total of all the portions of the spots allocated to them by the restriction of size under (b) and the drawing of lots under (e).

[Amended in September 2006]

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

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

9.22 The specific guidelines to be observed by candidates and their agents in the conduct of electioneering activities in premises under the management of Housing Department and Hong Kong Housing Society are set out in **Appendix I**. *[Amended in September 2006]*

PART V : SANCTION

9.23 If the EAC receives a complaint of unfair or unequal treatment of candidates by any organisation or building or a person acting or purporting to act on behalf of such organisation or building, and is satisfied that the complaint is justified, it may make a **reprimand** or **censure** in a public statement which may include the names of the candidates favourably and unfavourably treated. Candidates should therefore advise the organisation management or building

owners whom they approach of these guidelines. On the other hand, however, if it is proved that a person has made a false, unfounded or unreasonable allegation of unfair treatment by an organisation or a building, the EAC may issue a reprimand or censure in a public statement against that person.

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

CHAPTER 10

ELECTION MEETINGS

PART I : GENERAL

10.1 An **election meeting** is a meeting held to promote or prejudice the election of a particular candidate or particular candidates [s 12(5) of the ECICO]. For the avoidance of doubt, election forums organised for all candidates in the same subsector are not treated as election meetings [see Part IV : Election Forums of Chapter 11]. During the election period, a candidate may attend any other meetings as part of his normal activities which are **not election-related**. Insofar as such meetings are **not** held for the purpose of promoting or prejudicing the election of a particular candidate or candidates, they will not be regarded as election meetings. *[Amended in September 2006]*

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

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

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

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

10.6 Candidates are reminded that individual government departments and management authorities may have their own guidelines to allow or disallow the conduct of election meetings on the premises under their control. To ensure the smooth conduct of election meetings in public or private places, it is always desirable for the candidates to consult the relevant authorities concerned in advance and to obtain any requisite permission from them for the conduct of election meetings on the premises within their jurisdiction, if necessary. *[Added in September 2006]*

10.7 The requirements of the Hong Kong Police Force and the Housing Department/Hong Kong Housing Society with regard to the organisation of election meetings in public places and private premises within their jurisdiction are set out in paras. 10.8 – 10.21 below for reference. *[Added in September 2006]*

PART II : ELECTION MEETINGS IN PUBLIC PLACES

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

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

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

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

[S 8(4) of Cap 245.] *[Amended in October 2006]*

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

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

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

[S 7(2) of Cap 245.]

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

10.11 The Commissioner of Police may prohibit the holding of any public meeting notified (referred to in paras. 10.8 and 10.9 above) where he

[Amended in October 2006]

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

[Amended in October 2006]

10.12 At every public meeting:

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

[S 11(1) of Cap 245.]

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

[Amended in October 2006]

Public Processions

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

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

[S 13(2) of Cap 245.]

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

[s 13A(4) of Cap 245]:

- (a) the name, address and telephone number of the person organising the procession, any society or organisation promoting or connected with the holding of the procession and a person able to act, if necessary, in place of the organiser;
- (b) the purpose and subject matter of the procession;
- (c) the date, precise route, time of commencement and duration of the procession;

- (d) in respect of any meeting to be held in conjunction with the procession, the location, time of commencement and duration of the meeting; and
- (e) an estimate of the number of people expected to attend the procession.

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

10.16 The Commissioner of Police shall issue a notice of no objection for the public procession, or alternatively issue a notice of objection to the procession if he reasonably considers that the objection is necessary in the interest of national security or public safety, public order or the protection of the rights and freedoms of others. If the Commissioner of Police so objects to the public procession, he shall issue a notice of objection to the organiser not later than 48 hours before the commencement time of the procession, otherwise he is taken to have issued a notice of no objection for the public procession. The Commissioner of Police may give notice to the organisers and impose conditions for the procession to take place, and the organisers must comply with such conditions and comply forthwith with any direction given by a police officer for ensuring compliance with or the due performance of the conditions and the requirements referred to in para. 10.17 below. [Ss 14 and 15 of Cap 245.] *[Amended in October 2006]*

10.17 At every public procession:

- (a) there shall be present throughout the procession either the organiser of the procession, or if he is not present, a person nominated by him to act in his place;
- (b) good order and public safety shall be maintained throughout the

procession; and

- (c) the control of any sound amplification device that is used in such a manner that it causes a noise that would not be tolerated by a reasonable person, shall, if so required by a police officer, be surrendered to the police officer for the duration of the procession.

[S 15(1) of Cap 245.]

PART III: ELECTION MEETINGS AT PRIVATE PREMISES

10.18 Any person who organises an election meeting at private premises is advised to consult the owner, occupier, owners' corporation, building management or the mutual aid committee etc concerned in advance and to obtain permission from them, if required. Insofar as the decision regarding election meetings by candidates in the common areas of a building accords fair and equal treatment to all candidates, the EAC will not intervene. Specific guidelines for conducting election meetings in the premises managed by the Housing Department and the Hong Kong Housing Society are set out in **Appendix I**. *[Amended in September 2006]*

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

PART IV : MOBILE EXHIBITIONS

General

10.20 A candidate may hold an exhibition for election campaigning purposes. If such an exhibition is to be held, the candidate should consult the relevant management authorities of the premises concerned in advance, and to obtain prior permission from the Housing Manager, owner, occupier, owners' corporation, building management or the mutual aid committee, etc as appropriate, if required. Relevant guidelines in other parts in this chapter should also be observed, in addition to compliance with regulations and conditions imposed by other relevant authorities. *[Amended in September 2006]*

Premises under the purview of the Housing Department and the Hong Kong Housing Society

10.21 Where approval has been given by a Housing Manager for such an exhibition in housing estates managed by the Housing Department and the Hong Kong Housing Society, the display of election advertisements at the venue of the exhibition will normally be subject to the conditions that they are displayed in connection with the activity in question and for a temporary duration of less than a day. The guidelines in Chapter 8 : Election Advertisements are applicable to such displays and must be observed by the candidate concerned. The Housing Manager should send a copy of the letter of approval to the relevant RO for record and for public inspection. Please also see **Appendix I** for reference. *[Amended in September 2006]*

PART V : FUND RAISING ACTIVITIES AT ELECTION MEETINGS

10.22 A permit is required for organising, providing equipment for, or participating in any collection of money or sale of badges, tokens or similar articles or exchange the same for donations in a public place [s 4(17) of the Summary Offences Ordinance (Cap 228)]. Any person who wishes to raise funds at an election meeting for non-charitable purposes should apply to the Secretary for Home Affairs. A copy of the administrative guidelines and licensing conditions for the issue of such permits with an application form is at the **Appendix L** for general information. *[Amended in September 2006]*

CHAPTER 11

ELECTION BROADCASTING, MEDIA REPORTING AND ELECTION FORUMS

PART I : GENERAL

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

IMPORTANT :

“Candidate” includes a person who has publicly declared an intention to stand for election at any time before the close of nominations for the election, whether or not he has submitted a nomination form [s 2 of the ECICO].

PART II : ELECTIONEERING ON TV AND RADIO

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

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

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

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

11.6 The principles stated in paras. 11.3, 11.4 and 11.5 above apply equally to political parties or political organisations of which the candidate is a member as they apply to the candidate himself.

11.7 During the election period (ie the period beginning with the commencement of the nomination for the election and ending with the polling day for the election), broadcasters should ensure that the “equal time” principle as well as the “no unfair advantage” principle are applied to all political parties or political organisations who have members contesting the EC subsector election, whether or not contesting the same subsector. If a political party or a political organisation whose members contest as candidates in the election is invited to take part in a current affairs or any other programme whose entire or partial theme is on the election, then all political parties or political organisations which have members contesting the EC subsector election should also be invited.

11.8 The EAC appeals to broadcasters to treat all candidates competing in the same subsector fairly and equally when making comment on or reference to the candidates in any of their programmes. Comments made for the purpose of promoting or prejudicing a candidate or candidates are treated as election advertisements, if reference could be made from the materials to identify the candidate(s) being promoted or prejudiced [see also para. 8.8 of Chapter 8]. Moreover, if such comments are determined by the EAC as election advertisements, the EAC will refer the matter to the Broadcasting Authority for appropriate action. If there is fair and equal treatment to all candidates of the same subsector, the editorial line of the broadcaster or personal opinions of the programme presenter on each of the candidates can be freely expressed, insofar as they are fair comments and based on true facts. The guidelines do not seek to impose any shackle on the expression of such ideas. However, broadcasters should ensure that in the expression of such ideas, no unfair advantage may result towards any candidate over another or any political parties or organisations to which contesting candidates belong.

Candidates Appearing on TV/Radio/Movie as Presenters, Regular Contributors, Actors, Musicians, Singers or Other Entertainers

11.9 A presenter, including a guest presenter, or a regular contributor should not appear in any programme in his normal programme role after he has publicly declared his intention to stand for the election or during the election period if he becomes a candidate. This is to avoid unfair extra publicity for him at the critical time. A presenter or regular contributor may, of course, appear as a candidate in election forums referred to in Part IV below.

11.10 A person who has contracted to appear as presenter, regular contributor, actor, musician, singer or any other form of entertainer in any performance scheduled to be shown before his declaration of intention to stand

for the election or before and after the election period may always do so and continue to do so. However, such a person should make his utmost endeavours to request the person(s) responsible not to broadcast his appearance in any media after his declaration of intention to run for the election or during the election period if he becomes a candidate.

Candidates Appearing in Commercial Advertisements

11.11 A person should not participate in the making of an advertisement in which his image, name or voice appears ("the relevant advertisement") and which he knows will be broadcast on TV/radio/cinema after his declaration of intention to stand for the election or during the election period if he becomes a candidate.

11.12 If, after the relevant advertisement has been made, the person then decides to run in the election, and it comes to his attention that the relevant advertisement will appear in TV/radio/cinema after his declaration of intention to stand for the election or after the nomination period has commenced if he becomes a candidate during that period, he should make his utmost endeavours to request the person(s) responsible not to broadcast the relevant advertisement after his declaration of intention to stand for the election or during the election period.

PART III : ADVERTISING THROUGH THE PRINT MEDIA

11.13 A candidate is at liberty to advertise in the print media to promote his candidature. Where such an advertisement is placed in the print media and takes the form of a news report or any other form which does not clearly show that it is an election advertisement, the words **“Election Advertisement”** or

“選舉廣告” must be stated in the advertisement, to avoid misunderstanding by readers that it is not an election advertisement [see para. 8.54 of Chapter 8]. The expenses so incurred must be accounted for in the return and declaration of election expenses and donations.

11.14 No unfair advantage should be offered by any publisher to a candidate. Nor should a candidate obtain from a publisher any unfair advantage regarding election campaigning. The EAC appeals to members of the print media to provide **fair and equal treatment** to all candidates competing in the same EC subsector in the reporting of them or their electioneering activities. How fair and equal treatment is to be applied in practice is set out in the **Appendix M**.

11.15 A regular columnist should not contribute articles to the print media after he has publicly declared his intention to stand for the election or during the election period if he becomes a candidate. This is to avoid unfair extra publicity for him at the critical time. A regular columnist may, of course, appear as candidate in election forums referred to in Part IV below.

PART IV : ELECTION FORUMS

11.16 During the election period, broadcasters may organise election forums in their programmes. Broadcasters should ensure that the “equal time” principle as well as the “no unfair advantage” principle are applied to all candidates. If a candidate is invited to take part in the election forum, then all candidates of the same subsector should also be invited to be present at such forums so as to give the candidates an equal opportunity to appear.

11.17 Any organisations, such as professional or trade organisations, academic institutions and schools, etc, may organise election forums for civic education or other purposes. In line with the fair and equal treatment principle, the EAC appeals to all these organisers to invite all candidates of the same subsector to be present at such forums, so that no unfair advantage will be accorded to or obtained by any candidate over others regarding election campaigning.

11.18 The EAC also appeals to all candidates to use their best endeavours to take part in election forums in order to enable voters and the public to be apprised of their platforms.

PART V : SANCTION

11.19 If the EAC comes to know of unfair or unequal treatment of candidates by any broadcaster, publisher or forum organiser, it may make a reprimand or censure in a public statement which may include the names of the candidates favourably and unfavourably treated and the broadcaster, publisher or forum organiser concerned. The EAC may also notify the relevant authorities for appropriate action to be taken.

CHAPTER 12

USE OF SOUND AMPLIFYING DEVICE AND VEHICLES

PART I : GENERAL

12.1 The law relevant to this chapter can be found in the Public Order Ordinance (Cap 245), the Summary Offences Ordinance (Cap 228), the Noise Control Ordinance (Cap 400) and the Road Traffic Ordinance (Cap 374).

12.2 Candidates are reminded that some members of the public find the sound or noise emitted by loudspeakers annoying and intrusive. When using loudspeakers, candidates should particularly bear in mind possible annoyance caused to people in hospitals, homes for the elderly, kindergartens, nurseries, schools and dwelling houses. Voters' voting preference may be affected as a result of any noise nuisance caused by candidates or their followers. *[Amended in September 2006]*

PART II : USE OF LOUDSPEAKERS AND VEHICLES

12.3 With effect from July 1995, the Commissioner of Police ceases issuing loudspeaker permits under s 4(29) of the Summary Offences Ordinance. Candidates are therefore **NOT** required to submit any application for a permit. However, this does not exempt candidates from complying with the requirements of the law and the conditions imposed by the Commissioner of Police when any amplification device is used in an election meeting or procession. An amplification device includes a loudspeaker and any device

which can emit or amplify sound. [Please refer to Chapter 10 : Election Meetings for details.]

12.4 Although no permit is now required, any person using a loudspeaker should ensure that the noise emitted through the loudspeaker does not cause a nuisance to any other person. Under s 5(1)(b) of the Noise Control Ordinance, making a nuisance by using a loudspeaker, megaphone, or other device or instrument for magnifying sound from which the noise emitted is a source of annoyance either at any domestic premises or public place at any time of the day is an offence, and this includes use of loudspeakers attached to vehicles. In order to reduce the nuisance caused to members of the public, candidates are required **NOT** to use loudspeakers in electioneering **between 9 pm and 9 am**. If the EAC comes to know that a candidate has breached the time restriction, it may make a **reprimand** or **censure** against him. Candidates should note that some members of the public may find the noise emitted from loudspeakers on vehicles disturbing. They should therefore seriously consider the public's tolerance over the noise level and try to keep the noise volume at a reasonable level. *[Amended in September 2006]*

12.5 Should any complaint be received by the Police concerning the volume of the loudspeaker, the volume of sound should be reduced on the instructions of any police officer. If verbal warning or instruction by the police officer is ignored, prosecution may be instituted.

12.6 All vehicles used for and in connection with canvassing activities must comply with the provisions and regulations of the Road Traffic Ordinance. Drivers of such vehicles are obliged to obey all directions given by uniformed police officers and traffic wardens. Additionally, drivers of all vehicles must comply strictly with all the stopping and parking regulations of the Ordinance. Deliberate slow driving may constitute "careless driving" as it could be deemed as driving "without reasonable consideration for other persons using the road".

12.7 Paraphernalia attached to a vehicle must also comply with the Road Traffic (Construction and Maintenance of Vehicles) Regulations of the Road Traffic Ordinance, ie not to interfere with the working or safety of the vehicle. For display of advertisements including election advertisements on public light bus, owners/operators of public light bus should obtain written approval from the Transport Department (“TD”) and ensure the display of election advertisements be in compliance with the conditions as stipulated by TD in the approval letter, including in particular the following conditions:

- (a) no election advertisements should be displayed on the windows (in particular the front/rear windscreens or in any position that can obstruct the sight-line of the driver), at the areas above the windows and at the exterior roof panel;
- (b) no illumination should be used for the election advertisements; and
- (c) no election advertisements should obstruct any statutory label/markings required to be shown on the vehicle body.

[Amended in September 2006]

12.8 Candidates and their supporters are reminded that they should observe the statutory requirements of the Road Traffic (Safety Equipment) Regulations and Road Traffic (Traffic Control) Regulations under the Road Traffic Ordinance, including those relating to seating requirement, the wearing of seat belts and the permission to carry passengers in a vehicle. Standing up in moving vehicles would be **illegal** for both the drivers and standees except on trams, single-decked public service buses and the lower deck of double-decked buses. Passengers can also stand up on a vehicle used as a float if approved by the Commissioner of Transport. *[Amended in September 2006]*

12.9 Any vehicle modified to a float configuration for display or canvassing purposes must be approved by the Commissioner for Transport. Application procedures for approval of float design are included at **Appendix N**.

12.10 Candidates should also note the use of loudspeakers will not be permitted within the NCZ outside the polling station, nor will it be permitted in the vicinity where the sound emitted can be heard within the NCZ. [See also Chapter 14 : Prohibition Against Canvassing Activities Outside Polling Stations.]

PART III : SANCTION

12.11 If the EAC comes to know that any candidate is in breach of the guidelines in this chapter, apart from notifying the relevant authorities for actions to be taken, it may make a **reprimand** or **censure** in a public statement which may include the name of the candidate concerned. The censure may be in addition to the criminal liability for offences inside the NCZ, punishable with the maximum penalties of \$5,000 fine and imprisonment for 3 months [s 45 of the EAC (EP) (EC) Reg]. Candidates should remind their supporters to observe these guidelines when they are campaigning on behalf of the candidate. *[Amended in September 2006]*

CHAPTER 13

ELECTIONEERING ACTIVITIES CONDUCTED IN SCHOOLS OR PARTICIPATED BY SCHOOL PUPILS

PART I : GENERAL

13.1 Candidates, school supervisors, principals and teachers are requested to take note of these guidelines when considering allowing the conduct of electioneering activities in their schools or seeking the assistance of pupils in electioneering activities.

13.2 Involvement of school pupils in electioneering activities has always been a matter of public concern. Anybody in authority must **NOT** use his position to exert undue influence on youths of school age under his charge to recruit them for electioneering activities. If the EAC comes to know that a person has abused his position by involving youths of school age under his charge in electioneering activities, it may make a reprimand or censure against the person. For use of force or duress on a person's voting preference, please see s 13 of the ECICO.

PART II : SCHOOL PUPILS

13.3 While it is for the promotion of civic education that school pupils are encouraged to take an interest in community affairs, including elections, it is considered undesirable for them to be involved in electioneering activities at too

young an age. Unattended young children can cause control problems and, particularly where large numbers are involved, or in overcrowded situations, can create a danger to themselves and the others. The EAC therefore advises strongly against any pre-primary or primary school pupil taking part in electioneering activities.

13.4 Distribution of election advertisements is a form of electioneering activity. There may be school supervisors, principals or teachers who may support a particular candidate. While they are free to support any candidate they prefer, they should not distribute or help distribution of election advertisements of any candidate to the parents of pre-primary, primary or secondary pupils using the pupils as conduits. Moreover, they must not ask such pupils to request their parents to vote for any particular candidate. The same applies to candidates who are themselves school supervisors, principals or teachers. This guideline is based on the same principle stated in para. 13.2 above, and could avoid any semblance of undue influence on young children under the charge of these persons in authority in the school.

13.5 The EAC adopts the advisory circular issued by the Secretary for Education and Manpower to all schools for general guidance, emphasising the following points:

- (a) participation by pupils in electioneering activities must be **entirely voluntary**;
- (b) the **written consent** of a parent or guardian must be obtained beforehand;
- (c) in no circumstances should pre-primary or primary school pupils be asked to take part in such activities;

- (d) there should be no disruption of the pupils' education, and in no circumstances should normal lessons be interrupted to enable pupils to take part in such activities; and
- (e) in no circumstances should pupils be asked to take part in activities in areas where they may be subject to various elements of danger, including those created by traffic.

13.6 Pupils who take part in canvassing activities should pay attention to their own school regulations, and in particular those regarding the wearing of school uniform in such activities.

13.7 The EAC recognises that school pupils who are 18 years of age or over are by law old enough to be responsible for their own acts and make election-related decisions for themselves.

PART III : ELECTIONEERING ACTIVITIES IN SCHOOLS

13.8 During the election period, school supervisors, principals or teachers may invite or be approached by candidates to give talks on topical issues to students in their schools. The topic to be covered by such a talk may or may not have direct reference to an election. In any case, the presence of the candidate delivering it and the copies of the speech which may be circulated to students and brought home to their parents may have the effect of promoting or advertising that candidate and should, therefore, be regarded as his electioneering activity. [See also para. 13.4 above.]

13.9 In line with the **fair and equal treatment** principle, the EAC appeals to all school supervisors, principals and teachers to provide equal opportunity to all candidates of the same EC subsector for the purpose of electioneering. If a school authority has decided to allow a particular candidate to conduct electioneering activities in the school, other candidates of the same EC subsector should be informed and given the opportunity to do the same, so that no unfair advantage will be accorded to or obtained by any candidate over others regarding election campaigning. Information on the name and address (and contact numbers if the candidate has no objection to releasing the same) of candidates can be obtained from the REO.

PART IV : SANCTION

13.10 If the EAC comes to know that any candidate or school or a person is in breach of the guidelines in this chapter, it may make a **reprimand** or **censure** in a public statement which may include the name of the candidate, the school and person concerned, and may also refer the case to the Education and Manpower Bureau. Candidates should therefore apprise the school or person concerned who offers them assistance of these guidelines.

CHAPTER 14

PROHIBITION AGAINST CANVASSING ACTIVITIES OUTSIDE POLLING STATIONS

PART I : GENERAL

14.1 This chapter deals with the ban on canvassing activities **outside** polling stations on the polling day.

14.2 A “No Canvassing Zone Scheme” is employed for the purpose of prohibiting canvassing activities outside polling stations on the polling day in order to maintain free and safe passage for voters, and to ensure that they are not unduly harassed on their way to a polling station.

PART II : DECLARATION OF A NO CANVASSING ZONE AND NO STAYING ZONE

14.3 The RO for a subsector must determine an area outside each polling station used for polling for that subsector to be a NCZ. In so doing, he will take into account the characteristics and special conditions of the polling station. He must also determine an area within the NCZ outside the entrance/exit of the polling station as a NSZ. These two zones are to be determined with reference to a map or plan [s 40(1) of the EAC (EP) (EC) Reg]. *[Amended in September 2006]*

14.4 For a polling station which is used for more than one EC subsector, the determination of the NCZ or NSZ is to be made by the RO

specified by the CEO [s 40(2) of the EAC (EP) (EC) Reg].

14.5 The RO who made the determination of declaring a NCZ or NSZ in respect of a polling station must, at least **7 days** before the polling day, give notice of the declaration to the candidates of his own EC subsector and to the ROs of other EC subsectors for which polling will be held in the polling station; and thereafter each of the ROs of these other EC subsectors must give notice of the declaration to the candidates of his own EC subsectors as soon as practicable [s 40(3), (4) and (5) of the EAC (EP) (EC) Reg]. *[Amended in September 2006]*

14.6 The notice will be given in writing, either in person or by post or by facsimile transmission, to the candidates or to the election agents or polling agents [s 40(12) of the EAC (EP) (EC) Reg].

14.7 Where the circumstances so warrant, the RO who has made a determination may vary the NCZ or NSZ. Notice of the variation must be given as soon as practicable after the variation in the same manner as a notice referred to in para. 14.6 above [s 40(7) of the EAC (EP) (EC) Reg]. However, a notice of variation need not be given to the candidates if it is not reasonably practicable to do so before the close of poll [s 40(11) of the EAC (EP) (EC) Reg].

14.8 A notice of the determination or the variation, together with indication of the boundaries of the NCZ or the NSZ, need to be displayed, on polling day, at or near the relevant polling station, in order to make the determination or variation effective [s 40(8), (9) and (10) of the EAC (EP) (EC) Reg].

14.9 The RO who is empowered to determine NCZ and NSZ may

authorise his ARO or the PRO of the relevant polling station to exercise the power to vary the determination and to perform the associated duties on polling day [ss 40(8A) and 89 of the EAC (EP) (EC) Reg]. *[Amended in September 2006]*

PART III : CONDUCT INSIDE THE NO CANVASSING ZONE AND NO STAYING ZONE

14.10 Door-to-door canvassing and, for the purpose of such canvassing, the display of propaganda material, eg any badge, emblem, clothing or head-dress which may promote or prejudice the election of a candidate or candidates at the election, or makes direct reference to a body any member of which is standing as a candidate in the election or to a political body in Hong Kong, will be allowed on the storeys above or below street level in a building within a NCZ other than a building in which there is a polling station provided that permission has been obtained for entry to the building for canvassing votes, and that obstruction is not posed to voters and no amplifying device is used [s 40(15) of the EAC (EP) (EC) Reg]. Apart from this, no other canvassing activities (including suggesting not to vote for any candidate) will be allowed within a NCZ except for static displays of election advertisements that are authorised by the RO or the PRO of the relevant polling station. Where there are premises situated within the NCZ, the ROs should issue a notice in advance to all the candidates asking them to remove all of their election advertisements, if any, posted up at the premises within the NCZ which can be seen by the voters on their way to the polling stations on the polling day. If the candidates fail to remove the election advertisements as requested by the ROs, the ROs may issue a warning to them to remove the offending election advertisements immediately. If the candidate fails to do so, the EAC may issue a censure or reprimand. Canvassing activities may take many different forms. A list of common canvassing activities which are forbidden in a NCZ is at **Appendix H**. *[Amended in September 2006]*

14.11 On the polling day, the PRO will make his best endeavours to ensure that no person carries out any activity other than those permitted activities described in para. 14.10 above in the NCZ in respect of his polling station to persuade or induce any elector to vote or not to vote. Any unauthorised display of election advertisements in the area will be removed by the RO or other persons authorised by the RO [s 100(14) of the EAC (EP) (EC) Reg]; and any person found to have conducted canvassing activities in the area will be asked to leave the area [s 41 of the EAC (EP) (EC) Reg]. *[Amended in September 2006]*

14.12 The use of loudspeakers or loud-hailers will not be permitted within the NCZ, nor will any such device or any activity (eg lion dance) be permitted in the vicinity so that the sound emitted can be heard within the NCZ [s 40(14) of the EAC (EP) (EC) Reg]. Save for canvassing activities allowed in para. 14.10, candidates and their supporters are not allowed to pass, let alone shout, appeal message to persons while inside the NCZ. [See Part II of Chapter 12 regarding the use of loudspeakers.] *[Amended in September 2006]*

14.13 Within the NCZ but immediately outside the entrance/exit of each polling station (and sometimes the entrance is also the same as the exit), there will be a **NSZ**, in which no person is allowed to stay or loiter, except where a person has been expressly permitted to do so by the PRO [s 41(1)(e) of the EAC (EP) (EC) Reg]. This is for the purpose of securing safe and smooth passage of voters into and out of polling stations. *[Amended in September 2006]*

14.14 A person shall not obtain or attempt to obtain (in any manner) information as to which candidate an elector of the relevant polling station is about to vote for or has voted for, in a NCZ or in a NSZ without the express permission of the PRO who should have regard to exit pollsters who have complied with the requirements set out in Chapter 15 : Exit Poll.

14.15 Any person who misconducts himself or carries out any forbidden activity in a NCZ or NSZ, or fails to obey a lawful order of the RO (who has made the determination in respect of that NCZ or NSZ) or the PRO, commits an offence punishable with a fine and imprisonment and may be ordered by such officer to leave the NCZ or NSZ [s 41(2) of the EAC (EP) (EC) Reg]. If he fails to leave immediately, he may be removed from the relevant zone by a police officer or by any other person authorised in writing by the RO or the PRO[s 41(3) of the EAC (EP) (EC) Reg]. The person so removed may not re-enter the NCZ or NSZ during that day except with the permission of the RO or the PRO [s 41(4) of the EAC (EP) (EC) Reg]. *[Amended in September 2006]*

14.16 Nevertheless, the RO or the PRO shall not exercise their powers to remove a person from the NCZ or NSZ so as to prevent him from voting [s 41(5) of the EAC (EP) (EC) Reg].

PART IV : PENALTY

14.17 Any canvassing within a NCZ except those exempted, any attempt to obtain information as described in para. 14.14 without the necessary permission and any conduct prohibited under paras. 14.13 and 14.15 above will each be an offence under s 45(4) of the EAC (EP) (EC) Reg, punishable by a fine at level 2 (up to \$5,000) and imprisonment for up to 3 months.

CHAPTER 15

EXIT POLL

PART I : GENERAL

15.1 This chapter sets out the guidelines for the conduct, publication and broadcast of exit polls to avoid unfair interference with the election process by unduly influencing voters. The aim is to ensure that elections are conducted honestly and fairly.

PART II : CONDUCT OF EXIT POLLS

15.2 The EAC appeals to the media and organisations concerned for self-regulation, goodwill and voluntary cooperation in the conduct, publication and broadcast of exit polls so that voter behaviour will not be unduly affected.

15.3 Exit polls may be conducted by any person or organisation. For the purpose of better control of the conduct of an exit poll, persons or organisations intending to conduct exit polls must provide the following to the REO at **the latest 7 days before the polling day-**

- (a) the name and address of the person or organisation intending to conduct an exit poll on the polling day;

- (b) the identity document number and name of the person responsible together with his telephone number(s) for contact, especially for the polling hours; and
- (c) a list showing the number of persons who will be employed for the conduct of the exit poll at each polling station on the polling day together with the identity document number and name of each of all the persons who will be so employed.

15.4 On the receipt of the application, the REO will consider the application and issue approval to the concerned person or organisation as appropriate. A list of such persons or organisations allowed to conduct exit poll will be announced to the public prior to the polling day for the reference of the public and candidates and such a list will also be displayed at the respective polling stations.

15.5 Interviews are not allowed inside polling stations. Interviewers should note that canvassing activity is prohibited under criminal sanction within the NCZ except door-to-door canvassing activities on the storeys above or below street level in a building other than the one in which there is a polling station provided that permission has been obtained for entry to the building for canvassing votes, and that obstruction is not posed to voters and no amplifying device is used. Interviewers must therefore be extremely careful in conducting the exit poll so as not to give rise to any suspicion that they are canvassing voters inside the NCZ. Interviewers, like any other person, are not allowed to stay or loiter in the area designated as the NSZ (within the NCZ but immediately outside the entrance/exit to each polling station) [s 41(1) of the EAC (EP) (EC) Reg]. Interviewers are also not allowed to accost voters in the NSZ. All these measures are for the purpose of securing safe and smooth passage of voters into and out of the polling stations. The PRO of a polling station may, if circumstances require,

designate an area outside the exit of the polling station so that interviewers may only conduct exit poll within that area. *[Amended in September 2006]*

15.6 Any announcement of the results of exit polls or predictions, particularly in relation to any individual candidate during the polling hours may affect voter behaviour and have an impact on election results. The EAC, therefore, appeals to the media and organisations concerned to refrain from announcing the results of exit polls or making specific remarks or predictions on the performance of individual candidate **until after the close of poll**.

15.7 Broadcasters' attention is invited to the provisions of the Television and Radio Codes of Practice on Programme Standards which require news and current affairs programmes to be fair, objective and impartial.

PART III : SECRECY OF THE VOTE

15.8 **The ballot is secret.** It is a voter's right to keep his vote secret. A voter does not have to disclose his choice of candidate if he does not want to. It is a criminal offence for a person, without lawful authority, to require, or purport to require, a voter or AR to disclose the name of, or any particular relating to, the candidate for whom the voter voted at an election [s 93(10) of the EAC (EP) (EC) Reg and s 37 of the Schedule to the CEEQ]. Those who conduct exit polls must respect the voters' right and wish not to be disturbed.

PART IV : IDENTIFICATION OF INTERVIEWERS

15.9 There had been occasions where exit poll interviewers were mistaken to be government officials or polling staff. Such interviewers are therefore required to wear an identification device so that voters will not be misled into thinking that they are appointed by Government.

15.10 After receipt of the information referred to in para. 15.3 above, the REO will notify the organisation or person concerned to collect a number of identification devices bearing the name of the organisation that is required to be worn by each of the persons included in the list in para. 15.3(c) above when conducting an exit poll. Any person not wearing such a device or wearing such a device without the identity of the organisation being shown will not be allowed to conduct an exit poll outside any polling station.

PART V : SANCTION

15.11 Apart from the criminal sanction provided in the CEEO, if the EAC comes to know that any broadcaster or organisation has failed to heed or comply with the guidelines in this chapter, it may make a reprimand or censure in a public statement which may include the name of the broadcaster or the organisation concerned.

CHAPTER 16

ELECTION EXPENSES AND DONATIONS

PART I : WHAT CONSTITUTES ELECTION EXPENSES

16.1 Provisions relating to election expenses can be found in the ECICO.

16.2 **Election expenses** mean expenses incurred or to be incurred **before, during or after** an **election**, by a candidate or his election expense agent on his behalf for the purpose of promoting his election, or prejudicing the election of another candidate or other candidates and include the value of election donations consisting of goods and services used for that purpose [s 2 of the ECICO]. The term “candidate” relating to election expenses (and donations) therefore includes a person **who has publicly declared an intention to stand for election** in respect of a subsector at any time before the close of nominations for the election, regardless of whether he has submitted his nomination form, or after submission of the nomination form he has withdrawn his nomination or his nomination is ruled invalid by the RO [s 2 of the ECICO]. *[Amended in September 2006]*

16.3 A candidate may receive **donations** for the purpose of meeting the costs of his election expenses. Donation, in relation to a candidate or candidates at an election, means any of the following donations:

- (a) any money given to or in respect of him for the purpose of meeting or contributing towards meeting his election expenses;
- or

- (b) any goods given to or in respect of him for the purpose of promoting his election or of prejudicing the election of another candidate or other candidates and includes any goods given incidental to the provision of voluntary service; or
- (c) any service provided to or in respect of him for the purpose of promoting his election or of prejudicing the election of another candidate or other candidates, but does not include voluntary service.

[S 2 of the ECICO.]

All such donations, whether in cash or in kind, when spent or used, are counted as election expenses. [For details, see Part III of this chapter.]

16.4 There is no defined time as to when expenses are incurred whereby they will or will not be counted as election expenses. It is a question of fact in each case. For as long as an expense is incurred either for the purpose:

- (a) of promoting the election of a candidate; or
- (b) of prejudicing the election of another candidate or other candidates;

it will be an election expense, irrespective of when it is incurred, either before, during or after the election, and regardless of the source of funding.

16.5 A list of common expenditure items which may be counted towards election expenses is at **Appendix O**. The list is only illustrative and should not be considered as having precedence over the legislation. Whether

a particular item of expenditure should be regarded as an election expense is a question of fact to be answered in the circumstances of each case. Each case should be determined by reference to the purpose behind the expenses, taking account of the nature, circumstances and context of the expenditure. Personal expenses incurred in the normal course of a candidate's daily life are not election expenses. Use of staff and other resources which are available to a candidate in his official capacity or at work for the purpose of promoting his candidature in an election should also be counted as election expenses. Candidates should consult their legal advisers if they have doubt as to whether an expenditure item should be counted as an election expense. Any legal fees incurred as a result will not themselves be counted as election expenses.

16.6 A candidate should not use any public resources for the purpose of promoting his election or prejudicing the election of another candidate at the election. However, any security, transportation, secretarial and living quarters services to which he is entitled to use for his private purposes by virtue of his post or job are not treated as public resources in this context.

PART II : WHO MAY INCUR ELECTION EXPENSES AND THEIR LIMIT

Maximum Scales of Election Expenses

16.7 The maximum scales of election expenses for the EC subsectors election are prescribed by the Maximum Scale of Election Expenses (Legislative Council) (Election Committee) Order made by the CE in Council pursuant to s 45 of the ECICO to limit the maximum amount of expenses a candidate may incur on account of the election. This limit controls the extent of election campaigns and serves to prevent candidates with ample financial

resources from having an unfair advantage.

16.8 The maximum scales of election expenses are set out in the following table. For ascertaining the number of registered voters referred to in items (b), (c) and (d), inquiry can be made with the RO for the EC subsector concerned.

(a) for an election for one of the following 8 EC subsectors, viz, Agriculture and Fisheries, Insurance, Transport, Hotel, CPPCC, Heung Yee Kuk, Hong Kong and Kowloon District Councils, and New Territories District Councils subsectors	\$100,000
(b) for an election for an EC subsector other than those in (a) above with not more than 5,000 registered voters	\$160,000
(c) for an election for an EC subsector with between 5,001 and 10,000 registered voters	\$320,000
(d) for an election for an EC subsector with over 10,000 registered voters	\$480,000

16.9 A candidate must not incur any election expenses in excess of the maximum amount prescribed [s 24 of the ECICO].

Persons Authorised to Incur Election Expenses

16.10 Only a candidate or a person who has been duly authorised by a candidate as the candidate's election expense agent may incur election expenses [s 23 of the ECICO]. The authorisation should follow the procedures specified in Part VI of Chapter 7.

16.11 **Negative campaigning (ie canvassing against other candidates).** Before incurring expenses in carrying out any negative campaigning for or for the benefit of a candidate, a person will need the authorisation of the candidate to be the election expense agent of the candidate. Such expenses will be counted towards election expenses of the candidate. If the negative campaign includes election advertisements, all the requirements of the ECICO and of the EAC (EP) (EC) Reg must also be complied with.
[Amended in September 2006]

16.12 Candidates should advise the organisations with which they are associated and which may incur expenses to support them of these guidelines as soon as they have any intention or plan to run for the election, to avoid any offences being committed by these organisations out of ignorance.

16.13 A candidate will be responsible for the overall amount of his election expenses. In the event the total amount incurred by him and/or on his behalf exceeds the limit prescribed or the limit he has authorised his election expense agent to expend, he will be liable for contravening the law, unless he can prove that the excess was incurred without his consent, beyond his authorisation, or not due to any negligence on his part. The election expense

agent, on the other hand, should not incur an amount of election expenses which exceeds the limit authorised by the candidate, lest the agent will contravene s 23 of the ECICO. [Ss 23 and 24 of the ECICO.]

PART III : DONATIONS

General Provisions

16.14 A person who has made known his intention to stand as a candidate in the election may receive donations for the sole purpose of meeting his election expenses.

16.15 Donations can only be used for meeting, or contributing towards meeting, a candidate's election expenses, or in the case of an election donation consisting of goods or services, for the purpose of promoting the election of the candidate or of prejudicing the election of another candidate or other candidates [s 18 of the ECICO].

16.16 Donations can be in cash or in kind, and include any money's worth, any valuable security or other equivalent of money and any valuable consideration. All spent or used donations, whether in cash or in kind, which may be received before, during or after an election, are counted towards the total election expenses which are subject to the maximum amount prescribed.

16.17 Any unspent or unused donations must be given to charitable institution(s) or trust(s) of a public character chosen by the candidate(s). Any amount of donations that exceeds the upper limit of election expenses must also be given to such charitable institution(s) or trust(s). [S 19 of the ECICO.]

16.18 Since election donations can only be lawfully spent for meeting or contributing towards meeting election expenses, donations and expenses are often corresponding to each other. For every item of election expense which is avoided or reduced by obtaining the goods supplied or services rendered free of charge or at a discount, there should normally be a corresponding item of donation. The only exception is voluntary services obtained that are not treated as donations (any goods given incidental to the provision of a voluntary service will however be counted as an election donation). These points are elaborated in the paragraphs under Donations in Kind of this chapter.

16.19 On receiving a donation, of money or in kind, of more than \$1,000 in value, a candidate must issue to the donor a receipt which specifies the name and address of the donor (as supplied by the donor). A standard form of receipt is obtainable from REO and will be provided to a candidate at the time of his submitting his nomination form. While it is not uncommon that some donors would like to be anonymous, if a donation, in cash or in kind, is more than \$1,000 in value, then only where the donor's name and address (as supplied by the donor) are shown as required by the standard form of donation receipt can it be used as election donation. Donations exceeding \$1,000 or, in the case of an election donation consisting of goods, of more than \$1,000 in value received from anonymous donors must not be used for election expenses and must be given to a charitable institution or trust of a public character chosen by the candidate. [S 19(2) of the ECICO.] *[Amended in September 2006]*

Donations in Kind

16.20 Donations in kind include goods and services obtained free of charge or at a discount. Unless the discount is generally available to all customers, the difference between the market/regular price and the price charged is a donation and must be declared and included as such and

correspondingly as an election expense in the form of return. The same principle applies to loans obtained at no interest or at an interest rate lower than usual. Unless the facility is generally available to others, the interest not charged must be declared and included as a donation and election expense in the form of return. For premises provided free of charge to a candidate for his election campaign, a reasonable amount should be assessed as the deemed rental for the premises and such be included as a donation and election expense in the form of return.

16.21 For services or goods obtained free of charge, a candidate must include in the return their estimated value as if the expenses had been incurred. Where the services or goods are furnished by a person who deals in similar services or goods with the public, their estimated value should be assessed at the lowest price at which the person offers his services or goods to the public at the time when they are furnished. Where such services or goods are furnished by persons who do not deal in similar services or goods with the public, their estimated value should be assessed at the lowest market retail price at the time when they are furnished.

16.22 **Voluntary service** is the only service rendered free of charge which may be excluded from being counted as election expenses. In addition to being free of charge, the service must be provided by a natural person, voluntarily and personally, in his own time for the purpose of promoting the election of the candidate or candidates, or of prejudicing the election of another candidate or other candidates. [S 2 of the ECICO.] Otherwise, the service provided should be treated as a donation and counted towards election expenses at a fair estimated value. *[Amended in September 2006]*

PART IV : RETURN AND DECLARATION OF ELECTION EXPENSES AND DONATIONS

16.23 A candidate must keep an accurate account of all election expenses incurred and donations (whether in cash or in kind) received, and submit to **the CEO a return and declaration of election expenses and donations in a specified form (which will be given to a candidate upon his submission of nomination)** not later than 30 days after the publication in the Gazette of the result of the election, or not later than 30 days after the declaration of the termination of the election proceedings under the relevant electoral law, or not later than 30 days after the declaration of the failure of the election under the relevant electoral law [s 37 of the ECICO]. *[Amended in September 2006]*

16.24 The return must cover all the election expenses incurred by the candidate or the person(s) so authorised by him, services or goods obtained free of charge or at a discount and any unpaid claims. It must be submitted with supporting invoices and receipts for all payments each of \$100 and above. The copy of receipts issued by the candidate for any donations of more than \$1,000 and those issued by charitable institutions or trusts of a public character for the collection of any unspent or excessive donations should also be attached [s 37 of the ECICO].

16.25 At the time of his submitting his nomination form, a candidate will be given:

- (a) the specified form for making the return and declaration of election expenses and donations mentioned in para. 16.23 above, together with a standard form of receipt for donations mentioned in para. 16.19 above;

- (b) the specified form for advance return of donations (see para. 16.28 below);
- (c) a specimen of the specified form with examples showing how the return and declaration can be completed; and
- (d) explanatory notes on how to complete the returns.

A candidate should read the explanatory notes carefully in completing the return, and make reference to the specimen whenever necessary.

Omissions and Mistakes

16.26 If a candidate is unable or fails to send to the CEO the return and declaration of election expenses before the end of the permitted period or omits an item in it or makes a mistake in it, and such inability, failure, omission or error was due to his own illness or absence from Hong Kong or of the absence from Hong Kong, death, illness or misconduct of any agent or employee of the candidate or by reason of inadvertence or accidental miscalculation or any reasonable cause (but not by reason of want of good faith of the candidate), he has the right to make an application to the Court of First Instance for an order to send in the return and declaration late, or to correct the omission or mistake [s 40 of the ECICO]. When the candidate finds himself in such a situation, it would be wise of him to make the application to the Court and inform the REO as soon as possible. The legal costs so incurred will not be regarded as his election expenses. It is a corrupt conduct if a candidate who, in an election return lodged under s 37 of the ECICO, makes a statement that he knows or ought to know is materially false or misleading [s 20 of the ECICO].
[Amended in September 2006]

PART V : ADVANCE RETURN OF DONATIONS

16.27 Any candidate who is an incumbent public servant under the POBO eg a serving member of the LegCo or a DC, etc, may give advance disclosure to the CEO of any donations received. This may enable such incumbent member to avoid any inadvertent contravention of the provisions of the POBO relating to the acceptance of “advantages”. The donations so disclosed must also be incorporated in the return and declaration of election expenses and donations to be submitted to the CEO not later than 30 days after the publication in the Gazette of the result of the election, or not later than 30 days after the declaration of the termination of the election proceedings under the relevant electoral law, or not later than 30 days after the declaration of the failure of the election under the relevant electoral law [see s 37 of the ECICO]. The general provisions regarding donations in Part III must be observed.
[Amended in September 2006]

16.28 Any **advance return of donations** must be made on the specified form mentioned in para. 16.25 above.

16.29 Depending on the time and the number of donations received, a candidate may submit any number of advance returns of donations to the CEO.

PART VI : ENFORCEMENT AND PENALTY

Enforcement

16.30 The returns will be made available at the REO for public inspection up to the first anniversary of the date on which the result of an

election is published. Copies of the returns will be furnished to any person upon request subject to payment of a copying fee at a fixed rate. [S 41 of the ECICO.]

16.31 Any complaint or report of breach of these guidelines may be made to the relevant RO, the REO or to the EAC or its Complaints Committee direct. The EAC or its Complaints Committee may, after consideration, refer the cases to the relevant authorities for investigation and prosecution.

16.32 The REO will check all returns of election expenses and donations. Irregularities detected will be reported to the relevant authorities for investigation.

Penalties

16.33 It is an illegal conduct for a candidate to incur election expenses in excess of the maximum amount prescribed. It is also an illegal conduct for a person, other than a candidate or a candidate's election expense agent, to incur election expenses. An election expense agent engages in illegal conduct if he incurs election expenses in excess of the amount authorised. Such illegal conduct is punishable by a fine of up to \$200,000 and imprisonment for up to 3 years. [Ss 22, 23 and 24 of the ECICO.]

16.34 A candidate who uses any donation for any purpose other than for meeting his election expenses, or fails to dispose of excess donations in accordance with s 19 of the ECICO commits a corrupt conduct punishable by a fine of up to \$500,000 and imprisonment for up to 7 years. [Ss 6, 18 and 19 of the ECICO.]

16.35 A candidate who fails to submit the return and declaration of election expenses and donations by the prescribed date or who fails to provide

an accurate account of all expenses incurred and all donations received with the required supporting receipted vouchers and donation receipts commits an offence, punishable by a fine of up to \$200,000 and imprisonment for up to 3 years. [S 38 of the ECICO.]

16.36 A candidate who knowingly makes a materially false or misleading statement in his return and declaration of election expenses and donations or any advance return of donations commits a corrupt conduct punishable by a fine of up to \$500,000 and imprisonment for up to 7 years. [Ss 6 and 20 of the ECICO.]

16.37 A candidate, who having been elected to the EC, acts in the office or participates in the affairs of the EC without filing the return and declaration of election expenses and donations before the end of the permitted period commits an offence, punishable by a fine of \$5,000 for every day after such expiration on which he so sits or votes in such body. [S 39 of the ECICO.]

16.38 A person convicted of a **corrupt conduct or illegal conduct** within the meaning of the ECICO will, in addition to the penalties set out in paras. 16.33 – 16.37 of this chapter, be disqualified:

- (a) for 3 years from voting in the CE, EC subsector, LegCo, DC or VR election from the date of the conviction [s 26(d) of the CEEO, s 30 of the Schedule to the CEEO, s 53 of the LCO, s 30 of the District Councils Ordinance (Cap 547) (“DCO”) and s 14 of the Village Representative Election Ordinance (Cap 576) (“VREO”)];
- (b) for 5 years from being nominated as a candidate for the election of, or elected as, the CE, a member of the LegCo or DC or a VR from the date of the conviction [ss 14 and 20 of the CEEO, s 39 of the LCO, s 21 of the DCO and s 23 of the VREO]; and

- (c) for 3 years from being nominated as a candidate for the election of, or elected or nominated as, an EC member from the date of the conviction [ss 9 and 18 of the Schedule to the CEEEO].

[Amended in September 2006]

CHAPTER 17

CORRUPT AND ILLEGAL CONDUCT

PART I : GENERAL

17.1 This chapter sets out the guidelines against corrupt and illegal conduct in conducting election-related activities. It is important that candidates are aware of the common pitfalls in election activities, which may involve corrupt and illegal conduct, and take appropriate preventive measures to guard against committing offences out of oversight.

17.2 Provisions relating to corrupt and illegal conduct can be found in the ECICO. To help candidates and their agents get acquainted with the major provisions of the Ordinance, the ICAC has prepared a Handbook on the Ordinance, which is at **Appendix P** for easy reference.

17.3 A person who engages in:

- (a) a **corrupt conduct** will be liable to a fine of up to \$500,000 and imprisonment for up to 7 years and to pay to the court the amount or value or such part as specified by the court of any valuable consideration he or his agents received in connection with the conduct [s 6 of the ECICO]; and
- (b) an **illegal conduct** will be liable to a fine of up to \$200,000 and imprisonment for up to 3 years [s 22 of the ECICO].

In addition to these penalties, a convicted person will be disqualified from

being registered as an elector or nominated as a candidate in elections, as appropriate. For details, please see para. 17.31 below.

PART II : CORRUPT CONDUCT RELATING TO NOMINATION AND WITHDRAWAL OF CANDIDATURE

Offences relating to Candidature

17.4 Any act to affect a person's candidature by bribery, force, duress or deception is prohibited. Candidature includes standing as a candidate, not standing as a candidate, or withdrawal of nomination. It will be a corrupt conduct if a person corruptly:

- (a) offers an advantage to another person as an inducement or reward to affect his candidature or for not using his best endeavours to promote his election;
- (b) offers an advantage to another person as an inducement or reward to affect the candidature of a third person or to get the third person not to use his best endeavours to promote his election;
- (c) solicits or accepts an advantage from another person as an inducement or reward to affect the candidature of himself or for not using his best endeavours to promote his election; or
- (d) solicits or accepts an advantage from another person as an inducement or reward to affect the candidature of a third person or to get the third person not to use his best endeavours to promote his election.

17.5 Similarly, a person engages in corrupt conduct if he uses force or duress against another person to affect the candidature of that person or a third person. The use of deception to induce another person to affect the candidature of that person or a third person is also a corrupt conduct. [Ss 8 and 9 of the ECICO.]

17.6 It will also be a corrupt conduct if a person defaces or destroys a nomination paper with intent to prevent or obstruct another person from standing for election [s 10 of the ECICO].

PART III : ILLEGAL CONDUCT RELATING TO ELECTIONEERING

False Statement that a Person is or is not a Candidate

17.7 A person must not publish any statement that a candidate is no longer a candidate at an election if he is a candidate, or that another person who has been nominated as a candidate is no longer a candidate at the election, or that he or another person is a candidate at an election, knowing that the statement is false [s 25 of the ECICO].

False or Misleading Statement about a Candidate

17.8 A person must not publish any materially false or misleading statement of fact about a particular candidate or particular candidates for the purpose of promoting or prejudicing the election of the candidate or candidates. Similarly, a candidate must not publish any materially false or misleading statement of fact about himself or any other candidate for the purpose of promoting the election of himself or prejudicing the election of another candidate or other candidates. Any such publication will amount to an illegal

conduct. It should be noted that materially false or misleading statements about a candidate or candidates include, but are not limited to, statements concerning the character, qualifications or previous conduct of the candidate or candidates, eg a person who makes a materially false or misleading statement of fact, thereby calling into question the integrity and honesty of that candidate, may contravene the above provision. [S 26 of the ECICO.]

Claim of Support

[Please also see Chapter 18 : Namedropping]

17.9 A candidate must obtain **prior written consent** from a person or an organisation before using the name or logo of that person or organisation, or a pictorial representation of that person in any of his election advertisements or activities as an indication of support from that person or organisation. Oral consent is **not** sufficient. [S 27 of the ECICO.] The EAC provides a standardised consent form for this purpose. Any indication of support in election advertisements, be it a text, a photograph or any other material, must be covered by a written consent from the person or organisation concerned. A copy of the consent form must be deposited with the relevant RO **prior to the display, distribution or otherwise use of the election advertisements** [s 100(9)(b) of the EAC (EP) (EC) Reg]. It is important to note that it is still an offence even if such an election advertisement contains a statement to the effect that it does not imply support from the person or organisation concerned [s 27(4) of the ECICO]. It is also an offence for a person to give information which he knows or ought to know is materially false or misleading to a candidate for promoting or prejudicing the election of a candidate or candidates [s 27(6) of the ECICO]. *[Amended in September 2006]*

17.10 Consent given can be revoked. In case of a revocation, in order to avoid dispute, it is advisable for the person or organisation who has revoked the consent to send a notice or copy of the revocation to the candidate

concerned and to the relevant RO. Every candidate is required to deposit a copy of the completed consent forms with the relevant RO and to notify the RO in writing of any revocation of consent.

17.11 S 28 of the ECICO provides for an injunction order by the Court to restrain the publication of any materially false or misleading statement or false claim of support. An application for such an injunction order may be made by a candidate, his election agent, a voter of a particular EC subsector and the person or body to whom or which the false information is related.

Requirements relating to Printed Election Advertisements

17.12 Insofar as electioneering is concerned, it is also an offence if a candidate does not comply with the requirements relating to printed election advertisements. [For details of the requirements, please refer to Chapter 8 on Election Advertisements, in particular Parts I, VI and VII thereof.]

17.13 A person must, **not later than 7 days after** publishing a printed election advertisement, deposit **2 copies** of the advertisement to the relevant RO [s 34(4) of the ECICO].

17.14 The provisions of s 100 of the EAC (EP) (EC) Reg are more stringent. **Before** a candidate displays, distributes or otherwise uses an election advertisement, he must allocate a **number in a separate series** to each type of election advertisement, and make a **declaration** in a specified form to state the quantity of each type of election advertisement he proposes to so use. For a better control over the display of unauthorised election advertisements and to facilitate the ROs in handling such complaints, the declaration and **2 copies** of the election advertisement must be deposited with the relevant RO **before** the election advertisement is displayed, distributed or otherwise used. If the relevant RO has not yet been appointed, the declaration and copies

should be deposited with the CEO. By doing so, the candidate would have complied with s 34(4) of the ECICO as mentioned in para. 17.13 above.

PART IV : CORRUPT CONDUCT RELATING TO ELECTIONEERING AND VOTING

Bribery

17.15 Any act to affect a person's voting preference by offering or soliciting an advantage is prohibited [s 11 of the ECICO]. Voting preference covers voting for a particular candidate or candidates, not voting at an election, or not voting for a particular candidate or candidates.

Treating

17.16 A person must not at any time provide or meet all or part of the cost of providing another person with any food, drink or entertainment for the purpose of influencing that person's or a third person's voting preference. Likewise, the corrupt solicitation or acceptance of any such treating is prohibited. [S 12 of the ECICO.]

17.17 The serving of non-alcoholic drinks at an election meeting will not be deemed corrupt for the above purposes. [S 12(5) of the ECICO.] An election meeting is any meeting held to promote or prejudice the election of a particular candidate or particular candidates. [See Chapter 10 : Election Meetings for details.]

17.18 Treating arises in daily situations. If it is used (by a candidate or another person) for promoting or prejudicing the election of a candidate, it is an

offence. For example, a person or an organisation may host a banquet for a non-election-related purpose but, during the occasion, innocently calls on the guests to vote for a particular candidate. In such an event, the candidate concerned should immediately disown or dissociate with whatever has been said or done to promote his candidature. Otherwise, he would be liable to being charged with an offence under s 12 of the ECICO and the expenses so incurred would be counted towards his election expenses.

17.19 If a banquet, albeit apparently not related to any election, is used to treat guests corruptly for the purpose of promoting a candidate or prejudicing other candidates, then both the host and the candidate will be guilty of a corrupt conduct. Moreover, the host will commit an **offence** under s 23 of the ECICO, if he has not yet been authorised in writing by the candidate to incur election expenses at or in connection with an election.

Force and Duress

17.20 The use of force or duress against a person to induce him to vote or not to vote or to vote or not to vote for a particular candidate or to get a third person to do so is a corrupt conduct. [S 13 of the ECICO.]

17.21 Persons in position to exert pressure and influence on others should be careful not to breach the provisions under the ECICO, eg employers over employees, school principals or teachers over students, religious advisers over believers and doctors over patients, etc.

Voting Offences

17.22 It is a corrupt conduct for any person:

- (a) to vote at an election knowing that he is not entitled to vote at that election;
- (b) to vote at an election after having knowingly or recklessly given materially false or misleading information to an electoral officer, or to vote at an election after having knowingly omitted to give material information to an electoral officer;
- (c) to vote at an election more than once except as expressly permitted by an electoral law; or
- (d) to invite or induce another person to commit (a), (b) or (c) above.

[S 16 of the ECICO.]

PART V : CORRUPT AND ILLEGAL CONDUCT RELATING TO ELECTION EXPENSES AND DONATIONS

17.23 Candidates should be careful when handling election expenses and donations as non-compliance with the relevant requirements will be a corrupt or illegal conduct. For details of the requirements that have to be observed, please refer to Chapter 16 : Election Expenses and Donations.

PART VI : POWER OF COURT TO EXCUSE INNOCENT ACTS

17.24 S 31 of the ECICO provides a mechanism for a candidate to apply for a Court order to relieve himself of criminal responsibility if he contravenes the illegal conduct provisions due to inadvertence, accidental miscalculation or any reasonable cause and was not due to bad faith. No prosecution against him may be instituted or carried on until the application is disposed of by the Court. He will not be liable to be convicted of an offence if the illegal conduct is the subject of a Court order.

17.25 A candidate who fails to provide the printing details or deposit copies of election advertisements with the relevant RO commits an offence. However, he may apply to the court for an order allowing the publication of the above election advertisements be excepted from the relevant requirements and relieving him from the penalties, provided that the court is satisfied that the non-compliance was due to inadvertence, an accidental miscalculation or any reasonable cause and was not due to bad faith [s 35 of the ECICO].

17.26 A candidate who is unable or has failed to send to the CEO the return and declaration of election expenses and donations before the end of the permitted period or omits an item in it or makes a mistake in it, and such inability, failure, omission or error was due to his own illness or absence from Hong Kong or of the absence from Hong Kong, death, illness or misconduct of any agent or employee of the candidate or by reason of inadvertence or accidental miscalculation or any reasonable cause (but not by reason of want of good faith of the candidate), has the right to make an application to the Court of First Instance for an order to send in the return and declaration late, or to correct the omission or mistake [s 40 of the ECICO]. When the candidate finds himself in such a situation, it would be wise of him to make the application to the Court and inform the REO as soon as possible.
[Amended in September 2006]

PART VII : NON-COMPLIANCE WITH THE LAW AND SANCTION

17.27 Any complaint or report of breach of these guidelines may be made to the RO, the REO or the EAC direct. The EAC may, after consideration, refer the cases to the relevant authorities for investigation and prosecution.

17.28 The ICAC may, subject to the decision of the Secretary for Justice, prosecute, issue a warning or caution to candidates and any other persons in appropriate cases concerning any breach of the electoral law or regulation, especially the ECICO.

17.29 The Director of Public Prosecutions has informed the EAC that the Department of Justice will not hesitate to prosecute appropriate cases of electoral offences.

17.30 The EAC may also issue public statements in such manner as it deems fit to reprimand or censure any non-compliance with these guidelines.

17.31 A person convicted of a **corrupt conduct or illegal conduct** within the meaning of the ECICO will, in addition to the penalties set out in para. 17.3 of this chapter, be disqualified:

- (a) for 3 years from voting in the CE, EC subsector, LegCo, DC or VR election from the date of conviction [s 26(d) of the CEEO, s 30 of the Schedule to the CEEO, s 53 of the LCO, s 30 of the DCO and s 14 of the VREO];
- (b) for 5 years from being nominated as a candidate for the election of, or elected as, the CE, a member of the LegCo or DC or a VR from the date of conviction [ss 14 and 20 of the CEEO, s 39 of

the LCO, s 21 of the DCO and s 23 of the VREO]; and

- (c) for 3 years from being nominated as a candidate for the election of, or elected or nominated as, an EC member from the date of the conviction [ss 9 and 18 of the Schedule to the CEEO].

[Amended in September 2006]

17.32 It is worthy to note that the Courts of Hong Kong view election-related offences and contravention of the ECICO as serious crimes. On 27 November 1997, the Court of Appeal laid down sentencing guidelines that a person found guilty of any serious election-related offence should be punished by an immediate custodial sentence. *[Amended in September 2006]*

CHAPTER 18

NAMEDROPPING

False Claim of Support

[Please also see paras. 17.9 to 17.11 of Chapter 17.]

18.1 A candidate must obtain **prior written consent** from a person or an organisation before using the name or logo of that person or organisation, or a pictorial representation of that person in any of his election advertisements or activities as an indication of support from that person or organisation. Oral consent is **not** sufficient. [S 27 of the ECICO.] The EAC provides a standardised consent form for this purpose. Any indication of support in election advertisements, be it a text, a photograph or any other material, must be covered by a written consent from the person or organisation concerned. The written consent is a requirement under the ECICO. It protects the candidates from unnecessary complaints and disputes which may arise if only oral consent is obtained. It also protects the voters from being misinformed as to whether a candidate has the support of a person or an organisation. Prior written consent is required if the inclusion of the name, logo or pictorial representation of a person or an organisation, as the case may be, implies support of the candidate concerned. What amounts to “support” will depend on the circumstances of each case. The question to consider is whether any reasonable man who has seen the pictorial representation would have the perception that the persons appearing in the election advertisement support the candidate.

18.2 It is important to note that it is still an offence even if such an election advertisement contains a statement to the effect that it does not imply support from the person or organisation concerned [s 27(4) of the ECICO]. It

is also an offence for a person to give information which he knows or ought to know is materially false or misleading to a candidate for promoting or prejudicing the election of a candidate or candidates [s 27(6) of the ECICO].

18.3 To avoid confusion, it is advisable for the written consent to set out clearly whether consent is given:

- (a) by a person in his personal capacity - in which case no mention should be made of any office title which he may have in the candidate's election advertisements and campaign activities;
- (b) by a person in his official capacity - in which case his office title may be used by the candidate concerned for the said purposes; and
- (c) by an organisation (which may be signed by an authorised person such as its director, chairman or chief executive, etc.) - in which case the name of the organisation may be used by the candidate concerned for the said purposes.

18.4 Care must also be exercised in the use of the office title of an individual and this should be cleared with the person concerned when seeking his written consent. In the case where an office-bearer of an organisation wishes to use his office title to support a candidate, he should be careful not to give the impression that it represents the support of the whole organisation except where a decision has been so taken by the governing body of the organisation or by a resolution of the members of that organisation passed at a general meeting. This will prevent dispute and dissatisfaction amongst the members. Depending on circumstances, the approval of an organisation or a committee may or may not be needed if an office bearer uses his office title to support a candidate. If a supporter includes in an election advertisement

which bears the title of “the principal of a school” (for example, “Chan Tai Man, the Principal”) or “chairman of an owners’ corporation” (for example, “Chan Tai Man, Chairman of Owners’ Corporation”), it would not be necessary for the candidate to seek the consent of the owners’ corporation or the school concerned since there is no specific mentioning of which school or owners’ corporation. However, it would be desirable for the candidate to seek the organisation’s prior written approval as well if the election advertisement is posted in the building or the school in which he is serving. *[Amended in September 2006]*

18.5 When a candidate has obtained consent of support from a person who holds a certain position in an organisation, he must make sure that in his election advertisements he does not misrepresent that he has the support of the organisation. He must ensure that his election advertisements do not give any misleading information that he has the support of the organisation as opposed to the person who holds the position in the organisation. When he has the support of an organisation, he must ensure that his election advertisements do not represent or give a misleading impression that he has the support of all the members of that organisation, unless the decision of that organisation in giving him support was made at a meeting of all its members present and voting.

18.6 Consent of support in writing by an organisation must be approved by the governing body of the organisation or by a resolution of the members of the organisation passed at a general meeting [s 27(5) of the ECICO].

18.7 Consent can be given to 2 or more candidates even if they are competing in the same subsector, although that may cause confusion. Consent given can be revoked. In case of a revocation, in order to avoid dispute, it is advisable for the person or organisation who has revoked the consent to send a notice or copy of the revocation to the candidate concerned

and to the relevant RO.

18.8 Once consent has been revoked, the candidate concerned should be careful to cease immediately using any election advertisement which contains the support of the person or organisation who has made the revocation. The costs incurred for the production of election advertisements bearing such support which have been used before revocation should still be regarded as the candidate's election expenses and be declared in the return and declaration of election expenses and donations.

18.9 On the question of whether expenditure incurred by an election advertisement will need to be borne by candidate A if candidate A's name or photograph appears in the election advertisement of candidate B to indicate support for candidate B, this would depend on whether the publicity material in question has explicitly or implicitly promoted the election of candidate A. There may be 2 different scenarios in such cases:

Scenario A

If the appearance of candidate A in candidate B's election advertisement is solely to indicate support for candidate B but not to promote the election of candidate A, the election advertisement should not be treated as a joint election advertisement. The election expenses incurred should be counted as candidate B's election expenses only, but not as candidate A's. Candidate B has to obtain the prior written consent of support from candidate A before using candidate A's names or photographs in his election advertisements [s 27 of the ECICO].

Scenario B

If candidate B wishes to publish the election advertisements for promoting his candidature and that of candidate A as well, he must obtain prior written authorisation from candidate A to act as his election expense agent and the expenses so incurred will have to be borne by the candidates A and B in equal or unequal shares as their respective election expenses, to be calculated by the proportion of the size of the portion advertising each.

18.10 It is not uncommon for candidates to put photographs in their election advertisements to show their past activities. However, it may be possible for voters to believe that those persons appearing in the photograph support a particular candidate when they receive such election advertisements. To minimise misunderstanding, for instance, if an election advertisement carries a photograph of the candidate attending an activity with other attendees, a caption specifying the particular nature of the event could be added underneath the photograph in such a way that will not imply, or likely to cause voters to believe, that the candidate has the support of the other people appearing in the photograph. If the photograph is likely to cause voters to believe that the candidate has the support of the other people appearing in the photograph, it is advisable that prior written consent of support should be obtained by the candidate.

18.11 To avoid misleading the voters to believe that a candidate has obtained support from a certain person, organisation, government agency or department, which is not the case, a candidate should not attach any materials published by any such person, organisation, government agency or department together with his own election advertisements.

Form of Consent

18.12 The standard form “**Consent of Support**” is at **Appendix Q**. It should be noted that the form is designed to cover a specific subsector in a particular election. A candidate who subsequently switches to another subsector should seek afresh the consent from the person or organisation concerned.

18.13 There are occasions (as allegations and complaints were received) requiring confirmation of the compliance of the law by a candidate. Therefore, every candidate is **required to deposit a copy** each of the **completed consent forms** with the relevant RO **before** the display, distribution or otherwise use of the relevant election advertisement [s 100(9)(b) of the EAC (EP) (EC) Reg]. The relevant RO will then be in a position to answer such enquiries, thus saving the trouble and sometimes the embarrassment of the candidates. Candidates are also **required to notify** the relevant RO in writing of any **revocation** of consent. Such consent forms and notices of revocation (with the identity document numbers of the persons involved obliterated) will be made available for public inspection at the office of the relevant RO.

Penalty

18.14 It is an illegal conduct under the ECICO for a person to make any false claim of support (ie a claim without **prior** written consent from the person or organisation concerned). For details of penalty and sanction, please refer to para. 17.3(b) and Part VII of Chapter 17.

CHAPTER 19

ATTENDANCE OF PUBLIC FUNCTIONS BY BOTH GOVERNMENT OFFICIALS AND CANDIDATES

PART I : GENERAL

19.1 This chapter deals with the subject of government officials attending public functions which are also attended by candidates.

IMPORTANT :

“Candidate” includes a person who has publicly declared an intention to stand for election at any time before the close of nominations for the election, whether or not he has submitted a nomination form [s 2 of the ECICO].

19.2 Although each person in Hong Kong may have his own political inclination, civil servants wishing to participate in EC subsector elections or by-elections should observe the rules and guidelines issued by the Civil Service Bureau (“CSB”). Under the CSB guidelines currently in force, certain officers at the senior level and those who may be particularly susceptible to accusations of bias because of the nature of their duties, namely Directorate Officers, Administrative Officers, Police Officers and Information Officers and those officers acting in these grades and ranks with a view to substantive appointment thereto (“government officials”), are prohibited from becoming a member of the EC and from participating in any electioneering activities within the Hong Kong context, including seeking election donations for any candidate. They should not openly support any candidate or be seen to lend support to a candidate.

19.3 There is no objection in principle to individual civil servants, other than the government officials listed in para. 19.2 above, supporting electioneering activities of a candidate provided that it does not give rise to any conflict of interest with their official duties, and that it does not involve the use of public resources or the wearing of any government uniform.

PART II : ATTENDANCE OF PUBLIC FUNCTIONS BY GOVERNMENT OFFICIALS

On the Occasion of being Invited

19.4 Government officials should exercise care in accepting invitations from persons or organisations to attend any public function that may also be attended by a candidate(s) (“the function”).

19.5 They should take such care when any person has publicly declared an intention to run for election in respect of a particular EC subsector or when the nomination commences, whichever is the earlier, up to the end of the polling day.

19.6 Before deciding to attend the function, a government official should satisfy himself that:

- (a) by attending the function, he is performing an official duty normally required of the post he is currently holding; and
- (b) to his best knowledge, the organiser of the function has no intention whatsoever of making use of the function to promote or prejudice any candidate.

When Attending

19.7 The EAC appeals to government officials not to have photographs taken with candidates at the function since such photographs, if published, may be seen as the official lending support to the candidate. A government official may do so, however, if the photograph taking:

- (a) arises from the need for him to perform his official duty at the function normally required of the post he is currently holding;
- (b) is a natural part of the function which, if the official declines to participate, would be seen as breaching the protocol appropriate to that function; or
- (c) is participated by all other candidates of the same EC subsector.

PART III : ATTENDANCE OF PUBLIC FUNCTIONS BY CANDIDATES

19.8 Similarly, the EAC appeals to all candidates who attend public functions not to have photographs taken with the officials, since such photographs, if published, may be seen as an unfair advantage over other candidates. A candidate may do so, however, if the photograph taking:

- (a) arises from the need for him to perform his role at the function as requested by the function organiser;
- (b) is a natural part of the function which, if the candidate declines to participate, would be seen as breaching the protocol appropriate to that function; or

- (c) is participated by all other candidates of the same EC subsector.

PART IV : PRINCIPAL OFFICIALS

19.9 The terms “government officials” and “civil servants” used in the earlier parts of this chapter do not include Principal Officials appointed under the Accountability System. Principal Officials are political appointees and they may belong to or be affiliated with political organisations. Principal Officials have to comply with a “Code for Principal Officials under the Accountability System” published on 28 June 2002 in the Gazette [GN 3845].

19.10 Principal Officials may, subject to the guidelines below, participate in election-related activities.

19.11 Principal Officials are disqualified from being nominated as a candidate at an election of the CE, of the LegCo or of a DC.

19.12 As far as the EC Subsector elections are concerned, Principal Officials should not use any public resources for any election-related activities. A Principal Official should ensure that when taking part in such activities, great care should be taken that there is no actual or potential conflict of interest with the business of the Government or his own official duties.

CHAPTER 20

COMPLAINTS PROCEDURE

PART I : GENERAL

20.1 This chapter deals with the procedure for making complaints relating to **any breach of or non-compliance with the Guidelines and the EAC (EP) (EC) Reg or the spirit of them** which are for ensuring that elections are conducted honestly, fairly and openly.

20.2 A complaint against criminal, illegal or corrupt activities may be made direct to the relevant authorities such as the Police or the ICAC. The procedures for making and processing such a complaint will be handled by these authorities, and are not covered by this chapter.

PART II : TO WHOM A COMPLAINT MAY BE MADE

20.3 The EAC is an independent, apolitical and neutral body established by the EACO to deal with all matters concerning the conduct of elections including handling election-related complaints. The EAC may, if necessary, set up a **Complaints Committee** consisting of its 3 members and one or more judges of the District Court or High Court for the purpose of dealing with complaints.

20.4 Without limiting the right of a citizen to make a complaint to the Police or the ICAC or other authorities, a complaint for breach of or

non-compliance with the EAC (EP) (EC) Reg or Guidelines or relating to election matters can be made to one of the following bodies or persons:

- (a) the RO of relevant EC subsector appointed by the EAC to deal with electoral arrangements;
- (b) the REO; or
- (c) the EAC or its Complaints Committee.

20.5 **Caution:** if the complaint is against the conduct, behaviour, or acts of any of the REO officers or the RO personally, it should be addressed to the EAC or its Complaints Committee and marked “CONFIDENTIAL” in order to ensure that only the EAC or its Complaints Committee will receive it.

PART III : TIME AND PROCEDURE FOR MAKING COMPLAINT

20.6 The Guidelines deal with election-related activities, and any non-compliances, abuses and irregularities that can be redressed should be remedied as soon as practicably possible. It is **imperative** that **all complaints should be made as soon as possible**, for any delay in the making of complaint may result in remedial measures being useless or futile and necessary evidence being lost. No complaint received **later than 45 days** after the date of the relevant election will be entertained.

20.7 No specified or specific form is required for making a complaint. A complaint can be made either orally or in writing, either in Chinese or in

English. A person who wishes to make an oral complaint can call the REO Complaints Hotline.

20.8 In each case, the complainant is required to identify himself and provide his identity document number, address, telephone number and other means of communication. A written complaint must be signed. Save where it relates to a matter of minor nature or which requires urgent action, an oral complaint received will be recorded in writing and the complainant will be required to sign the written record afterwards. All personal particulars of a complainant will be **treated in strict confidence**.

PART IV : COMPLAINTS INSIDE A POLLING STATION

20.9 If a person has any complaint about whatever happens inside a polling station, he should follow the following procedures:

- (a) he should direct his complaint to the PRO, the Deputy PRO or an Assistant PRO immediately.
- (b) if the matter is not resolved, or if the complainant still feels aggrieved or if his complaint is directed at the PRO, the Deputy PRO or an Assistant PRO, he should as soon as possible report the matter to the relevant RO by using the telephone number appearing in the guide on procedures for complaint.
- (c) where the matter is still not resolved by the RO, the complainant should without any delay telephone the Complaints Hotline of the REO to report his complaint by giving a gist thereof. He should

then try to obtain as much evidence as possible in order to substantiate his complaint. As he is not allowed to talk to or communicate with any voter inside the polling station, he may need to go outside the polling station to obtain necessary evidence.

- (d) a member of the EAC or its Complaints Committee or an officer of the REO will handle the complaint as soon as practicable.

A copy of the guide on procedures for handling of complaints at a polling station (together with telephone numbers of the relevant RO(s) and the REO Complaints Hotline) will be available for inspection inside each polling station.

20.10 The PRO or his Deputy or Assistant PRO must record any complaint mentioned in para. 20.9(a) and (b) and any other complaints and enquiries concerning a voter's data.

PART V : THE PROCESSING OF COMPLAINTS

20.11 The PRO, RO and the CEO are obliged under s 98 of the EAC (EP) (EC) Reg to report irregularities to the EAC or its Complaints Committee. By these guidelines, they are also required to report all complaints received by them to the EAC or its Complaints Committee. Except where a complaint is of a minor nature or the RO has been delegated with the authority to deal with it, any complaint received by the RO or the REO will be forwarded to the EAC or its Complaints Committee with comments and all the relevant information relating to the complaint. When the EAC or its Complaints Committee receives a complaint, it may seek additional information and comments from the relevant RO or the REO, if necessary.

20.12 The EAC or its Complaints Committee, the RO or the REO (when they are so authorised by the EAC or its Complaints Committee), may seek further information on the complaint from the complainant or may arrange interviews with the complainant in order to seek clarification or evidence. The complainant may be required to make a statutory declaration for the truth and correctness of his complaint or statement. If the further information required is not provided by the complainant or if he refuses to be interviewed or to make the statutory declaration, the EAC or its Complaints Committee, the RO or the REO may or may not take further action on the complaint.

20.13 All bona fide complaints will be processed and considered by the RO who has been delegated with the necessary authority or by the EAC or its Complaints Committee, as soon as reasonably practicable, taking into account the merits of the complaint with all the information and evidence gathered [see s 6(3) of the EACO].

20.14 Where a complaint is substantiated, a decision will be made on the appropriate course to be taken, including one or more of the following:

- (a) take remedial measures against the matter complained of, such as the removal of election advertisements displayed in breach of the guidelines in that regard;
- (b) issue to the relevant person a warning on the matter under complaint after making a reasonable effort to contact the person and giving him a reasonable opportunity to give explanations. Where necessary, immediate rectification action against complaints proven on the spot should be taken without delay;

- (c) publish a public statement of reprimand or censure against the acts or omissions and the person or persons complained of [see various chapters in these Guidelines] after making a reasonable effort to contact the person or persons and giving him or them a reasonable opportunity to make representations [s 6(4) of the EACO];
- (d) with or without comments, refer the matter to the ICAC for investigation and/or further action [s 5(e) of the EACO]; and
- (e) with or without comments, refer the matter to the Secretary for Justice or the Police for further action such as prosecution of the culprit [s 5(e) of the EACO].

20.15 The EAC or its Complaints Committee will also notify the complainant in writing of its decision, and if the decision is that the complaint is not substantiated, it will also give reasons.

PART VI : ELECTORAL AFFAIRS COMMISSION'S REPORT ON COMPLAINTS

20.16 The EAC is required to report to the CE on any complaint made to it in connection with an election within 3 months of the conclusion of the election [s 8(1) and (2) of the EACO].

**PART VII : OBLIGATIONS OF THE RETURNING OFFICER,
THE PRESIDING OFFICER AND THE
REGISTRATION AND ELECTORAL OFFICE**

20.17 The RO(s), PRO(s) and the REO are required to report as soon as practicable to the EAC or its Complaints Committee (in writing or otherwise as circumstances may demand) on any complaints received by them and on any occurrence which they consider to be a material irregularity relating to an election, poll or count.

PART VIII : SANCTION FOR FALSE COMPLAINT

20.18 Any person who knowingly makes or causes to be made to an ICAC officer a false report of the commission of any offence or misleads such an officer by giving false information or by making false statements or accusations is guilty of an offence punishable by \$20,000 and imprisonment for 1 year [s 13B of the ICAC Ordinance (Cap 204)]. A similar offence is committed where a false report is made or false information given to a police officer [s 64 of the Police Force Ordinance (Cap 232)]. If a person knowingly makes a false complaint and gives false information to the EAC or its Complaints Committee knowing that the EAC or its Complaints Committee will refer or direct such complaint and information to the ICAC or the Police, the person concerned will similarly be guilty of the relevant offence. If a person knowingly and wilfully makes to the EAC or its Complaints Committee, the RO or the REO a statement false in a material particular and such a statement is in a statutory declaration, he commits an offence punishable by imprisonment for 2 years and a fine [s 36 of the Crimes Ordinance (Cap 200)]. *[Amended in September 2006]*

Election Committee Subsector Elections Action Checklist for Candidates

A. Major Steps to be Observed

1 week before and during
Nomination Period

1. Obtain the following from the Returning Officer (“RO”), any District Office (“DO”) of the Home Affairs Department or the Registration and Electoral Office (“REO”):

- (a) nomination form;
- (b) notes on the preparation of a brief introduction for inclusion in the official leaflet; and
- (c) form on “Intention to Display Election Advertisements at Designated Spots”.

During Nomination
Period

2. Except where the Chief Electoral Officer (“CEO”) authorises otherwise, personally deliver the following to the RO before expiry of the Nomination Period:

- (a) the duly completed Nomination Form; and
- (b) an election deposit of \$1,000 in cash or by cashier order or cheque made payable to “The Government of the Hong Kong Special Administrative Region”.

In order to avoid the risk of invalidation of the nomination due to dishonoured cheques, candidates are strongly advised to submit the election deposit in cash or cashier order.

3. Obtain from the RO the following:

- (a) copies of the relevant legislation;

- (b) relevant extracts from the Final Register of Voters (both gum labels and soft copies) on signing an Undertaking on the Use of Electoral Records;
- (c) information regarding display spots on government land or property that are available to candidates for display of election advertisements; and
- (d) forms -
 - (i) Notice of Appointment of Election Agent
 - (ii) Notice of Authorisation of Person to Incur Election Expenses
 - (iii) Return and Declaration of Election Expenses and Donations
 - (iv) Notice of Appointment of Polling Agents
 - (v) Notice of Appointment of Counting Agents
 - (vi) Notice of Revocation of Appointment of Agent
 - (vii) Notice of Revocation of Authorisation to Incur Election Expenses
 - (viii) Notice of Withdrawal of Candidature
 - (ix) Declaration of Election Advertisements
 - (x) Corrective Declaration of Election Advertisements
 - (xi) Notification of Decision on Electioneering Activities
 - (xii) Consent of Support

(xiii) Permission for Display/Distribution of Election Advertisements or Conduct of Electioneering Activities at Private Premises

(xiv) Standard Receipt for Donations

(xv) Declaration of Secrecy

(xvi) Return of Election Deposit

(xvii) Advance Return and Declaration of Donations

(xviii) Notice of Posting of Election Mail

(xix) Declaration for Posting of Election Mail

(xx) Notification of the Intention to hold a Public Meeting/Procession

4. Lodge with the RO a Notice of Withdrawal of Candidature if the candidate wishes to withdraw his/her candidature.

Any time before, during or after handing in Nomination Form

5. (a) Except for the categories exempted, assign a serial number to all copies of each type of election advertisements intended for display, distribution or otherwise use.

(b) Submit to the RO (or CEO if RO has not yet been appointed) a Declaration of Election Advertisements **before display, distribution or otherwise use of election advertisements.** Candidates may submit as many declarations as required from time to time.

(c) Ensure that all printed election advertisements contain the name and address of the printer, date of printing and the number of copies printed.

- (d) Submit to the RO (or CEO if RO has not yet been appointed) 2 copies of each type of election advertisements **before display, distribution or otherwise use.**
 - (e) Submit to the RO (or CEO if RO has not yet been appointed) **before display, distribution or otherwise use of election advertisements** at private premises, a copy of permission for display/distribution of election advertisements.
 - (f) Submit to the RO (or CEO if RO has not yet been appointed) **before display, distribution or otherwise use of election advertisements,** a copy of Consent of Support, where necessary.
- Any time after handing in Nomination Form
- 6. Lodge with the RO a Notice of Appointment of Election Agent.
 - 7. Lodge with the RO Notices of Authorisation of Persons to Incur Election Expenses.
 - 8. Submit to the CEO an Advance Return and Declaration of Donations when a donation is received.
- Any time after handing in Nomination Form, but before expiry of Nomination Period
- 9. (a) Lodge with the RO 3 identical photographs of the candidate in specified size taken not longer than 6 months ago.
 - (b) Lodge with the RO an introductory message for publication in the official introductory leaflet.
 - (c) Lodge with the RO an “Intention to Display Election Advertisements at Designated Spots”.
- Any time after handing in Nomination Form, but not later than 1 week before polling day
- 10. Lodge with the CEO Notices of Appointment of Polling Agents.

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| | 11. Lodge with the RO Notices of Appointment of Counting Agents. |
| Within 3 days after close of nomination | 12. Attend the briefing for candidates and collect from the RO the following: <ul style="list-style-type: none"> (a) location and layout plans of the polling/counting station; and (b) name badges for candidates and their agents. |
| | 13. Attend meetings held by the RO to determine the candidate numbers by drawing of lots and to allocate display spots for display of election advertisements. |
| | 14. Receive from the RO copy of the permission/authorisation for display of election advertisements at designated spots. |
| Within 5 days after expiry of Nomination Period | 15. Receive from the RO information about the election agents appointed by other candidates for the same subsector. |
| Within 14 days after expiry of Nomination Period | 16. Receive from the RO the notice on all other validly nominated candidates for the same subsector. |
| 2 working days before posting postage-free election mail | 17. Give notice of the free posting of election mail by using the Notice of Posting of Election Mail and present two unsealed specimen packets to the Post Office for inspection and retention. |
| Not later than the period specified by the Post Office | 18. Post postage-free election mail and present to the Post Office a Declaration for Posting of Election Mail. |
| Not later than 7 days before polling day | 19. Receive from the RO information regarding the delineation of no canvassing zone and no staying zone for the polling station. |
| Not later than 12:00 noon on the day preceding polling day | 20. Lodge with the RO Corrective Declarations of Election Advertisements, if any. |

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|---|---|
| At least 1 working day before polling day | 21. Receive information from the RO on when and where the counting of votes is to take place. |
| Before entering polling/counting station | 22. Complete the Declarations of Secrecy (to be made by all candidates, their election agents, polling agents and counting agents). |
| Any time before polling day | 23. Lodge Notices of Revocation of Appointment of Agent, if any, with the RO (or the CEO if the appointment of polling agent is to be revoked). |
| On polling day | 24. Attend the poll and the count if so wishes, bringing along the Declaration of Secrecy. |
| | 25. Candidates or their election agents personally deliver Notices of Appointment of Polling Agents and Notices of Revocation of Appointment of Agent to the relevant Presiding Officers, if not yet submitted to the CEO under paras. 10 and 23 respectively. |
| | 26. Candidates or their election agents personally deliver Notices of Appointment of Counting Agents and Notices of Revocation of Appointment of Agent to the relevant RO, if not yet submitted to the RO under paras. 11 and 23 respectively. |
| Within 10 days after polling day | 27. Remove all election advertisements on display. |
| Not later than 30 days after the publication in the Gazette of election result or the declaration of termination of election proceedings or failure of election (if uncontested, the election result will be gazetted in the Notice of Nominations) | 28. (a) Lodge with the CEO a Return and Declaration of Election Expenses and Donations signed by the candidate with original receipted vouchers and duplicate donation receipts.

(b) An uncontested candidate who is returned as a Member should lodge with the CEO a Return and Declaration of Election Expenses and Donations signed by the candidate with original receipted vouchers and duplicate donation receipts not later than 30 days after the publication in the Gazette of the Notice of Nominations. |

Note:

Most of the forms mentioned in this checklist can be downloaded from the REO website at <http://www.reo.gov.hk>.

B. Handling and Declaring Election Expenses***Records Keeping******Before and After Nomination***

1. Record all expenses spent and all donations received.
2. Keep invoices/receipts for expenses of \$100 or above.
3. Issue receipt for any donation of more than \$1,000. (The candidate should use the standard receipt provided by the REO.)
4. Keep copies of all Declaration of Election Advertisements and copies of the election advertisements lodged with the RO.

Appointment of Election Agents/Election Expense Agents

5. Each candidate can only appoint one election agent. He has the authority to do everything a candidate is authorised to do for the purposes of the election except:
 - (a) anything a candidate is required to do in relation to his nomination;
 - (b) to withdraw the candidate's candidature;
 - (c) to incur election expenses unless he has been so authorised by the candidate; and
 - (d) to authorise a person as an election expense agent to incur election expenses.

***Lodgement of
Authorisation and
Declaration to
appropriate authority***

6. Each candidate can appoint one or more persons authorised to incur election expenses on his behalf, ie the election expense agents, by completing the Notice of Authorisation of Persons to Incur Election Expenses. A candidate **may** also authorise his election agent to incur election expenses for him. These agents may incur expenses only after the candidate has authorised them to do so.

7. Lodge with the RO the Notice of Appointment of Election Agent at any time after handing in Nomination Form.

8. The candidate must serve a notice of the authorisation for persons to incur election expenses to the RO (or CEO if the RO has not yet been appointed). It is important to note that the authorisation is not effective until it has been received by the RO or CEO (if the RO has not yet been appointed).

9. 2 copies of each type of election advertisements must be deposited with the RO (or CEO if the RO has not yet been appointed) together with a Declaration of Election Advertisements **before** display, distribution or otherwise use.

***Submission of Return and
Declaration of Election
Expenses and Donations***

Not later than 30 days after the Publication in the Gazette of Election Result or the Declaration of Termination of Election Proceedings or Failure of Election

10. The completed return and declaration should be submitted together with all supporting vouchers and receipts.
11. The completed form should include all donations received by the candidate and all election expenses incurred by him or by his election expense agents, and also the removal cost for his election advertisements by government departments, if he has not removed all his election advertisements by the deadline specified by the Electoral Affairs Commission. ***Candidates are***

required to submit their election returns even if no election expenses have been incurred.

12. A candidate must make declaration before a Commissioner for Oaths (at District Offices) or a Justice of the Peace or a solicitor holding a practising certificate.
13. (a) A candidate must lodge his completed return with the CEO at 13/F, Guardian House, 32 Oi Kwan Road, Wan Chai by the deadline (ie not later than 30 days after the publication in the Gazette of election result or declaration of termination of election proceedings or failure of election).

(b) For an uncontested candidate who is returned as a member, he must lodge his completed election return with the CEO not later than 30 days after the publication in the Gazette of the Notice of Nominations.
14. If a candidate fails to lodge the return before the deadline, he can apply to the Court for an order allowing him to lodge the return with the CEO within such further period as the Court specifies.
15. If a candidate wishes to change any information in his election return before the deadline, he may lodge with the CEO before the deadline a supplementary declaration stating the information to be changed.
16. If a candidate wishes to change any information in the election return after the deadline, he must apply to the Court for an order enabling him to correct any error or false statement in his return or in any document accompanying his return.

[Amended in September 2006]

Sectors and Subsectors of the Election Committee

FIRST SECTOR

<u>Item</u>	<u>Subsector</u>	<u>Number of members</u>
1.	Catering	11
2.	Commercial (first)	12
3.	Commercial (second)	12
4.	Employers' Federation of Hong Kong	11
5.	Finance	12
6.	Financial services	12
7.	Hong Kong Chinese Enterprises Association	11
8.	Hotel	11
9.	Import and export	12
10.	Industrial (first)	12
11.	Industrial (second)	12
12.	Insurance	12
13.	Real estate and construction	12
14.	Textiles and garment	12
15.	Tourism	12
16.	Transport	12
17.	Wholesale and retail	12
		<hr/> 200

SECOND SECTOR

<u>Item</u>	<u>Subsector</u>	<u>Number of members</u>
1.	Accountancy	20
2.	Architectural, surveying and planning	20
3.	Chinese medicine	20
4.	Education	20
5.	Engineering	20
6.	Health services	20
7.	Higher education	20
8.	Information technology	20
9.	Legal	20
10.	Medical	20
		<hr/> 200

THIRD SECTOR

<u>Item</u>	<u>Subsector</u>	<u>Number of members</u>
1.	Agriculture and fisheries	40
2.	Labour	40
3.	Religious	40
4.	Social welfare	40
5.	Sports, performing arts, culture and publication	40
		<hr/> 200

FOURTH SECTOR

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>	<u>Number of members</u>
1.	National People's Congress ("NPC")	Hong Kong deputies to the NPC	36
2.	Legislative Council	Members of the Legislative Council	60
3.	Chinese People's Political Consultative Conference ("CPPCC")	Hong Kong members of the National Committee of the CPPCC	41
4.	Heung Yee Kuk	Chairman and Vice-chairmen of the Heung Yee Kuk and the Ex-Officio, Special and Co-opted Councillors of the Full Council of the Heung Yee Kuk	21
5.	Hong Kong and Kowloon District Councils	Members of the Hong Kong and Kowloon District Councils	21
6.	New Territories District Councils	Members of the New Territories District Councils	21
			<hr/> 200

The Subsectors with Same Names as Functional Constituencies and their Voters

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
1.	Heung Yee Kuk	Chairman and Vice-Chairmen of the Heung Yee Kuk and Ex-Officio, Special and Co-opted Councillors of the Full Council of the Heung Yee Kuk.
2.	Agriculture and fisheries	<p>(1) Corporate members of each of the following bodies:</p> <p>(a) The Federation of Vegetable Marketing Co-operative Societies, Limited;</p> <p>(b) The Federation of Pig Raising Co-operative Societies of Hong Kong, Kowloon and New Territories, Limited;</p> <p>(c) The Joint Association of Hong Kong Fishermen;</p> <p>(d) Federation of Hong Kong Aquaculture Associations;</p> <p>(e) The Federation of Fishermen's Co-operative Societies of Shau Kei Wan District, Limited;</p> <p>(f) The Federation of Fishermen's Co-operative Societies of Tai Po District, N.T., Limited;</p> <p>(g) The Federation of Fishermen's Co-operative Societies of Sai Kung District, Limited;</p> <p>(h) The Federation of Fishermen's Co-operative Societies of Southern District, Limited.</p> <p>(2) Aberdeen Fishermen Friendship Association.</p> <p>(3) The Ap Lei Chau Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(4) The Castle Peak Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(5) The Castle Peak Mechanized Trawler Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(6) Cheung Chau Fisheries Joint Association.</p> <p>(7) Cheung Chau Fishermen's Welfare Promotion Association.</p> <p>(8) The Fanling Kwun Ti Village Farmers' Irrigation Co-operative Society, Ltd.</p> <p>(9) Fish Farming and Stuff Association.</p> <p>(10) Fisherman's Association of Po Toi Island.</p> <p>(11) Fishery Development Association (Hong Kong) Limited.</p> <p>(12) Fraternal Association of The Floating Population of Hong Kong.</p> <p>(13) The Guild of Graziers.</p> <p>(14) Hang Hau Grazier Association.</p> <p>(15) Hong Kong and Kowloon Fishermen Association Ltd.</p> <p>(16) Hong Kong & Kowloon Floating Fishermen Welfare Promotion Association.</p> <p>(17) Hong Kong Fisheries Development Association.</p> <p>(18) Hong Kong Fishermen's Association.</p> <p>(19) Hong Kong Fishing Vessel Owners Association, Ltd.</p>

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
(20)		Hong Kong Florists Association.
(21)		Hong Kong Graziers Union.
(22)		Hong Kong Liner & Gill Netting Fisherman Association.
(23)		Hong Kong Livestock Industry Association.
(24)		Hong Kong N.T. Fish Culture Association.
(25)		Hong Kong N.T. Poultry (Geese & Ducks) Mutual Association.
(26)		Hong Kong Netting, Cultivation and Fisherman Association.
(27)		Hong Kong New Territories Boat People Association.
(28)		Hong Kong Off-shore Fishermen's Association.
(29)		Hong Kong Pigfarm Association Limited.
(30)		The Lam Ti Agricultural Credit Co-operative Society, Limited.
(31)		Lamma Island Lo Dik Wan Aquaculture Association.
(32)		Lau Fau Shan Oyster Industry Association, New Territories.
(33)		Ma Wan Fisheries Rights Association Ltd.
(34)		The Mui Wo Agricultural Products Marketing & Credit Co-operative Society, Ltd.
(35)		Mui Wo Fishermen Fraternity Society.
(36)		N.T. Oyster and Aquatic Products United Association.
(37)		The New Territories Chicken Breeders Association, Ltd.
(38)		The New Territories Fishermen Fraternity Association Ltd.
(39)		New Territories Florist Association, Ltd.
(40)		North District Florists Association.
(41)		Outlying Islands Mariculture Association (Cheung Chau).
(42)		Peng Chau Fishermen Association Ltd.
(43)		Quality Broiler Development Association.
(44)		Sai Kung Fishermen Association Limited.
(45)		Sai Kung (North) Sham Wan Marine Fish Culture Business Association.
(46)		Sai Kung Po Toi O Fish Culture Business Association.
(47)		Sai Kung Tai Tau Chau Fish Culture Business Association.
(48)		Sai Kung Tai Wu Kok Fishermen's Association.
(49)		The Sha Tau Kok Marine Fish Culture Association.
(50)		The Sha Tau Kok Small Long Liner and Gill Net Fishermen's Credit Co-operative Society, Unlimited.
(51)		The Shan Tong Vegetable Marketing Co-operative Society, Ltd.
(52)		Shatin Ah Kung Kok Fishermen Welfare Association.
(53)		Shatin Florists Association.
(54)		The Shau Kei Wan Deep Sea Capture Fishermen's Credit Co-operative Society, Unlimited.
(55)		Shau Kei Wan Fishermen Friendship Association.
(56)		The Shau Kei Wan Pair Trawler Fishermen's Credit Co-operative Society, Unlimited.

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
		<p>(57) The Shau Kei Wan Trawler Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(58) The Sheung Shui Ngai Yuen Sun Tsuen Pig Raising Co-operative Society, Ltd.</p> <p>(59) Tai O Fishermen (Coastal Fishery) Association.</p> <p>(60) The Tai O Sha Chai Min Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(61) The Tai Po Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(62) Tai Po Florists and Horticulturists Association.</p> <p>(63) The Tai Po Purse Seiner and Small Long Liner Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(64) The Tsing Lung Tau Hand Liner Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(65) The Tsuen Wan Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(66) The Tuen Mun Mechanized Fishing Boat Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(67) Tuen Mun Agricultural Association.</p> <p>(68) Tung Lung Chau Mariculture Association.</p> <p>(69) The World Poultry Science Association, Hong Kong Branch.</p> <p>(70) Yuen Long Agriculture Productivity Association.</p> <p>(71) Yung Shue Au Marine Fish Culture Business Association.</p> <p>(72) Tsing Yi Residents Association.</p> <p>(73) 荃灣葵青居民聯會（漁民組）.</p> <p>(74) 荃灣葵青漁民會.</p> <p>(75) The Shau Kei Wan Stern Trawler Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(76) Hong Kong Organic Farming Association Limited.</p> <p>(77) N.T. North District Fishermen's Association.</p> <p>(78) Tai Po Off Shore Fishermen's Association.</p> <p>(79) Aberdeen Fisherwomen Association.</p>
3.	Insurance	Bodies that are insurers authorized or deemed to be authorized under the Insurance Companies Ordinance (Cap 41).
4.	Transport	<p>(1) VINCI Park Services Hong Kong Limited.</p> <p>(2) Airport Authority Hong Kong.</p> <p>(3) Articulated & Commercial Vehicle's Instructors Union.</p> <p>(4) The Association of N.T. Radio Taxicabs Ltd.</p> <p>(5) Autotoll Limited.</p> <p>(6) The Chartered Institute of Logistics and Transport in Hong Kong.</p> <p>(7) China Merchants Shipping & Enterprises Co. Ltd.</p>

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
(8)		China Tollways Ltd.
(9)		Chu Kong Shipping Enterprises (Holdings) Co. Ltd.
(10)		Chuen Kee Ferry Ltd.
(11)		Chuen Lee Radio Taxis Association Ltd.
(12)		Citybus Ltd.
(13)		Coral Sea Ferry Service Co., Ltd.
(14)		COSCO-HIT Terminals (Hong Kong) Limited.
(15)		CTOD Association Company Ltd.
(16)		Turbojet Ferry Services (Guangzhou) Limited.
(17)		Discovery Bay Transportation Services Ltd.
(18)		Driving Instructors Merchant Association Ltd.
(19)		Eastern Ferry Co.
(20)		Expert Fortune Ltd.
(21)		Far East Hydrofoil Co. Ltd.
(22)		Fat Kee Stevedores Ltd.
(23)		The Fraternity Association of N.T. Taxi Merchants.
(24)		Fraternity Taxi Owners Association.
(25)		G.M.B. Maxicab Operators General Association Ltd.
(26)		The Goods Vehicle Fleet Owners Association Ltd.
(27)		Happy Taxi Operator's Association Ltd.
(28)		Hoi Kong Container Services Co. Ltd.
(29)		Hon Wah Public Light Bus Association Ltd.
(30)		Hong Kong Air Cargo Terminals Limited.
(31)		Hong Kong & Kowloon Ferry Ltd.
(32)		Hong Kong & Kowloon Goods Vehicle Omnibuses and Minibuses Instructors' Association Ltd.
(33)		Hong Kong & Kowloon Motor Boats and Tug Boats Association Ltd.
(34)		Hong Kong & Kowloon Radio Car Owners Association Ltd.
(35)		Hong Kong and Kowloon Rich Radio Car Service Centre Association Ltd.
(36)		Hong Kong and Kowloon Taxi Companies Association Limited.
(37)		HongKong Association of Freight Forwarding and Logistics Limited.
(38)		Hong Kong Automobile Association.
(39)		The Hong Kong Cargo-Vessel Traders' Association Ltd.
(40)		Hong Kong Commercial Vehicle Driving Instructors Association.
(41)		Hong Kong CFS and Logistics Association Limited.
(42)		Hong Kong Container Tractor Owner Association Ltd.
(43)		Hong Kong Driving Instruction Club Ltd.
(44)		Hong Kong Guangdong Transportation Association Ltd.
(45)		The Hong Kong Institute of Marine Technology.
(46)		Hong Kong, Kowloon & NT Public & Maxicab Light Bus Merchants' United Association.

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
(47)		Hong Kong Kowloon Taxi & Lorry Owners Association Ltd.
(48)		The Hong Kong Liner Shipping Association.
(49)		Hong Kong Marine Contractors Association.
(50)		Hong Kong Motor Car Driving Instructors Association Ltd.
(51)		Hong Kong Pilots Association Ltd.
(52)		Hong Kong Public & Maxicab Light Bus United Associations.
(53)		Hong Kong Public Cargo Working Areas Traders Association Ltd.
(54)		Hong Kong Scheduled (GMB) Licensee Association.
(55)		The Hong Kong School of Motoring Ltd.
(56)		Hong Kong Sea Transport and Logistics Association Limited.
(57)		The Hong Kong Shipowners Association Ltd.
(58)		Hong Kong Shipping Circles Association Ltd.
(59)		Hong Kong Shipping Industry Institute.
(60)		Hong Kong Logistics Management Staff Association.
(61)		Hong Kong Society of Articulated Vehicle Driving Instructors Ltd.
(62)		The Hong Kong Stevedores Employers' Association.
(63)		Hong Kong Tele-call Taxi Association.
(64)		Hong Kong Tramways, Limited.
(65)		Hong Kong Transportation Warehouse Wharf Club.
(66)		Hong Kong Tunnels and Highways Management Company Limited.
(67)		The Hongkong & Yaumati Ferry Co., Ltd.
(68)		Hongkong International Terminals Ltd.
(69)		Institute of Advanced Motorists (Hong Kong) Limited.
(70)		The Institute of Seatransport.
(71)		Institute of Transport Administration (China - Hong Kong Centre).
(72)		Kowloon Fung Wong Public Light Bus Merchants & Workers' Association Ltd.
(73)		Kowloon Motor Bus Company (1933) Ltd.
(74)		Kowloon Motor Driving Instructors' Association Ltd.
(75)		The Kowloon PLB Chiu Chow Traders & Workers Friendly Association.
(76)		The Kowloon Taxi Owners Association Ltd.
(77)		Kowloon Truck Merchants Association Ltd.
(78)		Kowloon-Canton Railway Corporation.
(79)		Kwik Park Limited.
(80)		Lam Tin Wai Hoi Public Light Bus Association.
(81)		Lantau Taxi Association.
(82)		Lei Yue Mun Ko Chiu Road Public Light Bus Merchants Association Ltd.

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
(83)		Lok Ma Chau China - Hong Kong Freight Association.
(84)		Long Win Bus Company Limited.
(85)		Lung Cheung Public Light Bus Welfare Advancement Association Ltd.
(86)		Mack & Co. Carpark Management Limited.
(87)		Marine Excursion Association Limited.
(88)		Maritime Affairs Research Association Ltd.
(89)		MTR Corporation Limited.
(90)		Merchant Navy Officers' Guild - Hong Kong.
(91)		Metropark Limited.
(92)		Mid-stream Holdings (HK) Limited.
(93)		Mixer Truck Drivers Association.
(94)		Modern Terminals Ltd.
(95)		N.T. PLB Owners Association.
(96)		N.T. San Tin PLB (17) Owners Association.
(97)		N.T. Taxi Merchants Association Ltd.
(98)		N.T. Taxi Owners & Drivers Fraternal Association.
(99)		N.T. Taxi Radio Service General Association.
(100)		N.W. Area Taxi Drivers & Operators Association.
(101)		New Hong Kong Tunnel Co., Ltd.
(102)		New Lantau Bus Co., (1973) Ltd.
(103)		New Territories Cargo Transport Association Ltd.
(104)		New World First Bus Services Limited.
(105)		North District Taxi Merchants Association.
(106)		Organisation of Hong Kong Drivers.
(107)		Peak Tramways Co., Ltd.
(108)		Pioneer Concrete Owners Drivers Association.
(109)		Private Hire Car for Young Children Association Ltd.
(110)		Public and Private Light Buses Driving Instructors' Society.
(111)		The Public Cargo Area Trade Association.
(112)		Public Light Bus General Association.
(113)		The Public Omnibus Operators Association Ltd.
(114)		Public Vehicle Merchants Fraternity Association.
(115)		Quadripartite Taxi Service Association Ltd.
(116)		Abbo Taxi Owners' Association Limited.
(117)		River Trade Terminal Co. Ltd.
(118)		Route 3 (CPS) Company Limited.
(119)		Sai Kung Public Light Bus Drivers and Owners Association.
(120)		Sai Kung Taxi Operators Association Ltd.
(121)		CSX World Terminals Hong Kong Limited.
(122)		Serco Group (HK) Limited.
(123)		The "Star" Ferry Co., Ltd.
(124)		Sun Hing Taxi Radio Association.
(125)		Tang's Taxi Companies Association Ltd.
(126)		Tate's Cairn Tunnel Co., Ltd.

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
(127)		Taxi Associations Federation.
(128)		Taxi Dealers & Owners Association Ltd.
(129)		Taxi Drivers & Operators Association Ltd.
(130)		The Taxi Operators Association Ltd.
(131)		Taxicom Vehicle Owners Association Ltd.
(132)		Tsing Ma Management Limited.
(133)		Tsuen Wan PLB Commercial Association Ltd.
(134)		Tuen Mun Public Light Bus Association.
(135)		Tung Yee Shipbuilding and Repairing Merchants General Association Limited.
(136)		United Association of Public Lightbus Hong Kong.
(137)		United Friendship Taxi Owners & Drivers Association Ltd.
(138)		United Radio Taxi & Goods Vehicle Association Ltd.
(139)		Urban Taxi Drivers Association Joint Committee Co. Ltd.
(140)		Wai Fat Taxi Owners Association Ltd.
(141)		Wai Yik H.K. & Kowloon and New Territories Taxi Owners Association.
(142)		West Coast International (Parking) Limited.
(143)		Western Harbour Tunnel Co. Ltd.
(144)		Wilson Parking (Hong Kong) Limited.
(145)		Wing Lee Radio Car Traders Association Ltd.
(146)		Wing Tai Car Owners & Drivers Association Ltd.
(147)		Wu Gang Shipping Co. Ltd.
(148)		Xiamen United Enterprises (H.K.) Ltd.
(149)		Yik Sun Radiocabs Operators Association Ltd.
(150)		School Buses Operators Association Limited.
(151)		Rights of Taxi Owners and Drivers Association Limited.
(152)		New World First Ferry Services Limited.
(153)		New World First Ferry Services (Macau) Limited.
(154)		Hong Kong Container Drayage Services Association Limited.
(155)		Hong Kong Kowloon & N.T. Grab-Mounted Lorries Association Limited.
(156)		Hong Kong Waste Disposal Industry Association.
(157)		HK Public-light Bus Owner & Driver Association.
(158)		Container Truck Drivers Union.
(159)		The Concrete Producers Association of Hong Kong Limited.
(160)		Hongkong Guangdong Boundary Crossing Bus Association Limited.
(161)		Tsui Wah Ferry Service Company Limited.
(162)		Quality Driver Training Centre Limited.
(163)		Public and Private Commercial Driving Instructors' Society.
(164)		Shun Tak-China Travel Ship Management Limited.
(165)		Cruise Ferries (HK) Limited.

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
		<p>(166) Asia Airfreight Terminal Company Limited.</p> <p>(167) The Hong Kong Joint Branch of The Royal Institution of Naval Architects and The Institute of Marine Engineering, Science and Technology.</p> <p>(168) The Hongkong Salvage & Towage Company Limited.</p> <p>(169) The Institute of Chartered Shipbrokers, Hong Kong Branch.</p> <p>(170) Hongkong United Dockyards Limited.</p> <p>(171) Guangdong and Hong Kong Feeder Association Limited.</p> <p>(172) Hong Kong Right Hand Drive Motors Association Limited.</p> <p>(173) The Institute of the Motor Industry Hong Kong.</p> <p>(174) Hong Kong Vehicle Repair Merchants Association Limited.</p> <p>(175) Environmental Vehicle Repairers Association Limited.</p> <p>(176) The Hong Kong Taxi and Public Light Bus Association Limited.</p> <p>(177) Park Island Transport Company Limited.</p> <p>(178) Discovery Bay Road Tunnel Company Limited.</p> <p>(179) International Association of Transport Officers.</p> <p>(180) Hong Kong Express Airways Limited.</p> <p>(181) Hong Kong (Cross Border) Transportation Drivers' Association.</p> <p>(182) Hong Kong Logistics Association Limited.</p> <p>(183) Hong Kong Container Depot and Repairer Association Limited.</p> <p>(184) New World Parking Management Limited.</p> <p>(185) The Nautical Institute-Hong Kong Branch.</p> <p>(186) The Hong Kong Union of Light Van Employees.</p> <p>(187) Worldwide Flight Services, Inc.</p>
5.	Legal	<p>(1) Members of The Law Society of Hong Kong entitled to vote at general meetings of the Society.</p> <p>(2) Members of the Hong Kong Bar Association entitled to vote at general meetings of the Association.</p> <p>(3) Legal officers within the meaning of the Legal Officers Ordinance (Cap 87).</p> <p>(4) Persons appointed under section 3 of the Legal Aid Ordinance (Cap 91).</p> <p>(5) Persons deemed to be legal officers for the purpose of the Legal Officers Ordinance (Cap 87) by section 75(3) of the Bankruptcy Ordinance (Cap 6) or section 3(3) of the Director of Intellectual Property (Establishment) Ordinance (Cap 412).</p> <p>(6) The Legal Adviser of the Legislative Council Secretariat and his or her assistants who are in the full-time</p>

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
		employment of The Legislative Council Commission and are barristers or solicitors as defined in the Legal Practitioners Ordinance (Cap 159).
6.	Accountancy	Certified public accountants registered under the Professional Accountants Ordinance (Cap 50).
7.	Medical	<p>(1) Medical practitioners registered or deemed to be registered under the Medical Registration Ordinance (Cap 161).</p> <p>(2) Dentists registered, deemed to be registered or exempt from registration under the Dentists Registration Ordinance (Cap 156).</p>
8.	Health services	<p>(1) Chiropractors registered under the Chiropractors Registration Ordinance (Cap 428).</p> <p>(2) Nurses registered or enrolled or deemed to be registered or enrolled under the Nurses Registration Ordinance (Cap 164).</p> <p>(3) Midwives registered or deemed to be registered under the Midwives Registration Ordinance (Cap 162).</p> <p>(4) Pharmacists registered under the Pharmacy and Poisons Ordinance (Cap 138).</p> <p>(5) Medical laboratory technologists registered under the Medical Laboratory Technologists (Registration and Disciplinary Procedure) Regulations (Cap 359 sub. leg. A).</p> <p>(6) Radiographers registered under the Radiographers (Registration and Disciplinary Procedure) Regulation (Cap 359 sub. leg. H).</p> <p>(7) Physiotherapists registered under the Physiotherapists (Registration and Disciplinary Procedure) Regulation (Cap 359 sub. leg. J).</p> <p>(8) Occupational therapists registered under the Occupational Therapists (Registration and Disciplinary Procedure) Regulations (Cap 359 sub. leg. B).</p> <p>(9) Optometrists registered under the Optometrists (Registration and Disciplinary Procedure) Regulation (Cap 359 sub. leg. F).</p> <p>(10) Dental hygienists enrolled under the Ancillary Dental Workers (Dental Hygienists) Regulations (Cap 156 sub. leg. B).</p> <p>(11) Audiologists, audiology technicians, chiropodists (also known as “podiatrists”), dental surgery assistants, dental technicians, dental technologists, dental therapists, dietitians, dispensers, mould laboratory technicians,</p>

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
		<p>orthoptists, clinical psychologists, educational psychologists, prosthetists, speech therapists and scientific officers (medical) who are in the service under the Government, or are employed in Hong Kong, at the following institutions -</p> <ul style="list-style-type: none"> (a) Public hospitals within the meaning of the Hospital Authority Ordinance (Cap 113); (b) Hospitals registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap 165); (c) Clinics maintained or controlled by the Government or The Chinese University of Hong Kong or by the University of Hong Kong; (d) Services subvented by the Government.
9.	Engineering	<ul style="list-style-type: none"> (1) Professional engineers registered under the Engineers Registration Ordinance (Cap 409). (2) Members of the Hong Kong Institution of Engineers entitled to vote at general meetings of the Institution.
10.	Architectural, surveying and planning	<ul style="list-style-type: none"> (1) Architects registered under the Architects Registration Ordinance (Cap 408). (2) Members of The Hong Kong Institute of Architects entitled to vote at general meetings of the Institute. (3) Landscape architects registered under the Landscape Architects Registration Ordinance (Cap 516). (4) Members of The Hong Kong Institute of Landscape Architects entitled to vote at general meetings of the Institute. (5) Professional surveyors registered under the Surveyors Registration Ordinance (Cap 417). (6) Members of The Hong Kong Institute of Surveyors entitled to vote at general meetings of the Institute. (7) Professional planners registered under the Planners Registration Ordinance (Cap 418). (8) Members of The Hong Kong Institute of Planners entitled to vote at general meetings of the Institute.
11.	Labour	Bodies that are trade unions registered under the Trade Unions Ordinance (Cap 332) of which all the voting members are employees.

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
12.	Real estate and construction	<p>(1) Members of The Real Estate Developers Association of Hong Kong entitled to vote at general meetings of the Association.</p> <p>(2) Members of The Hong Kong Construction Association, Limited entitled to vote at general meetings of the Association.</p> <p>(3) Members of The Hong Kong E&M Contractors' Association Limited entitled to vote at general meetings of the Association.</p>
13.	Commercial (first)	Bodies that are members of The Hong Kong General Chamber of Commerce entitled to vote at general meetings of the Chamber.
14.	Commercial (second)	Members of The Chinese General Chamber of Commerce entitled to vote at general meetings of the Chamber.
15.	Industrial (first)	Members of the Federation of Hong Kong Industries entitled to vote at general meetings of the Federation.
16.	Industrial (second)	Bodies that are members of The Chinese Manufacturers' Association of Hong Kong entitled to vote at general meetings of the Association.
17.	Finance	<p>Bodies that are:</p> <p>(1) banks within the meaning of the Banking Ordinance (Cap 155).</p> <p>(2) restricted licence banks within the meaning of the Banking Ordinance (Cap 155).</p> <p>(3) deposit-taking companies within the meaning of the Banking Ordinance (Cap 155).</p>
18.	Financial services	<p>(1) Exchange participants of a recognized exchange company.</p> <p>(2) Members of The Chinese Gold & Silver Exchange Society entitled to vote at general meetings of the Society.</p>
19.	Sports, performing arts, culture and publication	(1) Statutory bodies and registered bodies (other than schools registered under the Education Ordinance (Cap 279) and bodies formed by such schools) that are members of the sports associations affiliated to the Sports Federation & Olympic Committee of Hong Kong, China.

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
(2)		Sports associations affiliated to the Sports Federation & Olympic Committee of Hong Kong, China but have no statutory bodies or registered bodies as members.
(3)		<p>The following district sports associations:</p> <ul style="list-style-type: none"> (a) Central & Western District Recreation & Sports Association; (b) Eastern District Recreation & Sports Advancement Association Ltd; (c) The Federation of Tsuen Wan District Sports & Recreation Association Ltd; (d) Islands District Sports Association; (e) Kowloon City District Recreation & Sports Council; (f) Kwai Tsing District Sports Association; (g) Kwun Tong Sports Promotion Association Ltd; (h) Mong Kok District Cultural, Recreational and Sports Association Limited; (i) North District Sports Association; (j) Sai Kung District Sports Association Ltd; (k) Sha Tin Sports Association Ltd; (l) Sham Shui Po Sports Association; (m) Southern District Recreation and Sports Association Limited; (n) Tai Po Sports Association Ltd; (o) Tuen Mun Sports Association Limited; (p) Wan Chai District Arts Cultural Recreation and Sports Association Limited; (q) Wong Tai Sin District Recreation & Sports Council; (r) Yaumatei and Tsimshatsui Recreation & Sports Association Ltd; (s) Yuen Long District Sports Association Ltd.
(4)		Bodies listed in a Gazette notice currently in force made under section 3(5) of the Hong Kong Arts Development Council Ordinance (Cap 472) as organizations for the purpose of section 3(4) of that Ordinance.
(5)		Statutory bodies and registered bodies, the primary goal of which is the promotion of arts, and to which grants, sponsorship or performance fees have been approved by the Hong Kong Arts Development Council, the Urban Council, the Regional Council, the Provisional Urban Council, the Provisional Regional Council, the Leisure and Cultural Services Department or the Home Affairs Bureau during the relevant period.
(6)		<p>The following district arts and culture associations:</p> <ul style="list-style-type: none"> (a) Central and Western District Association for Culture and Arts;

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
		<ul style="list-style-type: none"> (b) Eastern District Arts Council; (c) Kowloon City District Arts and Culture Council; (d) Kwai Chung and Tsing Yi District Culture and Arts Co-ordinating Association Limited; (e) Kwun Tong District Culture and Recreation Promotion Association; (f) North District Arts Advancement Association Limited; (g) Sai Kung Culture & Recreational Advancement Association; (h) Sha Tin Arts Association Limited; (i) Sham Shui Po Arts Association Limited; (j) Southern District Arts and Culture Association Limited; (k) Tai Po District Arts Advancement Association; (l) Tsuen Wan Culture & Recreation Co-ordinating Association Limited; (m) Tuen Mun Arts Promotion Association; (n) Wong Tai Sin District Arts Council; (o) Yau Ma Tei and Tsim Sha Tsui Culture and Arts Association Limited; (p) Yuen Long District Arts Committee.
(7)		<p>Members of each of the following bodies entitled to vote at general meetings of the body -</p> <ul style="list-style-type: none"> (a) Educational Booksellers' Association, Limited; (b) The Anglo-Chinese Textbook Publishers Organisation Limited; (c) The Hong Kong Educational Publishers Association Limited; (d) The Hong Kong Publishers and Distributors Association; (e) Hong Kong Book & Magazine Trade Association Limited; (f) Hongkong Book and Stationery Industry Association Company Limited.
(8)		<p>Members of the Hong Kong Publishing Federation Limited (other than those referred to in paragraph (7)) entitled to vote at general meetings of the Federation.</p>
(9)		<p>Members of each of the following bodies entitled to vote at general meetings of the body -</p> <ul style="list-style-type: none"> (a) HK, Kln & NT Motion Picture Industry Association Ltd; (b) Hong Kong Film Awards Association Ltd; (c) International Federation of the Phonographic Industry (Hong Kong Group) Limited; (d) Movie Producers and Distributors Association of Hong Kong Ltd;

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
		(e) Music Publishers Association of Hong Kong Ltd;
		(f) Hong Kong Theatres Association Ltd.
(10)		Corporate proprietors, the principal business of which is publication, registered under the Registration of Local Newspapers Ordinance (Cap 268).
(11)		Corporate proprietors of newspaper distributors licensed under the Newspapers Registration and Distribution Regulations (Cap 268 sub. leg. B).
(12)		bodies that are holders of one or more of the following classes of licences granted under the Broadcasting Ordinance (Cap 562) -
		(i) licences to provide a domestic free television programme service;
		(ii) licences to provide a domestic pay television programme service; and
		(iii) licences to provide a non-domestic television programme service.
(13)		holders of licences granted under Part IIIA of the Telecommunications Ordinance (Cap 106) (sound broadcasting licences).
(14)		All Stars Sports Association Ltd.
(15)		The Song Writers' Association of Hong Kong.
(16)		Artiste Training Alumni Association Limited.
(17)		Composers and Authors Society of Hong Kong Limited.
(18)		Friends of the Art Museum, The Chinese University of Hong Kong Limited.
(19)		The Friends of the Hong Kong Museum of Art.
(20)		HK Film Directors' Guild Ltd.
(21)		Hong Kong Anthropological Society.
(22)		Hong Kong Archaeological Society.
(23)		The Hong Kong Children's Choir.
(24)		Hong Kong Chinese Orchestra Limited.
(25)		Hong Kong Chinese Press Association.
(26)		Hong Kong & Macau Cinema and Theatrical Enterprise Association Limited.
(27)		Hong Kong Cinematography Lighting Association Limited.
(28)		Hong Kong Curators Association.
(29)		Hong Kong Dance Company Limited.
(30)		Hong Kong Federation of Journalists Ltd.
(31)		Hong Kong Festival Fringe Ltd.
(32)		Hong Kong Film Academy.
(33)		Hong Kong Film Arts Association Limited.
(34)		Hong Kong History Society.
(35)		Hong Kong Intellectual Property Society.
(36)		Hong Kong Journalists Association.

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
		<p>(37) The Hong Kong Mass Media Professionals Association Ltd.</p> <p>(38) Hong Kong Museum of Medical Sciences Society.</p> <p>(39) Hong Kong News Executives' Association, Limited.</p> <p>(40) Hong Kong PEN (English) Centre.</p> <p>(41) Hong Kong Performing Artistes Guild Ltd.</p> <p>(42) Hong Kong Philharmonic Orchestra.</p> <p>(43) Hong Kong Press Photographers Association.</p> <p>(44) Hong Kong Recreation Management Association Limited.</p> <p>(45) Hong Kong Repertory Theatre Limited.</p> <p>(46) Hong Kong Screen Writers' Guild Ltd.</p> <p>(47) Hong Kong Sports Association of the Deaf.</p> <p>(48) Hong Kong Sports Press Association Ltd.</p> <p>(49) Hong Kong Stuntman Association Ltd.</p> <p>(50) Hong Kong Tai Chi Association.</p> <p>(51) Hong Kong United Arts Entertainment Co. Ltd.</p> <p>(52) Min Chiu Society.</p> <p>(53) New Territories Regional Sports Association.</p> <p>(54) The Newspaper Society of Hong Kong.</p> <p>(55) Pop-Music Authors Society of Hong Kong.</p> <p>(56) The Hong Kong Branch of the Royal Asiatic Society.</p> <p>(57) Sail Training Association of Hong Kong Limited.</p> <p>(58) Society of Cinematographers (Hong Kong) Limited.</p> <p>(59) Society of Film Editors (HK) Ltd.</p> <p>(60) South China Film Industry Workers' Union.</p> <p>(61) South China Research Circle.</p> <p>(62) Swimming Teacher's Association Hong Kong.</p> <p>(63) Videotage.</p> <p>(64) Zuni Icosahedron.</p> <p>(65) Federation of Hong Kong Filmmakers Limited.</p> <p>(66) Hong Kong Movie Production Executives Association Limited.</p>
20.	Import and export	<p>(1) Companies licensed under the Dutiable Commodities Ordinance (Cap 109) for the import or export, or import and export, of dutiable commodities.</p> <p>(2) Companies registered under the Motor Vehicles (First Registration Tax) Ordinance (Cap 330) for the import of motor vehicles for use in Hong Kong.</p> <p>(3) Companies licensed under the Control of Chemicals Ordinance (Cap 145) for the import or export, or import and export, of controlled chemicals.</p> <p>(4) Members of each of the following bodies entitled to vote at general meetings of the body -</p> <p>(a) The Association of Hong Kong Photographic Equipment Importers Limited;</p>

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
		<ul style="list-style-type: none"> (b) Hong Kong & Kowloon Steel and Metal Importers and Exporters Association Ltd.; (c) The Hong Kong Chinese Importers' and Exporters' Association; (d) Hong Kong Exporters' Association; (e) Hong Kong Fresh Fruits Importers Association Ltd.; (f) Hong Kong General Association of Edible Oil Importers & Exporters Ltd.; (g) Hong Kong Maize and Feed Importers Association Ltd.; (h) Hongkong Rice Importers & Exporters Association; (i) Hongkong Watch Importers' Association; (j) The Hong Kong Food, Drink & Grocery Association; (k) Hong Kong & Kowloon Light Industrial Products Importers & Exporters Association Limited; (l) Nanyang Importers and Exporters Association; (m) Hong Kong Industrial Production Trading Association Limited; (n) The Industrial Chemical Merchants' Association Limited; (o) South-China Paper Merchants Association Limited; (p) The Wah On Exporters & Importers Association; (q) The Hong Kong Shippers' Council; (r) The Shippers' Association of Hong Kong.
21.	Textiles and garment	<ul style="list-style-type: none"> (1) Corporate members of the Textile Council of Hong Kong Limited (other than those referred to in paragraph (2)(a) to (l)) entitled to vote at general meetings of the Council. (2) Corporate members of each of the following bodies entitled to vote at general meetings of the body - <ul style="list-style-type: none"> (a) The Federation of Hong Kong Cotton Weavers; (b) The Federation of Hong Kong Garment Manufacturers; (c) Hong Kong Chinese Textile Mills Association; (d) The Hong Kong Cotton Made-up Goods Manufacturers Association, Limited; (e) The Hongkong Cotton Spinners Association; (f) Hong Kong Garment Manufacturers Association Ltd.; (g) Hong Kong Knitwear Exporters & Manufacturers Association Ltd.; (h) Hong Kong Woollen & Synthetic Knitting Manufacturers' Association Ltd.;

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
		<ul style="list-style-type: none"> (i) The Hong Kong Association of Textile Bleachers, Dyers, Printers and Finishers Limited; (j) The Hong Kong Weaving Mills Association; (k) The Hongkong Wool and Synthetic Spinners Association Limited; (l) The Hong Kong General Chamber of Textiles Limited.
		(3) Members of the Hong Kong Institution of Textile and Apparel Limited entitled to vote at general meetings of the Institution.
		(4) Textiles & Clothing manufacturers registered under the Factory Registration of the Trade and Industry Department for the purpose of applying for the certificate of Hong Kong origin.
		(5) Textiles traders who – <ul style="list-style-type: none"> (i) are registered as textiles traders pursuant to regulation 5A of the Import and Export (General) Regulations (Cap 60 sub. leg. A); (ii) have been so registered for a period of 12 months immediately before making the application for registration as an elector; and (iii) are carrying on business as textiles traders specified in the Fourth Schedule to the Import and Export (General) Regulations (Cap. 60 sub. Leg. A).
22.	Wholesale and retail	Members of each of the following bodies entitled to vote at general meetings of the body - <ul style="list-style-type: none"> (1) Anglo-Chinese Vegetable Wholesale Merchants Association Limited; (2) Association of Better Business & Tourism Services; (3) Cheung Sha Wan Poultry United Wholesalers Association Ltd.; (4) Chinese Medicine Merchants Association Ltd.; (5) Chinese Merchants (H.K.) Association; (6) Chinese Paper Merchants Association; (7) The Cosmetic & Perfumery Association of Hong Kong Ltd.; (8) Eastern District Fresh Fish Merchants' Society; (9) Federation of Hong Kong Kowloon New Territories Hawker Associations; (10) The Federation of Hong Kong Watch Trades and Industries Ltd.; (11) HK Vegetable Wholesaler Community; (12) Hong Kong and Kowloon Bamboo Goods Merchants Association Limited;

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
(13)		Hong Kong and Kowloon Electrical Appliances Merchants Association Ltd.;
(14)		Hong Kong Electro-Plating Merchants Association Limited;
(15)		Hong Kong & Kowloon European Dress Merchants Association;
(16)		Hong Kong & Kowloon Fresh Water Fish Merchants' & Buyers' Association Limited;
(17)		Hong Kong & Kowloon Fruit & Vegetable Employees & Employers Guild;
(18)		Hong Kong & Kowloon Furniture & Shop Fittings Merchants Association;
(19)		Hong Kong & Kowloon General Association of Liquor Dealers and Distillers;
(20)		Hong Kong & Kowloon Machine Made Paper Merchants Association Ltd.;
(21)		Hong Kong and Kowloon Machinery and Instrument Merchants Association Ltd.;
(22)		Hong Kong & Kowloon Marine Products Merchants Association Ltd.;
(23)		Hong Kong & Kowloon Plastic Products Merchants United Association Limited;
(24)		Hong Kong & Kowloon Poultry Dealers Guild;
(25)		The Hong Kong & Kowloon Provisions, Wine & Spirit Dealers' Association;
(26)		Hong Kong and Kowloon Rattan Ware Merchants Association (Wing-Hing-Tong);
(27)		The Hong Kong and Kowloon Salt Merchants' Association;
(28)		Hong Kong & Kowloon Sauce & Preserved-Fruit Amalgamated Employers Association;
(29)		Hong Kong & Kowloon Tea Trade Merchants Association Ltd.;
(30)		Hong Kong & Kowloon Timber Merchants Association Limited;
(31)		Hong Kong & Kowloon Vermicelli & Noodle Manufacturing Industry Merchants' General Association;
(32)		Hong Kong Art Craft Merchants Association, Ltd.;
(33)		Hong Kong Dried Seafood and Grocery Merchants Association Limited;
(34)		Hong Kong Dyestuffs Merchants Association Limited;
(35)		Hong Kong Egg Merchants Association (Fung-Kwai-Tong);
(36)		Hong Kong Embroidery Merchants Association Limited;
(37)		Hong Kong Flower Dealers & Workers Association;
(38)		Hong Kong Flower Retailers Association;
(39)		The Hong Kong Food Council Limited;

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
(40)		Hong Kong Fresh Fish Merchants Association;
(41)		Hong Kong Fur Federation;
(42)		Hong Kong Furniture & Decoration Trade Association Limited;
(43)		Hong Kong General Chamber of Pharmacy Limited;
(44)		Hong Kong Glass and Mirror Merchants and Manufacturers Association Company Limited;
(45)		Hong Kong Jewellers' & Goldsmiths' Association Limited;
(46)		Hong Kong Leather Shoe And Shoe Material Merchants Association Ltd.;
(47)		Hong Kong Live Pig Trade Merchants' Association;
(48)		The Hong Kong Medicine Dealers' Guild;
(49)		Hong Kong Metal Merchants Association;
(50)		The Hong Kong Oil Merchants Association, Limited;
(51)		Hong Kong Paints & Pigments Merchants Association Ltd.;
(52)		Hong Kong Petroleum, Chemicals and Pharmaceutical Materials Merchants Association Ltd.;
(53)		Hong Kong Photo Marketing Association Limited;
(54)		Hong Kong Piece Goods Merchants' Association;
(55)		Hong Kong Plastic Material Suppliers Association Ltd.;
(56)		Hong Kong Plumbing and Sanitary Ware Trade Association Ltd.;
(57)		Hong Kong Provision & Grocery General Commercial Chamber;
(58)		Hong Kong Record Merchants Association Ltd.;
(59)		Hong Kong Rice Suppliers' Association Limited;
(60)		Hong Kong Retail Management Association Limited;
(61)		Hong Kong Silk Piece-Goods Merchants' Association;
(62)		Hong Kong Stamp and Coin Dealers Association;
(63)		Hong Kong Video Industry Association Limited;
(64)		Hong Kong Yee Yee Tong Chinese Medicine Merchants Association Ltd.;
(65)		The Hong Kong & Kowloon General Merchandise Merchants' Association Limited;
(66)		Hongkong Kowloon New Territories & Overseas Fish Wholesalers Association Limited;
(67)		The Industrial Chemical Merchants' Association Limited;
(68)		Kowloon Cheung Sha Wan Wholesale Vegetable Market (Importers) Recreation Club;
(69)		Kowloon Fresh Fish Merchants Association Limited;
(70)		Kowloon Fresh Meat Retailers' Association Ltd.;
(71)		The Kowloon Pearls, Precious Stones, Jade, Gold & Silver Ornament Merchants Association;
(72)		Kowloon Poultry Laan Merchants Association;
(73)		The Merchants Association of First Wholesalers/Jobbery of Imported Fresh Fruits & Vegetables Limited;

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
		(74) Mongkok Vegetable Wholesale Merchants Association Company Limited; (75) The Motor Traders Association of Hong Kong; (76) Nam Pak Hong Association; (77) Po Sau Tong Ginseng & Antler Association Hong Kong Ltd.; (78) The Rice Merchants' Association of Hong Kong Limited; (79) Shauiwan Fishery Merchants Association; (80) Yuet Sum Kong Vegetable Association (Hong Kong) Co; (81) Kowloon Fruit & Vegetable Merchants Association Limited; (82) The Hong Kong And Kowloon Electric Trade Association; (83) Hong Kong Poultry Wholesalers Association; (84) Diamond Federation of Hong Kong, China Limited.
23.	Information technology	(1) Fellows and Full Members of the Hong Kong Computer Society entitled to vote at general meetings of the Society. (2) Fellows, Members and Graduate Members of Information Technology Division of the Hong Kong Institution of Engineers who are entitled to vote at general meetings of the Division. (3) Professional Members of the Association for Computing Machinery, Hong Kong Chapter entitled to vote at general meetings of the Association. (4) Fellows, Senior Members and Full Members of the Institute of Electrical and Electronics Engineers, Inc., Hong Kong Section, Computer Chapter entitled to vote at general meetings of the Institute. (5) Fellows, Senior Members and Full Members of the Institute of Electrical and Electronics Engineers, Inc., Hong Kong Section, Hong Kong Joint Chapter on Circuits and Systems/Communications entitled to vote at general meetings of the Institute. (6) Fellows and Corporate Members of The Institution of Electrical Engineers Hong Kong entitled to vote at general meetings of the Institution. (7) Fellows, Members and Associate Members of The British Computer Society (Hong Kong Section) Limited entitled to vote at general meetings of the Society. (8) Fellows, Senior Professional Members and Professional Members of The Hong Kong Association for Computer Education entitled to vote at general meetings of the Association. (9) Full Members (Information Technology) of the Hong Kong Society of Medical Informatics Limited entitled to vote at general meetings of the Society.

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
		<p>(10) Full Members of the Information and Software Industry Association Limited entitled to vote at general meetings of the Association.</p> <p>(11) Ordinary Members of the Hong Kong Telemedicine Association entitled to vote at general meetings of the Association.</p> <p>(12) The eligible persons of the following bodies-</p> <ul style="list-style-type: none"> (a) Hong Kong & Mainland Software Industry Cooperation Association Limited; (b) Information Systems Audit and Control Association (Hong Kong Chapter) Limited; (c) Internet Professional Association Limited; (d) Professional Information Security Association. <p>(13) Corporate members of each of the following bodies entitled to vote at general meetings of the body -</p> <ul style="list-style-type: none"> (a) Hong Kong Information Technology Federation Limited; (b) Hong Kong Internet Service Providers Association; (c) Hong Kong Radio Paging Association Ltd.; (d) Internet & Telecom Association of Hong Kong Limited; (e) Hong Kong Wireless Technology Industry Association Limited; (f) The Society of Hong Kong External Telecommunications Services Providers Limited. <p>(14) Bodies that are holders of one or more of the following classes of licences granted by the Telecommunications Authority under the Telecommunications Ordinance (Cap 106) -</p> <ul style="list-style-type: none"> (a) Fixed Telecommunications Network Services licences; (b) Public Non-exclusive Telecommunications Service licences; (c) Public Radiocommunications Service licences; (d) Satellite Master Antenna Television licences; (e) Broadcast Relay Station licences; (f) Broadcast Radio Relay Station licences; and (g) Carrier licences. <p>(15) APT Satellite Company Limited.</p> <p>(16) Asia Satellite Telecommunications Company Limited.</p>
24.	Catering	<p>(1) Holders of food business licenses under the Public Health and Municipal Services Ordinance (Cap 132).</p> <p>(2) The Association for the Hong Kong Catering Services Management Limited.</p> <p>(3) The Association of Restaurant Managers Limited.</p>

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
		(4) Federation of Hong Kong Restaurant Owners Limited.
		(5) The Hong Kong Restaurant and Eating House Merchants General Association.
		(6) Hong Kong Catering Industry Association Limited.

Note : (1) In item 19 of this Appendix -

- (a) “registered body” (註冊團體) means a body which is registered or exempt from registration under, or incorporated by, any laws of Hong Kong.
 - (b) “relevant period” (有關期間), in relation to a statutory body or a registered body, means -
 - (i) subject to subparagraph (ii), the period from 1 April 1994 to the date on which the statutory body or registered body applies for registration as an elector of the sports, performing arts, culture and publication functional constituency; or
 - (ii) if the statutory body or registered body applies for such registration on or after 18 July 2003, the period of 6 years immediately preceding the date on which it so applies.
 - (c) “statutory body” (法定團體) means a body established or constituted by or under the authority of an Ordinance.
- (2) In item 23(12) of this Appendix, the “eligible persons” (合資格的人) means -
- (a) Hong Kong & Mainland Software Industry Cooperation Association Limited - Full Members, the major business of which, as confirmed by the Association, has been in the research, development or application of information technology or computer software during the relevant period; and which are entitled to vote at general meetings of the Association;
 - (b) Information Systems Audit and Control Association (Hong Kong Chapter) Limited - Ordinary Members who are confirmed by the Association to have been holders of the Certified Information Systems Auditor Certification (CISA) during the relevant period; and entitled to vote at general meetings of the Association;
 - (c) Internet Professional Association Limited - Members who are confirmed by the Association to have had experience in the information technology field, as specified in the constitution of the Association, during the relevant period; and entitled to vote at general meetings of the Association; and
 - (d) Professional Information Security Association - Full Members who are confirmed by the Association to have been holders of the Certified Information Systems Security Professional Certification (CISSP) during the relevant period; and entitled to vote at general meetings of the Association,
- where the “relevant period” (有關期間), in relation to a person, means the period of 4 years immediately preceding the date on which that person applies for registration as an elector of the information technology functional constituency.

[Amended in September 2006]

Composition of Three Pairs of Subsectors
Each Corresponding to One Functional Constituency

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
1(a)	Education	<ul style="list-style-type: none"> (1) Registered teachers registered under the Education Ordinance (Cap 279). (2) Permitted teachers engaged in full-time employment in schools registered or provisionally registered under the Education Ordinance (Cap 279). (3) Teachers and principals of schools entirely maintained and controlled by the Government. (4) Persons whose principal or only employment is that of full-time teaching with the following bodies - <ul style="list-style-type: none"> (a) technical institutes, industrial training centres and skills centres established under the Vocational Training Council Ordinance (Cap 1130); (b) industrial training centres established under the Industrial Training (Construction Industry) Ordinance (Cap 317); (c) industrial training centres established under the Industrial Training (Clothing Industry) Ordinance (Cap 318); (d) Hong Chi Association - Hong Chi Pinehill Advanced Training Centre; (e) Caritas Lok Mo Integrated Vocational Training Centre of Caritas - Hong Kong incorporated under the Caritas - Hong Kong Incorporation Ordinance (Cap 1092). (5) Registered managers of schools registered under the Education Ordinance (Cap 279).
1(b)	Higher education	<ul style="list-style-type: none"> (1) Full-time academic staff engaged in teaching or research and administrative staff of equivalent rank in - <ul style="list-style-type: none"> (a) institutions of higher education funded through the University Grants Committee; (b) approved post secondary colleges registered under the Post Secondary Colleges Ordinance (Cap 320); (c) technical colleges established under the Vocational Training Council Ordinance (Cap 1130); (d) The Hong Kong Academy for Performing Arts;

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
		<ul style="list-style-type: none"> (e) The Open University of Hong Kong; (f) the School of Continuing and Professional Education of the City University of Hong Kong; (g) the School of Continuing Education of the Hong Kong Baptist University; (h) the Lingnan Institute of Further Education of the Lingnan University; (i) the School of Continuing Studies of The Chinese University of Hong Kong; (j) the Division of Continuing Professional Education of The Hong Kong Institute of Education; (k) the School of Professional Education and Executive Development of The Hong Kong Polytechnic University; (l) the HKUST College of Lifelong Learning Limited; (m) the HKU School of Professional and Continuing Education
(2)	Members of -	<ul style="list-style-type: none"> (a) the Council of the University of Hong Kong (b) the Council of The Chinese University of Hong Kong (c) the Council of The Hong Kong University of Science and Technology; (d) the Council of the City University of Hong Kong; (e) the Council of The Hong Kong Polytechnic University; (f) the Council of The Hong Kong Academy for Performing Arts; (g) the Council of The Open University of Hong Kong; (h) the Vocational Training Council; (i) the Council of The Hong Kong Institute of Education; (j) the Council of the Hong Kong Baptist University; (k) the Council of the Lingnan University; (l) the Board of Governors of the Hong Kong Shue Yan College; (m) the Board of Governors of the Caritas Francis Hsu College.

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
2(a)	Tourism	<p>(1) Travel industry members of the body known immediately before 1 April 2001 as the Hong Kong Tourist Association, entitled immediately before that date, under the constitution of that body in force immediately before that date, to vote at general meetings of that body.</p> <p>(2) Members of the Travel Industry Council of Hong Kong entitled to vote at general meetings of the Council.</p> <p>(3) Members of The Board of Airline Representatives in Hong Kong.</p>
2(b)	Hotel	<p>(1) Members of the Hong Kong Hotels Association entitled to vote at general meetings of the Association.</p> <p>(2) Members of the Federation of Hong Kong Hotel Owners Limited entitled to vote at general meetings of the Federation.</p>
3(a)	Hong Kong and Kowloon District Councils	Members of the Hong Kong and Kowloon District Councils.
3(b)	New Territories District Councils	Members of the New Territories District Councils.

[Amended in September 2006]

Composition of Optional Subsectors
Without an Equivalent Functional Constituency

<u>Item</u>	<u>Subsector</u>	<u>Constituents</u>
1.	Chinese medicine	<p>Members of -</p> <ul style="list-style-type: none"> (1) The Hong Kong Association of Traditional Chinese Medicine Limited; (2) International General Chinese Herbalists and Medicine Professionals Association Limited; (3) Sin-Hua Herbalists' and Herb Dealers' Promotion Society Limited; (4) Society of Practitioners of Chinese Herbal Medicine Limited; (5) The Hong Kong T.C.M. Orthopaedic and Traumatic Association Limited; (6) The Hong Kong Federation of China of Traditional Chinese Medicine; (7) Hong Kong Acupuncturists Association; (8) Hong Kong Chinese Herbalists Association Limited; (9) Association of Hong Kong & Kowloon Practitioners of Chinese Medicine, Limited; (10) Hong Kong Chinese Overseas Physician Association, <p>who are Chinese medicine practitioners entitled to vote at the general meetings of the respective bodies.</p>
2.	Chinese People's Political Consultative Conference ("CPPCC")	Hong Kong members of the National Committee of the CPPCC
3.	Employers' Federation of Hong Kong	Members of the Employers' Federation of Hong Kong entitled to vote at general meetings of the Federation.
4.	Hong Kong Chinese Enterprises Association	Members of the Hong Kong Chinese Enterprises Association entitled to vote at general meetings of the Association.

5. Social welfare
- (1) Social workers registered under the Social Workers Registration Ordinance (Cap 505).
 - (2) Corporate members of the Hong Kong Council of Social Service entitled to vote at general meetings of the Council.
 - (3) Exempted societies within the meaning of the Societies Ordinance (Cap 151) that have been operating with paid employees to provide service on a regular basis in accordance with the following aims for a period of 12 months immediately before making the application for registration as a voter –
 - (a) to promote the co-ordination and improvement of social service activities;
 - (b) to develop resources, such as manpower, funds and data, for social service activities; or
 - (c) to promote public understanding of social service needs and the role of the voluntary agencies in meeting those needs,and which publish their annual reports and audited accounts or certified accounts with regard to annual income and expenditure.
 - (4) Non-profit making companies registered under the Companies Ordinance (Cap 32) that have been operating with paid employees to provide service on a regular basis in accordance with the following aims for a period of 12 months immediately before making the application for registration as a voter –
 - (a) to promote the co-ordination and improvement of social service activities;
 - (b) to develop resources, such as manpower, funds and data, for social service activities; or
 - (c) to promote public understanding of social service needs and the role of the voluntary agencies in meeting those needs,and which publish their annual reports and audited accounts or certified accounts with regard to annual income and expenditure.

[Amended in September 2006]

Relationship of the 28 Functional Constituencies and 38 Election Committee Subsectors

(A) FCs and their corresponding subsectors

Name of FC	Type ^(Note 1)	Choice of FC	Name of corresponding subsector(s) ^(Note 2)	Choice of “optional subsectors”, if eligible ^(Note 2)	Remarks
1. Heung Yee Kuk	Individual	No	Heung Yee Kuk	Yes	
2. Agriculture and Fisheries	Body	No	Agriculture and Fisheries	Yes	
3. Insurance	Body	No	Insurance	Yes	
4. Transport	Body	No	Transport	Yes	
5. Accountancy	Individual	Yes	Accountancy	Yes	
6. Architectural, Surveying and Planning	Individual	Yes	Architectural, Surveying and Planning	Yes	
7. Commercial (First)	Body	Yes	Commercial (First)	Yes	
8. Commercial (Second)	Mixed	Yes	Commercial (Second)	Yes	
9. Education	Individual	Yes	(i) Education (ii) Higher Education	Yes	Subject to the choice of “optional subsectors” in Note 2, if eligible for both corresponding subsectors, must be registered in the Higher Education subsector.
10. Engineering	Individual	Yes	Engineering	Yes	
11. Finance	Body	Yes	Finance	Yes	
12. Financial Services	Body	Yes	Financial Services	Yes	
13. Health Services	Individual	Yes	Health Services	Yes	
14. Import and Export	Mixed	Yes	Import and Export	Yes	
15. Industrial (First)	Mixed	Yes	Industrial (First)	Yes	
16. Industrial (Second)	Body	Yes	Industrial (Second)	Yes	

Name of FC	Type ^(Note 1)	Choice of FC	Name of corresponding subsector(s) ^(Note 2)	Choice of “optional subsectors”, if eligible ^(Note 2)	Remarks
17. Information Technology	Mixed	Yes	Information Technology	Yes	
18. Labour	Body	Yes	Labour	Yes	
19. Legal	Individual	Yes	Legal	Yes	
20. Medical	Individual	Yes	Medical	Yes	
21. Real Estate and Construction	Mixed	Yes	Real Estate and Construction	Yes	
22. Social Welfare	Individual	Yes	Social Welfare	Yes	
23. Sports, Performing Arts, Culture and Publication	Mixed	Yes	Sports, Performing Arts, Culture and Publication	Yes	
24. Textiles and Garment	Mixed	Yes	Textiles and Garment	Yes	
25. Tourism	Body	Yes	(i) Tourism (ii) Hotel	Yes	Subject to the choice of “optional subsectors” in Note 2, if eligible for both corresponding subsectors, must be registered in the Hotel subsector.
26. Wholesale and Retail	Mixed	Yes	Wholesale and Retail	Yes	
27. Catering	Mixed	Yes	Catering	Yes	

Name of FC	Type ^(Note 1)	Choice of FC	Name of corresponding subsector(s) ^(Note 2)	Choice of “optional subsectors”, if eligible ^(Note 2)	Remarks
28. District Council	Individual	Yes	(i) Hong Kong and Kowloon District Councils (ii) New Territories District Councils	Yes	Subject to the choice of “optional subsectors” in Note 2, members of the Hong Kong and Kowloon District Councils must be registered in the Hong Kong and Kowloon District Councils subsector while members of the New Territories District Councils must be registered in the New Territories District Councils subsector.

(B) EC subsectors for which no election is required ^(Note 4)

Name of subsector	Type ^(Note 1)
1. Religious	Individual
2. National People's Congress	Individual
3. Legislative Council	Individual

(C) EC subsectors without a corresponding FC

Name of subsector	Type ^(Note 1)	Choice of subsectors listed in Note 2	Remarks ^(Note 3)
1. Chinese Medicine	Individual	Yes	
2. Chinese People's Political Consultative Conference	Individual	Yes	Listed subsector
3. Employers' Federation of Hong Kong	Body	Yes	Listed subsector
4. Hong Kong Chinese Enterprises Association	Mixed	Yes	Listed subsector
5. Social Welfare (the part for corporate bodies only) ^(Note 5)	Body	Yes	

- Note 1 :
- (a) 'Individual' denotes an FC/a subsector which consists of natural persons only;
 - (b) 'Body' denotes an FC/a subsector which consists only of bodies; and
 - (c) 'Mixed' denotes an FC/a subsector which consists of both natural persons and bodies.

Note 2 : A subsector bearing the same or similar name as an FC is called a "corresponding subsector". Section 12(10)(c) of the Schedule to the Chief Executive Election Ordinance provides that a person who is registered, or has made an application to be registered, as an elector for an FC with a corresponding subsector may be registered only as a voter for that subsector (whether or not the person is eligible to be registered as a voter for any other subsector), except that, if the person is eligible to be registered for any of the following 5 subsectors :

- (a) Chinese Medicine;
- (b) Chinese People's Political Consultative Conference (also a "listed subsector");
- (c) Employers' Federation of Hong Kong (also a "listed subsector");

- (d) Hong Kong Chinese Enterprises Association (also a “listed subsector”); and
- (e) Social Welfare (the part for corporate bodies only),
the person may choose to be registered as a voter in the corresponding subsector or in one of the above 5 subsectors for which he is eligible. The choice of subsector will not affect a person’s registration in an FC. The above 5 subsectors are referred to as “optional subsectors” in Part IV of the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (“the Regulation”).

Note 3: Out of the 5 “optional subsectors”, there are 3 “listed subsectors” referred to in Part IV of the Regulation. These “listed subsectors” have a relatively small potential electorate. A special notification arrangement is provided for in section 15 of the Regulation so as to register as many voters as possible from the small potential electorate of these subsectors.

Note 4: The Religious subsector is to return its EC members by nomination. The Hong Kong deputies to the National People’s Congress and the Members of the Legislative Council are ex-officio members of the EC.

Note 5: A person is eligible to be registered as a voter for the Social Welfare optional subsector (the part for corporate bodies) if that person is eligible to be so registered by virtue of being corporate bodies specified in items 5(2), (3) or (4) of Appendix E.

[Amended in September 2006]

Methods of Folding of Election Advertisement 郵寄選舉廣告宜採用的摺疊方法

Figure 1 : Folder of A4 (296mm) size
圖示一：對摺的A4(296毫米)尺寸紙張

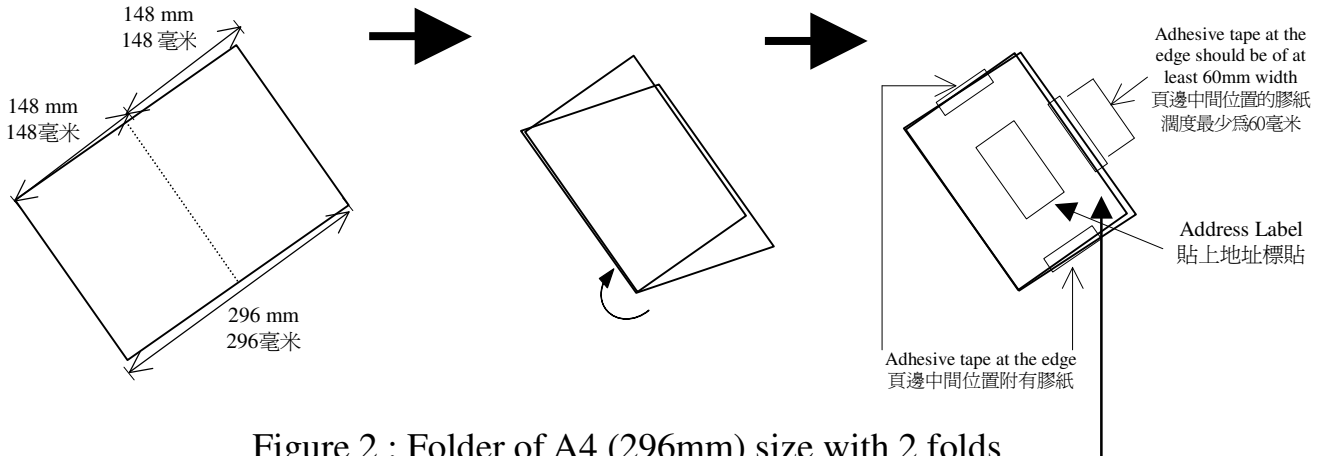


Figure 2 : Folder of A4 (296mm) size with 2 folds
圖示二：兩摺的A4(296毫米)尺寸紙張

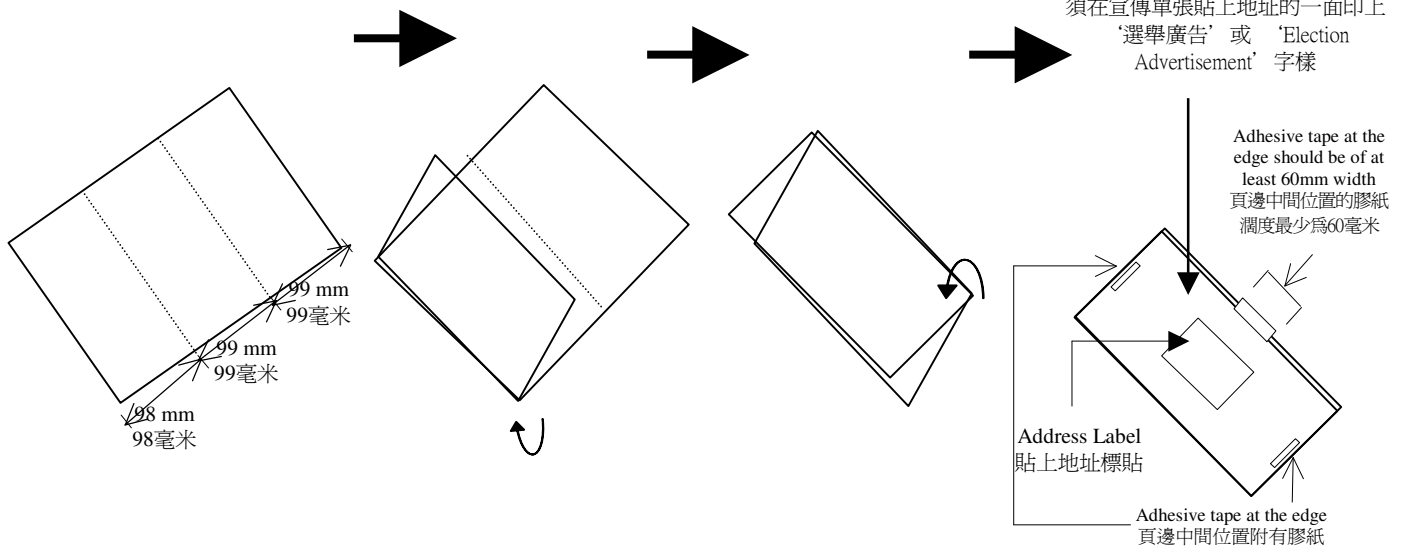


Figure 3 : Folder of A4 (296mm) size with 2 folds
圖示三：兩摺的A4 (296毫米)尺寸紙張

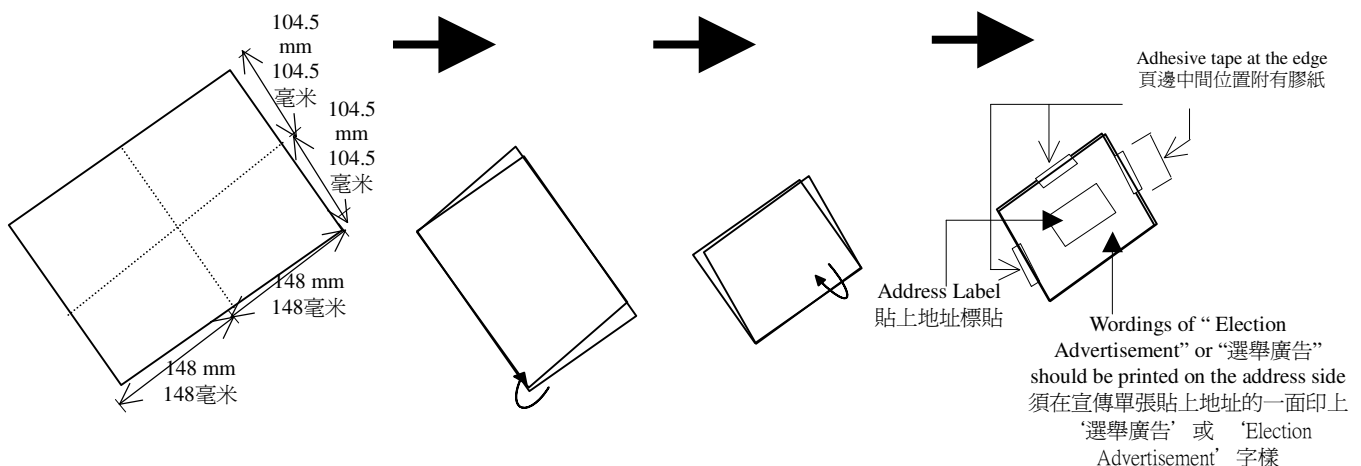
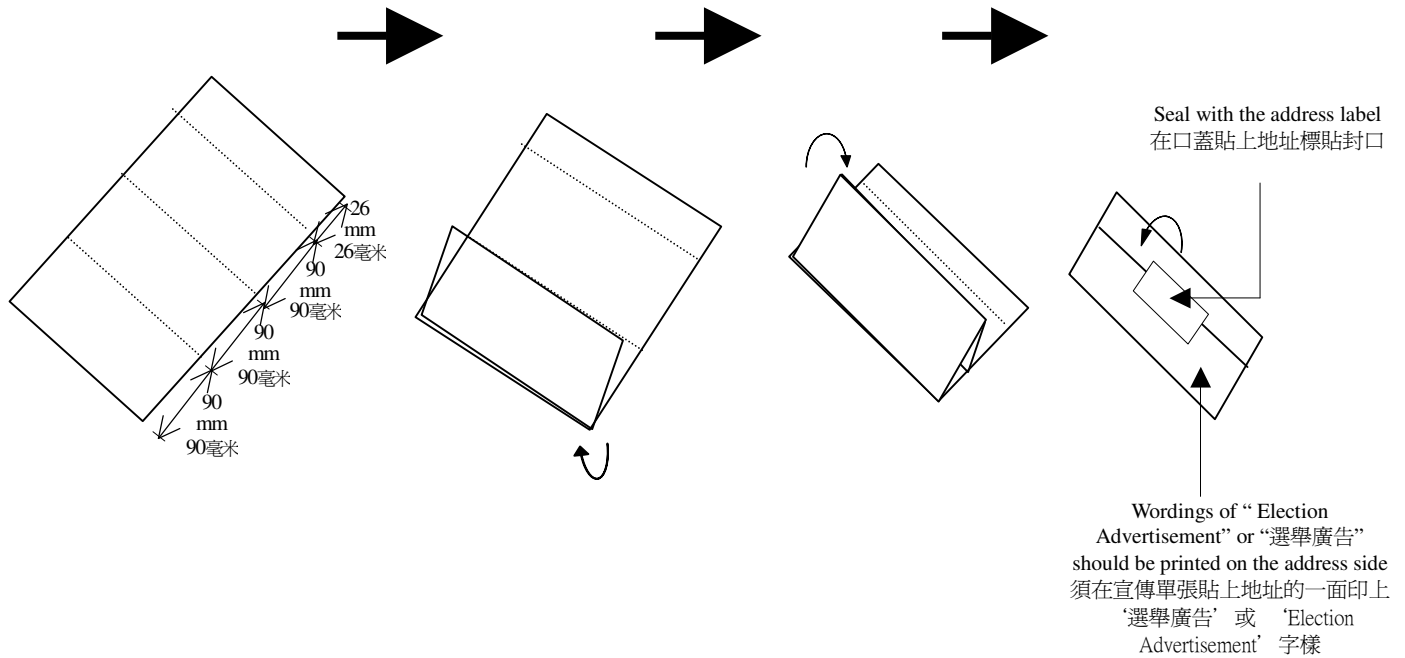
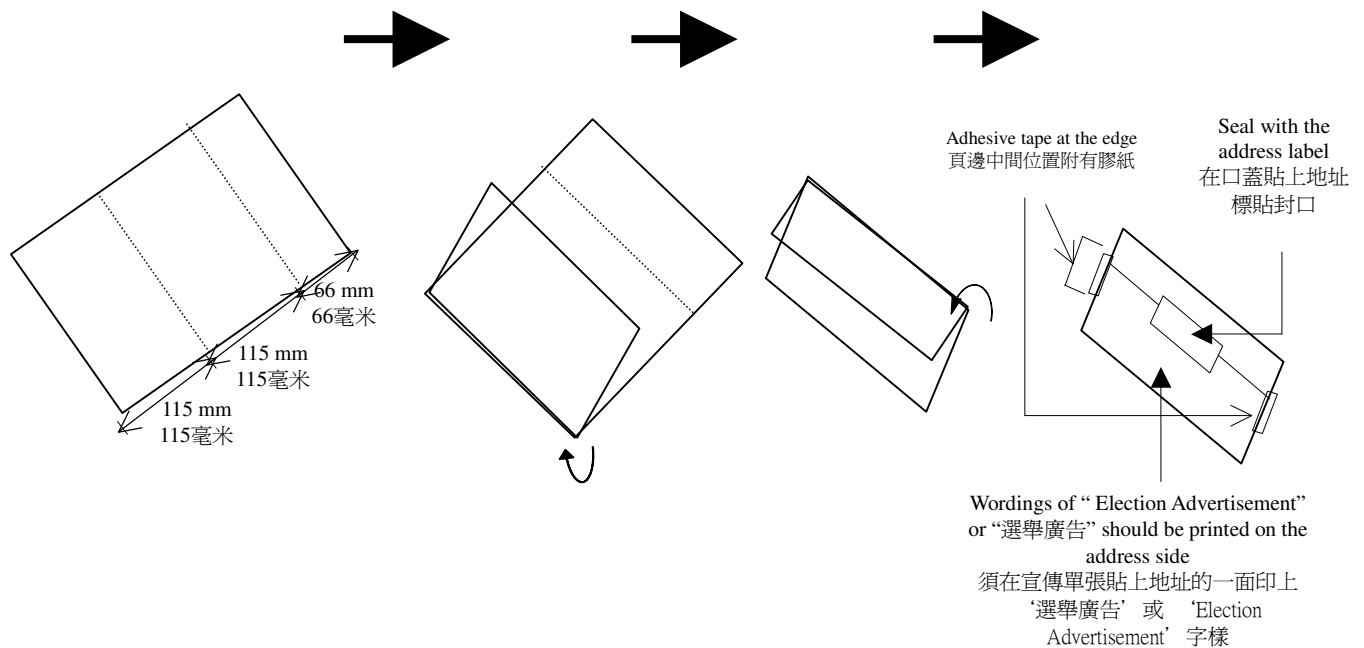


Figure 4 : Folder of A4 (296mm) size sealed with address label
圖示四：以地址標貼封口的A4(296毫米)尺寸紙張

Figure 5 : Folder of A4 (296mm) size sealed with address label
圖示五：以地址標貼封口的A4(296毫米)尺寸紙張


備註:如以其他方法摺疊，所有超過90毫米的開口，必須以膠紙封口。

Note : For other methods of folding, all openings exceed 90mm should be closed by means of adhesive tape.

Canvassing Activities which are Forbidden within a No Canvassing Zone

(Note : (1) This list is by no means an exhaustive list of the canvassing activities which are prohibited within a no canvassing zone. It only serves to illustrate some of the common forms of canvassing activities.

(2) Door-to-door canvassing and for the purpose of such canvassing, the display of any badge, emblem, clothing or head-dress which may promote or prejudice the election of a candidate or candidates at the election, or makes direct reference to a body any member of which is standing as a candidate in the election or to a political body in Hong Kong will be allowed on storeys above or below street level in a building within a no canvassing zone other than a building in which there is a polling station provided that permission has been obtained for entry to the building for canvassing votes, and that obstruction is not posed to voters and no amplifying device is used.)

1. Unauthorised static display of election advertisements on walls (including the outer walls of the polling station), windows, railings, fences, etc.
2. Exhibition of portable displays on vehicles (whether in motion or parked within the area), or held or carried by persons.
3. Except for the purpose of door-to-door canvassing referred to in Note (2) above, displaying, without reasonable excuse, any badge, emblem, clothing or head-dress which:
 - (a) may promote or prejudice the election of a candidate or candidates at the election; or
 - (b) makes direct reference to a body any member of which is standing as a candidate in the election or a political body in Hong Kong.
4. Distribution of election advertisements.

5. Canvassing for votes by :-
 - (a) talking to voters;
 - (b) shouting slogans or the name or number of a candidate or any appeal message;
 - (c) singing or chanting; or
 - (d) making signals or signs to voters.
6. Broadcast of audio or video tape to appeal to or induce voters to vote.
7. Using loud-hailers or loudspeakers (whether carried by a person or mounted on a vehicle or installed in any other manner) to broadcast any message which appeals to or induce voters to vote.
8. Shaking hands with voters.

[Amended in September 2006]

**Conduct of Electioneering Activities and Election Meetings in Premises
under the Management of the Housing Department and the
Hong Kong Housing Society**

Candidates must obtain **prior approval** from the Housing Manager before conducting any electioneering activities or election meetings inside a housing estate, in addition to compliance with regulations and conditions imposed by other relevant authorities. An **application** for approval **should be made at least 2 clear working days (excluding Saturday, Sunday or public holiday) before the date of the meeting**, and the applicant will be notified as soon as practicable after a decision is arrived at. To avoid conflict that may arise from allowing 2 or more candidates and their supporters to hold election meetings in a housing estate at the same venue and time, the Housing Department and the Hong Kong Housing Society will process the applications as soon as practicable and will adopt the following arrangements:

- (a) if only 1 application for holding an election meeting at a particular venue and at a particular time is received, that application will be approved;
- (b) if 2 or more applications for the same venue and the same period are received by the Housing Department or the Hong Kong Housing Society 2 clear working days before the activity takes place, the applicants will be advised to negotiate among themselves to reach a compromise on condition that no canvassing from 2 or more groups will be held at the same place and at the same time to avoid any dispute or clash. If no compromise can be reached, allocation of venue or time will be made by the drawing of lots at a time to be decided by the relevant estate Housing Manager;
- (c) for the purpose of (a) and (b) above, an application for several periods will be dealt with as separate applications for each of the periods; and

- (d) the Housing Manager should send a copy of the letter of approval to the respective RO for record and for public inspection.

[Added in September 2006]

Personal Data Privacy: Guidance on Electioneering Activities

1. This guidance note serves as a general reference on compliance with the requirements of the Personal Data (Privacy) Ordinance ("PD (P) O"), in relation to electioneering activities that may involve the collection and use of personal data of an individual. Very often, candidates and/or their election agents make lobbying approaches by telephone to prospective voters with the intention of influencing their votes. Candidates may also choose to lobby potential voters by various forms of mailings such as fax messages, SMS or E-mails. In some cases, the individuals have no previous dealings with the caller and/or the candidate and they are concerned that the candidate might have obtained their personal data from sources other than the voter register.
2. The act of canvassing support for votes is not in contravention with the PD (P) O provided that personal data are obtained by means that are lawful and fair in the circumstances, the use of these data is directly related to the purpose for which the data are collected and the security of these data is maintained. Of direct relevance are the data protection principles 1, 3 and 4 ("DPP1", "DPP3" and "DPP4") in Schedule 1 to the PD (P) O:
 - (a) **DPP1(2)** requires that personal data shall be collected by means that are lawful and fair;
 - (b) **DPP3** requires that personal data shall not, without the prescribed consent of the individual, be used for any purposes other than the purpose for which the data were to be used at the time of collection of the data or a directly related purpose; and
 - (c) **DPP4** requires that data user shall take all practicable steps to ensure that personal data are protected from accidental or unauthorised access.
3. Candidates, who use personal data to facilitate electioneering, should be mindful of the provisions stated in the PD (P) O.
4. Candidates should assume direct responsibility for briefing and supervising members of their campaign staff to ensure their compliance with the requirements of the PD (P) O.

5. Candidates, who solicit personal data directly from an individual for electioneering, should ensure that the individual is informed about the potential use of the data for such a purpose.
6. Candidates should not collect personal data for electioneering by deceptive means or by mis-representing the purpose of the collection. To avoid misunderstanding, candidates should disclose the source of the data when being asked.
7. With respect to the use of personal data gathered from the published register of voters, due care should be taken to ensure that they are used only for purposes relating to an election as prescribed by relevant election legislations.
8. Candidates should not use personal data from sources other than the voter register or published data sources for electioneering unless the candidates have obtained prior express consent of the individual for such a purpose.
9. With respect to the use of personal data gathered by a third party, eg a trade union or professional body as a means of accessing members of those bodies for lobbying purposes, the proper course of action would be for these bodies to determine whether this is a permitted purpose for which the personal data have been collected, and mailings should preferably be handled by these bodies. As a matter of good practice, prior notification to member of such use of their data is recommended.
10. As a matter of good practice, candidates, who use any form of the mailings through professional bodies to lobby support, should allow those individuals to whom such mailings are directed to decline receipt of any subsequent mailings by providing for the exclusion of the individual from any future mailings.
11. Candidates or their election agents should ensure the voters list that they carry with them when conducting electioneering activities, which contains personal data of voters, are handled securely to prevent accidental or unauthorised access by unintended parties.

[Amended in September 2006]

Guidance Note on Safe Conduct of Election-related Activities

Introduction

1. This guidance note serves to provide general advice to candidates and organisers of election-related activities, to enable them to conduct such activities safely.

Election Meetings

2. The Public Order Ordinance (Cap 245) and Chapter 10 Part II of the ‘Guidelines on Election-related Activities in respect of the Election Committee Subsector Elections’ provide direction on when a meeting, to be held in a public place, is to be notified to the Police and the procedures to be followed.

3. In the interests of safety, and to minimise the potential for confrontation and/or the harassment of candidates, irrespective of whether an election meeting is required to be notified to the Police, candidates should be mindful of the sensitivities of their intended audience. In this regard, consideration should be given to making appropriate arrangements with the local management office, if one exists, to facilitate the holding of the meeting. Should a candidate have any concerns over the issue on his safety, consideration should be given to seeking advice from the local police station, prior to the holding of such meeting.

Election Forums

4. In addition to the provisions of Chapter 11 Part IV of the ‘Guidelines on Election-related Activities in respect of the Election Committee Subsector Elections’, organisers of election forums should be aware of the potential for possible instances of harassment of candidates.

5. In order to ensure that order, fairness and impartiality are maintained and to avoid any embarrassment, where a forum is to be held at private premises, prior precautions should be made with the owner, occupier, owners' corporation, building management or the mutual aid committee concerned, to ensure the safety of all participants and the orderly proceeding of the forum. Where necessary, security guards should be employed at the forum venue.

Electioneering at Living or Working Places

6. Chapter 9 of the 'Guidelines on Election-related Activities in respect of the Election Committee Subsector Elections' relates to the conduct of electioneering activities at the living and working places of voters, etc.

7. If a decision is made by the owners or owners' corporations to allow electioneering by candidates, the decision can also set out the hours of access and other conditions. These conditions can also minimise the potential for confrontation and the harassment of candidates.

8. Related to this, candidates should be sensitive to the feelings of tenants, occupiers and owners in planning and carrying out electioneering activities. By doing so, they will ensure that such activities can be carried out in a safe and orderly manner.

9. In addition to obtaining the formal approval or consent of the owners or the owner's corporation to conduct electioneering activities in the building, it is advisable for the candidates to notify the management office at the time that the electioneering activities are being carried out.

General

10. Should any safety issues be of particular concern, consideration should be given to seeking advice from the local police station, prior to the conducting of the activity.

[Amended in September 2006]

**Administrative Guidelines and Licensing Conditions
for the Issue of Public Fund-raising Permits
for Non-Charitable Purposes**

Applications for permission under section 4(17) of the Summary Offences Ordinance (Cap 228) to raise funds by collection of money or sale of badges, tokens or similar articles or exchange the same for donations in a public place should, where the funds are to be used for a charitable purpose, be referred to the Director of Social Welfare. Where the funds are to be used for any other purpose, such applications should be referred to the Secretary for Home Affairs.

A. Administrative Guidelines for Consideration

When considering an application for a public fund-raising permit under section 4(17) of the Summary Offences Ordinance, the Secretary for Home Affairs will normally wish to be satisfied that :

- (i) the organisation or group on behalf of which the permit is sought, and the organisation or group to benefit from the collection if different, are, where applicable, properly registered under the laws of Hong Kong;
- (ii) if the applicant is an individual, he should be aged 21 or above, and should either be a permanent resident of Hong Kong within the meaning of the Immigration Ordinance, or have been ordinarily resident in Hong Kong for a minimum of seven years;
- (iii) the funds collected will be used for purposes which would contribute directly or indirectly to the development of representative government in Hong Kong;
- (iv) the fund-raising activity will not cause public order and public safety problems, and will not cause nuisance or harassment to the general public;

- (v) the fund-raising activity should not be held on a morning which is a “flag day” approved by the Director of Social Welfare unless it is to be held in a confined public place;
- (vi) the fund-raising activity should not be held at the same time and in the same venue or its vicinity as a charitable fund-raising activity;
- (vii) there will be no more than one non-charitable fund-raising activity in the same venue or its vicinity on the same day except where the activities are organised by the same applicant;
- (viii) there will be a fair distribution of venues, dates and frequency of fund-raising among all potential applicants; and
- (ix) the permittee who had breached the conditions stipulated in the permit last granted would not be considered for a new permit unless explanations/justifications have been provided to the satisfaction of the Secretary for Home Affairs.

Each application will be considered on its own merits having regard to the above administrative guidelines.

B. Licensing Conditions

The following conditions will normally be imposed if an application is approved:

- (i) permission must have been obtained or is likely to be forthcoming from the relevant authorities, including the authority responsible for the management of the venue(s), for the fund-raising activity to be held;

- (ii) the funds collected will not be used to finance any profit-making ventures or activities;
- (iii) the funds collected will be used only in Hong Kong;
- (iv) no person will benefit improperly from the collection;
- (v) the permission given for the fund-raising activity is only valid for the details specified in the permit. If there are any changes to such details, the approval of the Secretary for Home Affairs will be required;
- (vi) the permission given for the fund-raising activity will become null and void if the funds collected are used for purposes other than those specified in the permit;
- (vii) within 90 days after the conclusion of the fund-raising activity, the permittee will cause the money received from the public, less any reasonable expenses incurred, to be applied for the purpose for which the permission is given;
- (viii) if after applying the funds collected as described in (vii) above, there is still a balance left, the permittee will donate the unspent funds to a charitable institution which is exempt from tax under section 88 of the Inland Revenue Ordinance (Cap 112) for charitable purpose;
- (ix) the funds collected will be audited by a qualified accountant arranged by the permittee. A copy of the audited accounts will be submitted to the Secretary for Home Affairs within 90 days after the conclusion of the fund-raising activity. The audited accounts will also be made available to members of the public for inspection upon demand;
- (x) all donations are to be purely voluntary, and that the activity shall not create public order problems or cause

nuisance, including excessive noise, or harassment to the general public, and that the manner in which the activity is conducted should not be such as to be likely to produce a reaction generally against public fund-raising activities;

- (xi) during the course of the fund-raising activity, the name of the organisation and a copy of the permit/approval letter should be prominently displayed. Every participant of the activity should also wear a clear and legible badge identifying the name of the participant and the name of the organisation; and
- (xii) children under the age of 14 must not be allowed to take part in the activity. Participation by young persons between the age of 14 to 18 must be entirely voluntary and the prior written consent of parents must be obtained.

The Secretary for Home Affairs may, if a particular application so warrants, impose additional conditions such as those required for the protection of the participants in the fund-raising event, for the preservation of law and order, for crowd control, or for public safety purposes. In specific circumstances, he may waive certain conditions where it appears reasonable for him to do so.

September 2006

**Application for a Permit under S4(17)
of Summary Offences Ordinance, Cap. 228
for Non-Charitable Purposes**

This application should reach the Secretary for Home Affairs at 31/F, Southorn Centre, 130 Hennessy Road at least **FOUR WEEKS** before the date of the activity. This will enable the applicant to be notified of the result of his application about seven days before the event. For enquiries, please call 2835 1495.

1. Name of applicant : * Mr/Mrs/Miss/Ms _____

Name in Chinese (if any) : _____

2. Hong Kong Identity Card Number : _____

(Please enclose a photocopy of your Hong Kong Identity Card)

3. Address : _____

4. Contact Telephone No. : _____ Fax No. : _____

5. If this application is made on behalf of an organisation, please complete the following details : -

i) Name of organisation : _____

ii) Position of applicant in organisation : _____

iii) Details of key officers in organisation :

<u>Post</u>	<u>Name</u>	<u>Address</u>
<u>President/Chairman</u>	_____	_____
	_____	_____
<u>Secretary</u>	_____	_____
	_____	_____
<u>Treasurer/Accountant</u>	_____	_____
	_____	_____

iv) Date the organisation was formed : _____

v) Type of organisation : Society registered/exempt under the Societies Ordinance, or
Company incorporated in Hong Kong, or
Others (Please give details)

(Please enclose a copy of the certificate of registration/exemption of your organisation)

and also a copy of the memorandum and articles of association or the constitution or rules of your organisation whichever is applicable. If your organisation is a company incorporated in Hong Kong, a copy each of a Certificate of Incorporation and Certificate of Existence issued by the Companies Registry should also be produced.)

6. If the money raised is intended to benefit another organisation, please complete the following details : -

i) Name of organisation : _____

ii) Relationship between applicant and that organisation : _____

iii) Details of key officers in that organisation :

<u>Post</u>	<u>Name</u>	<u>Address</u>
<u>President/Chairman</u>	_____	_____

<u>Secretary</u>	_____	_____

<u>Treasurer/Accountant</u>	_____	_____

iv) Date the organisation was formed : _____

v) Type of organisation : Society registered/exempt under the Societies Ordinance, or
Company incorporated in Hong Kong, or
Others (Please give details)

(Please enclose a copy of the certificate of registration/exemption of the organisation and also a copy of the memorandum and articles of association or the constitution or rules of the organisation whichever is applicable. If the organisation is a company incorporated in Hong Kong, a copy each of a Certificate of Incorporation and Certificate of Existence issued by the Companies Registry should also be produced.)

vi) Has the organisation given consent to the activity being organised by you ? * Yes /
No

7. If the applicant is making this application as an individual, please complete the following details : -

i) Date and place of birth : _____

ii) Length of residence in Hong Kong : _____

iii) Are you a permanent resident of Hong Kong ? * Yes / No

8. ✦ Intended use of money to be collected : _____

9. ✦ Format of the activity : _____

10. ✦ Method for money collection : _____

11. ✦ Date and time of the activity listed in priority : _____

(Note : To ensure a fair distribution of venues, dates and frequency of fund-raising among all potential applicants, there could be a restriction on the number of days approved, depending on prevailing circumstances.)

12. ✦ Venue and address : _____

Has permission to use venue been secured ? * Yes / No / Under application / Not applicable

(If the venues are in open public places, please give exact locations and enclose layout plan. Please also indicate where furniture (e.g. table) will be placed, if appropriate.)

- ✦ If approval is given to this application, the permit issued will specify the details given in these items. It will therefore be to the applicant's own advantage to plan the activity carefully, so as to avoid the need to seek fresh approval later on as a result of any changes to the above details.

13. Details of previous S4(17) application(s) to the Secretary for Home Affairs by the applicant, or the organisations named in 5(i) and 6(i) above, or any of the persons named in 5(iii) and 6(iii) above :

<u>Name of Applicant</u>	<u>Date of Application</u>	<u>Approved or Rejected</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

14. State here any additional information which the applicant wishes to provide in support of this application (e.g. reasons for requesting that the administrative guidelines or licensing conditions for the issue of permit be waived in whole or in part.)

I declare that to the best of my knowledge and belief, the information supplied by me in this form is true and correct.

Signed : _____
(Applicant)

(Chop of organisation, if applicable) Date : _____

* Delete where applicable

(If there is not enough space in this form for the filling in of the required information, the applicant may provide details on a separate sheet of paper and attach it to the form.)

Statement of Purpose

Purpose of Collection

1. The personal data provided by means of this form will be used by Home Affairs Department for the purpose of :

“To exercise functions on fund-raising activities for non-charitable purposes”

Classes of Transferees

2. The personal data you provided by means of this form may be disclosed to other Government bureaux, departments and relevant persons and bodies for the purposes mentioned in paragraph 1 above.

Access to personal data

3. You have a right of access and correction with respect to personal data as provided for in sections 18 and 22 and principle 6 of Schedule 1 of the Personal Data (Privacy) Ordinance. Your right of access includes the right to obtain a copy of your personal data provided by this form.

Enquiries

4. Enquiries concerning the personal data collected by means of this form, including the making of access and corrections, should be addressed to :

Administrative Officer
Home Affairs Department
Tel. No. : 2835 1495

Fair and Equal Treatment of Candidates by the Print Media

1. Fairness and equality will in each case be viewed by the Electoral Affairs Commission with reference to the surrounding circumstances.
2. Practical problems that may be experienced by publishers like limitation of column space and staff resources, and situations such as some candidates who have extensive arguments and opinions on issues of public relevance and those who have none, candidates who have made newsworthy statements or speeches as opposed to those who have not uttered a word, and the difference in status and standing of candidates as public figures, etc, are examples of circumstances against which the criteria of fairness and equality are to be judged.
3. What is important is that practical problems, in general terms without specifics, should not be allowed to be used as pretexts for not giving fair and equal treatment and coverage to all candidates competing in the same subsector. Merely saying that practical problems gave rise to the selective reporting will be viewed as a lame excuse, but if the other candidates had been approached and they refused to offer any interview, and this fact is made known in the same article, there can hardly be any suspicion or complaint that the guidelines have been breached.
4. Equal treatment and coverage are not necessarily equal space and equal number of words written on each candidate of the same subsector. It is an idea that has to be examined in all the circumstances of each individual case. Where a candidate says more on a topic and another candidate says less, that can be truthfully and faithfully reported, and no reasonable-minded person will say that that is unequal reporting. Fairness and equality here are in the sense of **equal opportunity** being given to all candidates competing in the same subsector alike.

5. If there is fair and equal treatment of all candidates competing in the same subsector in a publication, its editorial line or the personal opinions of the writer on each of the candidates can be freely expressed, insofar as they are fair comments and based on true facts. Any newspaper is at full liberty to express its support for or disapproval of a candidate. The guidelines do not seek to impose any shackle on the expression of such ideas.

Application Procedure for the Approval of Float Design

1. All applications in respect of the design of any float to be used in a procession or parade must be made in writing, with the following particulars clearly stated:
 - the name of the applicant
 - the address of the applicant
 - contact telephone number and fax number
 - the make, model and registration mark (or vehicle identity number in the case of a brand new vehicle) of the vehicle to be used as float
2. The application should be accompanied by three copies of a drawing, certified by qualified electrical or mechanical engineers, in minimum A3 size, showing the following details:
 - the float and vehicle outline, side, plan, front and rear view, with all major dimensions (both proposed and original) shown
 - the means of entry/exit to and from the driver's compartment
 - location of mirrors which will enable the driver to view both sides of the float
 - location of exhaust outlets from any internal combustion engines
 - location of any auxiliary power equipment installed
 - means of communication with the passengers on the float
 - location of passengers and support for passengers (seats, handles, etc) on the float

Applicant's attention is drawn to regulation 53(2) of the Road Traffic (Traffic Control) Regulations on requirements for carriage of passengers: no driver of a vehicle on a road shall permit a passenger to travel in any vehicle unless seated in a properly constructed seat secured to the bodywork of the

vehicle except–

- (a) where the vehicle is a public service vehicle licensed to carry standing passengers; or
- (b) where the vehicle is exempted under regulation 53A from this subregulation.

- detailed artwork is not required.

3. All applications must be made at least **one month** in advance of the date of the event to:

Engineer (Vehicle Approval and Planning)
Vehicle Safety and Standards Division
Transport Department
Room 3402, Immigration Tower
7 Gloucester Road
Hong Kong
(Contact telephone : 2829 5550
Fax : 2802 7533)

4. If the application is approved in principle (subject to the vehicle inspection results), the applicant will be so advised within 14 days upon the receipt of the application, and also informed of further details of the vehicle inspection.
5. In case the design is considered unacceptable, the applicant should resubmit revised drawings within one week's time upon notice.

[Amended in September 2006]

**Items of Expenses which may be
Counted towards Election Expenses**

(Note : This list is by no means an exhaustive list of items of expenditure which may be counted as election expenses. It only serves to illustrate the common items of such expenses.)

1. Fees and allowances, including travelling expenses, paid to agents and assistants engaged in relation to one's election activities.
2. Costs incurred for meals and drinks for agents and assistants before and on polling day.
3. Costs incurred for design and production of election advertisements such as :
 - (i) banners
 - (ii) signboards
 - (iii) placards
 - (iv) posters
 - (v) handbills
 - (vi) publicity pamphlets
 - (vii) video and audio tapes
 - (viii) electronic messages
 - (ix) various forms of literature or publicity material for the promotion of the candidate.
4. Costs incurred for display and removal of election advertisements including labour charges. If the election advertisements have not been removed by the deadline specified by the Electoral Affairs Commission, the removal costs for the election advertisements charged by the government departments should also be included.
5. Costs incurred by the relevant authorities for removal of election advertisements displayed without authorisation.
6. Costs incurred for renting space used in connection with the election campaign.
7. Cost of stationery used in connection with the election campaign.
8. Operation costs in connection with the election campaign, eg photocopying, hire of telephone line and fax line.

9. Postage for mailing of publicity materials (excluding the free mail provided by the Government).
10. Costs incurred for the hire of transport in connection with the election.
11. Costs incurred for publicity by vehicles.
12. Costs of advertisements in newspapers, taxi or other public transport.
13. Costs incurred for election meetings, including venue charges.
14. Costs of T-shirts, armbands, caps, etc and other identification devices for election agents and assistants.
15. Costs incurred by a candidate who is a serving member of the Legislative Council, a District Council or the Heung Yee Kuk; or a serving chairman, vice-chairman or member of the Executive Committee of a Rural Committee; or a serving village representative in the publication of performance reports during the election period (ie from the commencement of the nomination period to the close of poll) of the Election Committee subsector elections and the publication of any performance reports for promoting the candidature any time on or before the date of election.
16. Costs incurred by the political body or organisation of the candidate in promoting his election. [Costs of meeting where the platform of the political body or organisation is publicised without specific reference to the candidate will not be counted as election expenses.]
17. Costs for obtaining legal advice incurred in respect of the management of an election (eg where a candidate asks his lawyer to vet an election publicity pamphlet to make sure that statements contained in it do not amount to libel). [Costs for obtaining legal advice on the general application of the election law including what is “election expenses” and “donations” will not be an election expense.]
18. Interest incurred from a loan to finance the campaigning activities of a candidate. [In case of an interest-free loan, the interest waived should be declared as a donation and correspondingly as an election expense. A reasonable amount should be assessed by reference to the market interest rate.]
19. Subsidy of activities organised for promoting one’s candidature is a form of donation which is counted as election expense.

20. Although some people may not charge the candidate for the goods supplied or work, labour and services rendered, a reasonable sum estimated for such charges, over any allowance or discount usually given to customers, is an election expense (which is correspondingly a donation made by these people).
21. Goods given incidental to the provision of voluntary service.
22. Charities undertaken for the purpose of promoting one's candidature.
23. Costs for any negative publicity launched against one's opponent.

[Amended in September 2006]

Support Clean Elections

A Handbook by the ICAC

24-hr ICAC Election Enquiry Hotline: 2920 7878

24-hr ICAC Report Hotline: 25 266 366

ICAC Corporate Website: www.icac.org.hk

INTRODUCTION

The Elections (Corrupt and Illegal Conduct) Ordinance (ECICO) (Cap 554), enacted with an aim to upholding fairness and preventing corrupt and illegal conduct in elections, applies to all public elections including the Election Committee Subsector Elections and its by-elections. The Independent Commission Against Corruption (ICAC) is responsible for enforcing the ECICO. It has produced this Handbook which comprises a gist of the ECICO, a “Dos and Don’ts” checklist, a “questions-and-answers” section, and channels for lodging reports and enquiries with the ICAC. Apart from helping candidates, their election agents and helpers to better understand the ECICO, this Handbook also serves to alert them to the common pitfalls in elections so that appropriate measures can be taken to avoid inadvertent infringement of the legislation. Candidates, election agents and helpers, however, should note that this Handbook is intended to be a general reference only. They should refer to the original legislation and consult their legal advisers in case of doubt.

** Throughout this Handbook, the male pronoun is used to cover references to both the male and female. No gender preference is intended.*

GIST OF THE ELECTIONS (CORRUPT AND ILLEGAL CONDUCT) ORDINANCE

The Elections (Corrupt and Illegal Conduct) Ordinance (ECICO) (Cap. 554) applies to the Election Committee Subsector Elections (including By-elections) and other elections as specified in the Ordinance. The Ordinance governs all conduct concerning an election, whether it is engaged before, during or after the election period, and whether it is engaged within Hong Kong or elsewhere.

The following is a gist of major provisions of the ECICO which relates to the management of electioneering activities for the reference of candidates, their election agents and helpers.

To facilitate easy reference, “●” denotes an offence or elaboration of provisions under the ECICO and interpretation of terms is given under “□” in the following gist.

(1) NOMINATION OF CANDIDATES**Bribing Candidates or Prospective Candidates (Sections 2, 7)**

- It is an offence if a person corruptly offers an advantage to another person as an inducement or a reward for:
 - (1) that person's standing, not standing, or if that person has been nominated as a candidate, withdrawal of his candidature, or his not using the best endeavours to promote his election; or
 - (2) that person to get a third person to stand, not to stand, or if that third person has been nominated as a candidate, to withdraw his candidature, or not to use that third person's best endeavours to promote his election.
- It is also an offence if a person corruptly solicits or accepts an advantage for the above conduct.
- It is also an offence if a person authorises another person, either expressly or by implication, to engage in the above conduct.
- "Candidate"
 - (1) means a person who stands nominated as a candidate at an election; and
 - (2) it 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.
- "Advantage" means any valuable consideration, gift, loan, office, employment, contract, favour or service (other than voluntary service or the provision of entertainment), etc. However, it does not include an election donation if particulars of the donation are given in an election return that has been lodged with the Chief Electoral Officer.
- "Voluntary service" means any service provided free of charge to or in respect of any candidate at an election by a natural person, voluntarily and personally, in the person's own time for the purpose of promoting the election of the candidate or prejudicing the election of another candidate.

Using or Threatening to Use Force or Duress against Candidates or Prospective Candidates (Section 8)

- It is an offence if a person uses or threatens to use force or duress against another person to induce him :
 - (1) to stand or not to stand as a candidate, or to withdraw his candidature; or
 - (2) to get a third person to stand or not to stand as a candidate, or to withdraw the third person's candidature.

- It is an offence if a person uses or threatens to use force or duress against another person because the other person or the third person stood or did not stand as a candidate, or withdrew his candidature after having been nominated as a candidate.
- It is also an offence if a person authorises another person, either expressly or by implication, to engage in the above conduct.

Deceptive Behaviour for Inducing Others to Run or Not to Run at an Election (Section 9)

- It is an offence if a person, by deception, induces another person :
 - (1) to stand or not to stand as a candidate, or to withdraw his candidature; or
 - (2) to get a third person to stand or not to stand as a candidate, or to withdraw the third person's candidature.
- It is also an offence if a person authorises another person, either expressly or by implication, to engage in the above conduct.

Defacing or Destroying Nomination Papers (Section 10)

- It is an offence if a person defaces or destroys a completed or partly completed nomination paper in order to prevent or obstruct another person from standing for election.

(2) ELECTIONEERING

Publishing False Statement that a Person Is or Is Not a Candidate (Section 25)

- It is an offence if a person knowingly publishes a false statement that:
 - (1) he or another person is a candidate at an election; or
 - (2) another person who has been nominated as a candidate is no longer a candidate at an election.
- It is an offence if a candidate knowingly publishes a false statement that he is no longer a candidate at an election.

Publishing False or Misleading Statements about a Candidate (Section 26)

- It is an offence if a candidate or a person publishes a materially false or misleading statement of fact about a particular candidate or particular candidates for the purpose of promoting or prejudicing the election of the candidate or candidates at an election.

- ☐ Statements about a candidate or candidates include (but are not limited to) statements concerning the character, qualifications or previous conduct of the candidate or candidates.

Election Advertisement with False Claim of Support (Sections 2, 27)

- It is an offence if a candidate or a person publishes or authorises the publication of an election advertisement which includes the name or logo of or associated with a person or an organisation, or a name or logo that is substantially similar to that of a person or an organisation; or a pictorial representation of a person, in such a way that implies or is likely to cause electors to believe that the candidate or candidates have the support of the person or organisation unless prior written consent from that person or organisation has been obtained.
 - It is still an offence even if such an election advertisement contains a statement to claim that such inclusion does not imply support by the person or organisation concerned.
 - It is an offence if a person purports to give written consent to the inclusion in an election advertisement of the name or logo of an organisation without having been approved by the governing body of the organisation or by a resolution of the members of the organisation passed at a general meeting.
 - It is also an offence if a person, for the purpose of promoting or prejudicing the election of a candidate or candidates, gives information to the candidate or candidates that the person knows or ought to know is materially false or misleading.
- ☐ “Support” includes support for the policies or activities of the candidate.
- ☐ “Election advertisement” means :
- (1) a publicly exhibited notice; or
 - (2) a notice delivered by hand or electronic transmission; or
 - (3) a public announcement made by radio or television or by video or cinematographic film; or
 - (4) any other form of publication,

published for the purpose of promoting or prejudicing the election of a candidate or candidates at the election.

Publication of Election Advertisements that Do Not Meet Certain Requirements (Sections 33, 34)

- It is an offence if a person publishes a printed election advertisement, with exception to those printed in a registered local newspaper, which fails to show, in English or Chinese, the name and address of the printer, the date of printing and the number of copies printed.
- The above conduct is, however, not an offence if the publisher, or a person authorised by him, has lodged with the relevant Returning Officer a statutory declaration on the required printing details not later than 7 days after the publication of the advertisement.
- A person must, not later than 7 days after publishing a printed election advertisement, furnish 2 copies of the advertisement to the relevant Returning Officer.*

* *It should, however, be noted that under the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation, a candidate must submit 2 copies of his election advertisement to the relevant Returning Officer before he displays, distributes or otherwise uses the election advertisement. He should also comply with the Electoral Affairs Commission Regulations and Guidelines and any other statutory requirements governing election advertisements in an election.*

- A performance report published by an incumbent candidate, who is the person holding office as a serving member of the Legislative Council, a District Council, or the Heung Yee Kuk; a serving Chairman, Vice-chairman or member of the Executive Committee of a Rural Committee; or a serving Village Representative, between the period beginning with the nomination day and ending with the polling day, is taken as an election advertisement.

(3) VOTING

Bribing Electors and Others (Section 11)

- It is an offence if a person, without reasonable excuse, offers an advantage to another person as an inducement to or a reward for that person or for him to get or try to get a third person :
 - (1) not to vote at an election; or
 - (2) to vote or not to vote for a particular candidate or particular candidates at an election.

- It is also an offence if a person, without reasonable excuse, solicits or accepts an advantage in return for the above conduct.
- It is also an offence if a person authorises another person, either expressly or by implication, to engage in the above conduct.

Providing Electors and Others with Refreshments or Entertainment (Section 12)

- It is an offence if a person provides, or meets all or part of the cost of providing any food, drink or entertainment for another person as an inducement to or a reward for that person or a third person :
 - (1) not to vote at an election; or
 - (2) to vote or not to vote for a particular candidate or particular candidates at an election.
- It is an offence if a person solicits, accepts or takes any food, drink or entertainment as an inducement to or a reward for the above conduct.
- It is also an offence if a person authorises another person, either expressly or by implication, to engage in the above conduct.
- However, the serving of non-alcoholic drinks at an election meeting is not an offence.
- ☐ An election meeting is any meeting held to promote or prejudice the election of a particular candidate or particular candidates.

Using or Threatening to Use Force or Duress against Electors (Section 13)

- It is an offence if a person uses or threatens to use force or duress against another person to induce that person or to get him to induce a third person to vote or not to vote; or to vote or not to vote for a particular candidate or particular candidates, at an election.
- It is an offence if a person uses or threatens to use force or duress against another person because the other person voted or refrained from voting at an election, or voted or refrained from voting for a particular candidate or particular candidates.
- It is also an offence if a person authorises another person, either expressly or by implication, to engage in the above conduct.
- However, it is not an offence only because a corporate elector has instructed its authorised representative to vote or not to vote for a particular candidate or particular candidates at an election.

Deceptive Behaviour in Relation to Electors (Section 14)

- It is an offence if a person, by deception, induces another person or gets him to induce a third person not to vote; or to vote or not to vote for a particular candidate or particular candidates, at an election.
- It is an offence if a person, by deception, obstructs or prevents another person or gets him to obstruct or prevent a third person from voting at an election.
- It is also an offence if a person authorises another person, either expressly or by implication, to engage in the above conduct.

Impersonating Another at Election (Section 15)

- It is an offence if a person applies for a ballot paper in another person's name or, having voted at an election, applies at the same election for a ballot paper in his own name except as expressly permitted by an electoral law.

Other Offences with Respect to Voting (Section 16)

- It is an offence if a person :
 - (1) votes at an election knowing that he is not entitled to vote at that election; or
 - (2) votes at an election after having knowingly or recklessly given materially false or misleading information to an electoral officer, or knowingly omitted to give material information to an electoral officer; or
 - (3) votes at an election more than once except as expressly permitted by an electoral law.
- It is an offence if a person invites or induces another person :
 - (1) to vote at an election knowing that the other person is not entitled to do so; or
 - (2) to vote at an election knowing that the other person has given materially false or misleading information to an electoral officer, or has omitted to give material information to an electoral officer; or
 - (3) to vote at an election more than once except as expressly permitted by an electoral law.

Destroying or Defacing Ballot Papers (Section 17)

- It is an offence if a person, without lawful authority, supplies a ballot paper to another person, or destroys or interferes with a ballot box or ballot paper in use at an election or a ballot paper that has been used at an election.

- It is an offence if a person, with intent to deceive, puts into a ballot box a paper other than a ballot paper or removes a ballot paper from a polling station.

(4) ELECTION EXPENSES AND ELECTION DONATIONS

Election Expenses (Sections 2, 24)

- ☐ “Election expenses” means expenses incurred or to be incurred before, during or after the election period, by or on behalf of a candidate for the purpose of :
- (1) promoting the election of the candidate; or
 - (2) prejudicing the election of another candidate,
- and includes the value of election donations consisting of goods and services used for that purpose.
- A candidate commits an offence if the aggregate amount of the election expenses whether incurred by or on behalf of the candidate exceeds the prescribed maximum amount of election expenses.
 - The maximum amount of election expenses for the election of respective subsectors of the EC have been prescribed by the Chief Executive in Council.
 - The prescribed limits of election expenses for the Election Committee Subsector Elections and By-elections are as follows:

	Subsector	Prescribed Limit
(a)	For an election for one of the following 8 Election Committee (EC) subsectors, viz, Agriculture and Fisheries, Insurance, Transport, Hotel, Chinese People’s Political Consultative Conference, Heung Yee Kuk, Hong Kong and Kowloon District Councils and New Territories District Councils subsectors.	\$100,000
(b)	For an election for an EC subsector other than those in (a) above with not more than 5,000 registered voters	\$160,000
(c)	For an election for an EC subsector with between 5,001 and 10,000 registered voters	\$320,000
(d)	For an election for an EC subsector with over 10,000 registered voters	\$480,000

Use of Election Expenses (Sections 2, 23)

- It is an offence if a person, other than a candidate or a candidate’s election

expense agent, incurs any election expenses.

- An “election expense agent” means a person authorised in writing by a candidate to incur election expenses on behalf of the candidate. The maximum amount of election expenses to be incurred by him has to be specified in the authorisation, a copy of which has to be served on the relevant Returning Officer in order to effect his authorisation.
- It is an offence if a candidate does not include election expenses incurred by the candidate or the candidate’s election expense agent(s) in the candidate’s election return.
- It is an offence for an election expense agent to incur election expenses that exceed the amount specified in his authorisation.

Use and Disposal of Election Donations (Sections 2, 18, 19)

- “Election donation” means :
 - (1) any money given to a candidate for the purpose of meeting the election expenses of the candidate; or
 - (2) any goods (including any goods given incidental to the provision of voluntary service) or service (excluding voluntary service) provided to a candidate for the purpose of promoting the election of the candidate or of prejudicing the election of another candidate.
- It is an offence if a candidate or other person uses election donations for a purpose other than :
 - (1) meeting the candidate’s election expenses; or
 - (2) promoting the election of the candidate or prejudicing the election of another candidate.
- It is an offence if a candidate, on receiving an election donation of more than \$1,000, does not issue a receipt to the donor.
- It is an offence if a candidate uses an anonymous election donation of more than \$1,000 for meeting or contributing towards meeting his election expenses.
- It is also an offence if a candidate does not give an anonymous election donation of more than \$1,000 to a charitable institution or trust of a public character chosen by the candidate.
- It is an offence if a candidate does not give the unused election donations or donations that exceed the prescribed maximum amount of election expenses

to a charitable institution or trust of a public character chosen by the candidate.

Election Returns (Sections 20, 36, 37, 38)

- It is an offence if a candidate makes a statement that he knows or ought to know is materially false or misleading in the election return.
- It is an offence if a candidate fails to lodge with the Chief Electoral Officer an election return of his election expenses and all election donations not later than 30 days after the date of publication of the result of the election, or not later than 30 days after the declaration of the termination of the election proceedings under the relevant electoral law, or not later than 30 days after the declaration of the failure of the election under the relevant electoral law.
- The return must be accompanied by:
 - (1) an invoice and a receipt of each election expense, giving particulars of the expenditure (except for sums under \$100); and
 - (2) a copy of the receipt issued to every donor, giving particulars of the donor and the donation (except for donations of \$1,000 or below); and
 - (3) a copy of the receipt of such election donation given to a charitable institution or trust of a public character chosen by the candidate in accordance with the law; and
 - (4) an explanation setting out the reason why the unused election donation was not disposed of in accordance with the law; and
 - (5) a declaration in a form provided or specified by the Chief Electoral Officer verifying the contents of the return.

(5) ELECTION PETITION OR ELECTION APPEAL

Bribery in Relation to Election Petition or Election Appeal (Section 21)

- It is an offence if a person offers an advantage to another person:
 - (1) as an inducement for that person, or for him to get a third person, to withdraw an election petition or election appeal; or
 - (2) as a reward for that person for his having withdrawn or agreed to withdraw; or for his having got a third person to withdraw an election petition or election appeal.
- It is an offence if a person solicits or accepts an advantage:
 - (1) to withdraw or as an inducement to withdraw an election petition or election appeal; or
 - (2) as a reward for his having withdrawn or his having got a third person to withdraw an election petition or election appeal.

(6) MISCELLANEOUS AND RELATED PROVISIONS

Corrupt or Illegal Conduct Engaged in with the Knowledge and Consent of a Candidate (Section 29)

- A candidate is to be regarded as having personally engaged in corrupt or illegal conduct if the conduct was engaged in with the knowledge and consent of the candidate.

Officers Liable for Offences Committed by Corporation (Section 42)

- If a corporation is found guilty of having engaged in a corrupt or illegal conduct, the director, executive officer or any person who is concerned in the management of the corporation during the material time will be liable for the conduct unless the person proves that:
 - (1) he has no knowledge of the conduct; or
 - (2) he has exercised reasonable diligence to prevent the conduct, if it was done with his knowledge.

Aiding, Abetting, etc. to Commit an Offence (Section 43 of the ECICO and Section 101C of the Criminal Procedure Ordinance)

- A person commits an offence if he incites, conspires with, aids, abets, counsels or procures another person or attempts to engage in a corrupt or illegal conduct.

(7) APPLICATION FOR RELIEF

Relief for Certain Illegal Conduct (Section 31)

- A candidate, agent or any other person who has done or omitted to do an act that would be an “illegal conduct” under the ECICO may apply to the Court for an order relieving him from penalties and disqualifications to be imposed on him.
- The applicant has to satisfy the Court that such act or omission was due to inadvertence, an accidental miscalculation or any reasonable cause and was not due to bad faith.

Relief for Offences in Relation to Election Advertisements (Section 35)

- Any person who has published a printed election advertisement without the printing details required by the legislation or has not furnished 2 copies of the

printed election advertisement to the relevant Returning Officer may apply to the Court for an order:

- (1) allowing the publication be excepted from the statutory requirements; and
 - (2) relieving him from penalties to be imposed on him.
- The applicant has to satisfy the Court that the non-compliance was due to inadvertence, an accidental miscalculation or any reasonable cause and was not due to bad faith.

Relief for Offences in Relation to Election Returns (Section 40)

- A candidate who fails to lodge an accurate election return before the end of the permitted period, or fails to send an invoice or a receipt, or a copy of a receipt, as required by the law may apply to the Court for an order allowing the candidate to lodge with the Chief Electoral Officer an election return within such further period as the Court specifies, or an order enabling the candidate to correct any error or false statement in an election return, or an order excepting the candidate from the requirement to send an invoice or a receipt, or a copy of a receipt, as required by the law.
- The candidate has to satisfy the Court that the failure to comply with the requirement was attributable to the following reasons and was not due to bad faith:
 - (1) the applicant's illness or absence from Hong Kong *; or
 - (2) the death, illness, absence from Hong Kong of an agent or employee of the applicant *; or
 - (3) misconduct of an agent or employee of the applicant; or
 - (4) inadvertence or an accidental miscalculation or an accidental loss or destruction of the invoice or receipt or copy of the receipt by the applicant or any other person; or
 - (5) any reasonable cause.

* (1) and (2) are considerations only applicable to Court orders granting an extended period during which a candidate may lodge an election return, but not applicable to Court orders enabling a candidate to correct any error or false statement in an election return, or excepting the candidate from the requirement to send an invoice or a receipt, or a copy of receipt.

(8) PENALTY**Corrupt Conduct**

- As stipulated in the ECICO, a person who engages in corrupt conduct at an election commits an offence and is liable on conviction to:
 - (1) a fine of \$200,000 and imprisonment for 3 years if tried summarily; or
 - (2) a fine of \$500,000 and imprisonment for 7 years if tried on indictment.
- A person who is convicted of having engaged in corrupt conduct has to pay to the Court the amount or value of any valuable consideration received in connection with the conduct or such part as specified by the Court.

Illegal Conduct

- As stipulated in the ECICO, a person who engages in illegal conduct at an election commits an offence and is liable on conviction to:
 - (1) a fine at level 5 and imprisonment for 1 year if tried summarily; or
 - (2) a fine of \$200,000 and imprisonment for 3 years if tried on indictment.
- A person who has contravened the provisions of Section 34 or 37 of the ECICO is liable on conviction to the same penalty as illegal conduct.

Corrupt conduct refers to that mentioned in Sections 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21 of the ECICO as listed in this Handbook, whereas **illegal conduct** in Sections 23, 24, 25, 26 and 27.

Disqualifications

- A person convicted of a corrupt conduct or illegal conduct under the ECICO will be :
 - disqualified for 3 years from voting in the Chief Executive, Election Committee subsector, Legislative Council, District Councils or Village Representative elections from the date of conviction;
 - disqualified for 5 years from being nominated as a candidate for the election of, or elected as, the Chief Executive, a member of the Legislative Council or District Council or a Village Representative from the date of conviction; and
 - disqualified for 3 years from being nominated as a candidate for the election of, or elected or nominated as, an Election Committee member from the date of conviction.

Immediate Custodial Sentence

- According to the sentencing guideline set by the Court of Appeal on 27 November 1997, any person convicted of a serious election-related offence shall receive an immediate custodial sentence in order to uphold clean and fair elections in Hong Kong.

DOS AND DON'TS CHECKLIST

Candidates, their election agents and helpers should note the following in an election:

(1) NOMINATION OF CANDIDATES

Bribing Candidates or Prospective Candidates

- ✱ Do not offer any advantage to get any person to stand or not to stand as a candidate.
- ✱ Do not offer any advantage to get any person having been nominated as a candidate to withdraw his candidature.
- ✱ Do not authorise another person, either expressly or by implication, to offer advantage for getting any person to engage in the above conduct.
- ✱ Do not solicit or accept any advantage for any person's standing or not standing as a candidate.
- ✱ Do not solicit or accept any advantage for any person's withdrawal of his candidature.

Using or Threatening to Use Force or Duress

- ✱ Do not use or threaten to use force or duress to induce any person to stand or not to stand as a candidate, or to withdraw his candidature.
- ✱ Do not authorise another person, either expressly or by implication, to engage in the above conduct.

Deception

- ✱ Do not induce by deception, any person to stand or not to stand as a candidate, or to withdraw his candidature.

Nomination Paper

- ✱ Do not deface or destroy any nomination paper to prevent or obstruct another person from standing for an election.

(2) ELECTIONEERING**Statements about a Candidate**

- ✱ Do not knowingly publish any false statement that a person is or is not a candidate.
- ✱ Do not make any materially false or misleading statement of fact including but not limited to the character, qualifications or previous conduct of a candidate or candidates.

Election Advertisement

- ✱ Do not use, without obtaining prior written consent, the name or logo of a person or an organisation; or the pictorial representation of any person in an election advertisement in such a way as to infer that the candidate concerned has the support of the named person or organisation.
- ✱ Do include in all printed election advertisements the name and address of the printer, the date of printing and the number of copies printed except those printed in a registered local newspaper.
- ✱ Do remember that a performance report published by an incumbent candidate between the nomination day and the polling day of the election is taken as an election advertisement.
- ✱ Do furnish 2 copies of the election advertisement to the relevant Returning Officer not later than 7 days after publishing a printed election advertisement #.
- # *It should, however, be noted that under the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation, a candidate must submit 2 copies of his election advertisement to the relevant Returning Officer before he displays, distributes or otherwise uses the election advertisement. He should also comply with the Electoral Affairs Commission Regulations and Guidelines and any other statutory requirements governing election advertisements in an election.*

(3) VOTING**Bribery**

- ✱ Do not offer any advantage to induce any person not to vote at an election.

- ✱ Do not offer any advantage to induce any person to vote or not to vote for a particular candidate at an election.
- ✱ Do not authorise another person, either expressly or by implication, to offer advantage for getting any person to engage in the above conduct.

Providing Refreshments or Entertainment

- ✱ Do not provide or meet all or part of the cost of providing any food, drink or entertainment as an inducement to or a reward for any person's not voting at an election.
- ✱ Do not provide or meet all or part of the cost of providing any food, drink or entertainment as an inducement to or a reward for any person's voting or not voting for a particular candidate at an election.
- ✱ Do not authorise another person, either expressly or by implication, to provide or meet all or part of the cost of providing any food, drink or entertainment for getting any person to engage in the above conduct.

Using or Threatening to Use Force or Duress

- ✱ Do not use or threaten to use force or duress against any person for the purpose of influencing his or any other person's voting decision.
- ✱ Do not authorise another person, either expressly or by implication, to engage in the above conduct.

Engaging in Deceptive Behaviour

- ✱ Do not induce by deception any person not to vote at an election.
- ✱ Do not induce by deception any person to vote or not to vote for a particular candidate at an election.
- ✱ Do not authorise another person, either expressly or by implication, to engage in the above conduct.

Other Offences in Relation to Voting

- ✱ Do not deface or destroy any ballot paper unless lawfully authorised.
- ✱ Do not knowingly invite or induce ineligible persons to vote.
- ✱ Do not invite or induce a person to vote more than once in the same Election

Committee subsector if not expressly permitted by the law.

(4) ELECTION EXPENSES AND ELECTION DONATIONS

Election Expenses

- ✱ Do not incur election expenses more than the prescribed maximum amount of the election expenses for each constituency.
- ✱ Do not incur election expenses unless you are a candidate or a candidate's election expense agent with the required authorisation.
- ✱ Do not incur election expenses in excess of the amount authorised by the candidate if you are an election expense agent.
- ✱ Do include the election expenses incurred by the candidate and his election expense agents in the election return.

Election Donations

- ✱ Do not use election donations on activities unrelated to an election.
- ✱ Do issue a receipt for any election donation of more than \$1,000.
- ✱ Do send any election donation of more than \$1,000 received from an anonymous donor to a charitable institution or trust of a public character chosen by the candidate.
- ✱ Do send any unused election donations and donations in excess of the statutory limit of election expenses to a charitable institution or trust of a public character chosen by the candidate.

Election Returns

- ✱ Do submit a return on election expenses and donations to the Chief Electoral Officer not later than 30 days after the date of publication of the result of the election, or not later than 30 days after the declaration of the termination of the election proceedings under the relevant electoral law, or not later than 30 days after the declaration of the failure of the election under the relevant electoral law.
- ✱ Do submit with your election return the invoices, receipts and declaration form etc. as stipulated by the law.

- ★ Do not knowingly make any materially false or misleading statement in the return on election expenses and donations.
- ★ Do lodge your election return with the Chief Electoral Officer even if **NO** election expense is incurred.

(5) ELECTION PETITION OR ELECTION APPEAL

- ★ Do not offer any advantage to induce any person to withdraw an election petition or election appeal.
- ★ Do not solicit or accept any advantage to withdraw an election petition or election appeal.

QUESTIONS AND ANSWERS

Q1. Can a candidate contesting in the election of an Election Committee (EC) subsector distribute to voters a pamphlet publicising his community contribution and close association with some influential unions and prestigious clubs so as to enlist support for his election?

A1. ● It is alright for a candidate to distribute pamphlets to publicise himself provided that facts included therein are genuine and true. Otherwise, the candidate may commit an offence under Section 26 of the ECICO.

● Since the pamphlet is a printed election advertisement, it has to bear, in English or Chinese, the name and address of the printer, the date of printing and the number of copies printed. Besides, the candidate has to deposit 2 copies of the printed election advertisement to the relevant Returning Officer, not later than 7 days after the publication of the printed election advertisement in accordance with Section 34 of the ECICO. The expenses incurred by the production of the pamphlet have to be counted towards the candidate's election expenses and be included in his election return.

● If the candidate publishes the name or logo of the unions and clubs in his election pamphlet in a way which implies or causes electors to believe that the candidate has the support of these organisations at the election, the candidate has to obtain prior written consent from these organisations for publishing their names or logos in his election materials. Otherwise, the candidate may commit an offence under Section 27 of the ECICO.

** It should, however, be noted that under the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation, a candidate must submit 2 copies of his election advertisement to the relevant Returning Officer before he displays, distributes or otherwise uses the election advertisement. He should also comply with the Electoral Affairs Commission (EAC) Regulations and Guidelines and any other statutory requirements governing election advertisements in an election.*

Q2. A candidate publishes his election platform through sending e-mails to some voters of his subsector. His supporters thereafter make copies of the e-mail printout and distribute them to other voters of the same subsector. What are the points they should take note of in order not to violate the law?

- A2. ● Election advertisement includes a publicly exhibited notice or a notice delivered by electronic transmission for the purpose of promoting or prejudicing the election of a candidate. In the scenario quoted, copies of the e-mail printout are regarded as printed election advertisements. According to Section 34 of the ECICO, such printouts must contain, in English or Chinese, the name and address of the printer, the date of printing and the number of copies printed. Also, two copies of the said printout should be deposited with the relevant Returning Officer not later than 7 days after it has been published.
- As expenses may be incurred for producing and mailing of the print-out, supporters of the candidate are required to seek prior written consent from the candidate before incurring election expenses on his behalf or else they may contravene Section 23 of the ECICO.
 - The expenses so incurred, e.g. cost of the e-mail (if design or script writing is involved) and mailing of the reproduced copies need to be counted as the candidate's election expenses and be included in the election return to be submitted by the candidate.
 - Apart from the above, the candidate and his supporters should also comply with the EAC Regulations and Guidelines and any other statutory requirements governing election advertisements in an election.
- Q3. Is it lawful for the chairman of a professional body to give his written consent to candidate X for using the name and logo of the said professional body in candidate X's election advertisements? What happens if the chairman's decision of supporting candidate X is not agreeable to some of its members?***
- A3. ● The said chairman should ensure that the professional body agrees to the written consent he gave to candidate X. It will be an offence under Section 27 of the ECICO if a person of an organisation purports to give written consent to a candidate to the inclusion of the name or logo of the organisation in the candidate's election advertisements without having been approved by the governing body or by a resolution of the members of the said organisation passed at a general meeting.
- If the chairman's decision of supporting candidate X is eventually repudiated by the professional body through proper procedures by those members who object to the decision, the consent of support given by the chairman will become invalid. In this situation, candidate X must take reasonable measures, e.g. to make alterations to the publicity materials not yet distributed and to retrieve the publicity materials already

displayed. In any event, the cost incurred by the production and subsequent removal of the said advertisements should still be counted as candidate X's election expenses and be declared in candidate X's election return.

Q4. Is it an offence if a person has incurred election expenses on behalf of a candidate without obtaining his prior written authorisation? Can the said person claim that the expenses incurred as an election donation to be given to the candidate? Will he still be caught by the ECICO if the candidate eventually agrees to accept the 'donation'?

A4. Under Section 23 of the ECICO, only the candidate or persons authorised by him in writing may incur election expenses. Such an authorisation will become effective only after a copy of it has been served on the relevant Returning Officer. It is therefore an offence for the said person to have incurred election expenses without the candidate's written authorisation and no subsequent actions can remedy the offence once an election expense has been incurred. Even if the items or services purchased were subsequently donated to the candidate, this would not alter the fact of the commission of the offence. The expenditure so incurred should be accounted for both as an election expense and as a donation to be declared in the candidate's election return.

Q5. Can a candidate keep the unspent election donations in excess of the prescribed maximum amount of election expenses and use them for purposes other than meeting his election expenses? Should he return the unspent election donations to the donors after the election?

A5. Under Section 18 of the ECICO, election donations can only be used for the purpose of meeting a candidate's election expenses. No candidate can therefore use election donations including the surplus left after all his election expenses have been met for other purposes. The candidate must donate the unspent election donations in excess of the prescribed maximum amount to a charitable institution or trust of a public character according to Section 19 of the ECICO.

Q6. At a dinner gathering hosted by some trade associations from the same EC subsector, the chairman of the organising committee invites a candidate of the subsector to present his election platform. How should the candidate handle such a situation? Will the chairman run into trouble by so doing? Will the candidate and the chairman be liable for any offence under the ECICO? Will the situation be

different if the candidate is invited to promote his candidature at the general meeting of the trade association and only non-alcoholic drinks are provided on the occasion?

- A6. ● A candidate who finds himself caught in the above-mentioned situation while attending any function should decline the invitation and immediately stop any promotion of his election. Otherwise, the occasion will be regarded as an election meeting held to promote his candidature. The cost thus incurred has to be counted towards his election expenses and be declared in his election return.
- If any gathering is held as an election meeting but the chairman responsible for its organisation has not been authorised by the candidate concerned to incur election expenses on the candidate's behalf under Section 23 of the ECICO, the chairman will have contravened the law for incurring election expenses without the authorisation of the candidate.
- If the gathering held in the format of a dinner party is deliberately organised and sponsored by the chairman with a view to influencing the participants to vote for the candidate, the chairman has committed an offence under Section 12 of the ECICO. It is stated clearly in this provision that no person shall by himself or by any other persons provide or meet all or part of the cost of providing other persons with food, drink or entertainment with a view to influencing the other persons' voting decisions. The candidate is also guilty of an offence under the same section of the ECICO if he has the knowledge of and has consented to the organisation of the dinner gathering for the above purpose.
- Albeit the provision of non-alcoholic drinks at an election meeting does not constitute a corrupt act under Section 12 of the ECICO, the chairman responsible for organising the gathering during which the candidate has been invited to promote his candidature is still required to obtain the candidate's prior written authorisation before incurring expenses on his behalf.
- Furthermore, the cost of the gathering has to be counted towards the candidate's election expenses and be reflected in his election return.
- Q7.** *During the election period, is it alright for a candidate to give a speech at the luncheon meeting organised by a professional body and attend a media interview thereafter?*

- A7. ● If the candidate's speech and / or luncheon meeting serve(s) the purpose of promoting the election of the candidate at the EC Subsector Election, the occasion will be regarded as an election meeting. As such, the cost so incurred has to be counted towards the candidate's election expenses and be included in his election return.
- Any publicity materials on the luncheon meeting which can promote the election of the candidate may be regarded as his election advertisements. If these materials are printed, the relevant requirements of Section 34 of the ECICO which regulate printed election advertisements have to be followed, and the cost of production of these election advertisements has to be counted as election expenses. If the cost is incurred by the professional body, prior written authorisation from the candidate has to be obtained. In the event that the expenses are shouldered by the professional body, the amount should be included as an election donation in the candidate's election return.
- Should the luncheon meeting be organised to treat the participants with an intention of influencing their voting decisions, the candidate and the organiser of the event may have contravened Section 12 of the ECICO.
- On the question whether the candidate should attend an interview by the media after the luncheon meeting, the organiser of the event and the candidate should take into account as well as follow the "fair and equal treatment" principle as promulgated by the Electoral Affairs Commission. Any media publicity about the candidate to be engendered would be regarded by others, in particular his contestants at the election as unfair.
- * *It should, however, be noted that under the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation, a candidate must submit 2 copies of his election advertisement to the relevant Returning Officer before he displays, distributes or otherwise uses the election advertisement. He should also comply with the EAC Regulations and Guidelines and any other statutory requirements governing election advertisements in an election.*

Q8. Will it constitute an offence under the ECICO if the election agent of a candidate of an EC Subsector Election hints to voters of the same subsector that they will be awarded business if they vote for the candidate? Will the candidate be liable to any offence under the ECICO?

A8. ● It is an offence under Section 11 of the ECICO for a person, without reasonable excuse, to offer an advantage including gift, loan, office, employment, contract etc. to another person to influence the latter's voting decision. The election agent above-mentioned should have contravened Section 11 in this context.

● Along the same line, it is an offence if a person, without reasonable excuse, solicits or accepts an advantage in return for his voting at an election for a particular candidate.

● Whether the candidate is liable to the same offence depends on whether he is aware of and agrees to the act of his agent. According to Section 29 of the ECICO, a candidate is to be regarded as having engaged in corrupt and illegal conduct if the said conduct is engaged in with his knowledge and consent, unless he can satisfy the Court that the conduct is engaged in without his knowledge, consent or connivance.

Q9. Is it against the ECICO for a main contractor to request a sub-contractor of his firm to vote for the candidate he supports?

A9. ● Section 13 of the ECICO makes it an offence for a person to use or threaten to use force or duress against another person with a view to inducing or compelling the latter to vote for a particular candidate at an election.

● Although it is difficult to define whether such a request will amount to duress as it will depend on the circumstances of each case, persons who are in positions of influence should be wary of their conduct which may cross the line between legitimate lobbying in support of a candidate and effecting a duress against others to vote for a particular candidate.

Q10. A candidate attending an overseas conference with some voters of his subsector offers free food and drink to the latter with a view to influencing their voting decisions and inducing them to procure votes for himself. Is he liable to any offence under the ECICO?

A10. ● The said candidate has contravened Section 12 of the ECICO which states that no person shall provide or meet all or part of the cost of providing other persons with food, drink or entertainment for influencing the other persons' voting decision or inducing other persons to procure votes for him. The voters accepting the dining and wining should have also committed an offence under the same provision which forbids any person to solicit, accept or take any food, drink or

entertainment as an inducement to vote for a particular candidate at an election.

- Section 5 of the ECICO states clearly that all conduct concerning an election, regardless of whether the conduct is engaged in within Hong Kong or elsewhere is regulated by the ECICO.
- Section 6 and Section 22 of the ECICO also stipulate that a person may be convicted of an offence under the Ordinance if he is found to have engaged in corrupt or illegal conduct before, during or after the election period.
- As such, the above-mentioned candidate should have been caught by Section 12 of the ECICO, no matter when the act takes place and whether it is engaged in within Hong Kong or elsewhere. Whether an offer of advantages to electors is an offence depends on the purpose and not the time and place of the offer.

Q11. Should the expenses incurred for a dinner held to celebrate the election of a candidate be counted as election expenses of the candidate? Can the candidate use the election donations he received to meet the expenses incurred by the celebration dinner?

- A11. ● If the dinner is hosted for the sole purpose of celebrating the election of a candidate and is in no way related to the promotion of his election, the expenses incurred need not be counted towards his election expenses.
- If the dinner is hosted to honour the candidate's promise made previously to the participants that they would be rewarded with a dinner for their assistance given to the candidate's election campaign upon the candidate's successful election, the hosting of the dinner is related to the purpose of promoting his election. In this connection, expenses incurred by the dinner should be counted towards his election expenses and be included in his election return.
 - If the dinner is hosted as a reward for the electors' having voted for the candidate, both the host and the participants would have contravened Section 12 of the ECICO. Furthermore, the cost of the dinner should be counted towards the candidate's election expenses.
 - It is stipulated in Section 18 of the ECICO that election donations can only be used to meet, or contribute towards meeting the election expenses of a candidate. Any person who uses the election donations for purposes other than the above-mentioned may be liable to commit a corrupt conduct.

Q12. Is it a must that all candidates have to submit an election return before the deadline specified by the ECICO? Which are the points a candidate should take note of while submitting his election return?

- A12. ● Every candidate has to lodge with the Chief Electoral Officer an election return of his election expenses and election donations, whether or not election expenses have ever been incurred or election donations received, not later than 30 days after the result of the election is gazetted, or after the declaration of the termination of the election proceedings, or after the declaration of the failure of the election under the relevant electoral law in accordance with Section 37 of the ECICO. The election return must be accompanied with a declaration form signed by the candidate verifying the contents of the return.
- Apart from giving a full account of the election expenses incurred and donations (including money, goods, etc.) received by him, the candidate has to make sure that his election return must be accompanied also by an invoice and a receipt of each and every election expense item costing \$100 or above, a copy of the receipt issued to the donor of each election donation of more than \$1,000, and a copy of the receipt given by the recipient to whom the candidate has given his unspent election donation in accordance with Section 19 of the ECICO.
 - According to Section 24 of the ECICO, it will be an offence if the aggregate amount of election expenses incurred by or on behalf of a candidate exceeds the maximum amount of election expenses prescribed by the Chief Executive in Council. Please refer to the part on “Gist of the ECICO” of this Handbook for the prescribed maximum amount of election expenses for the election of the respective EC subsectors.
 - A candidate has to ensure that the information provided in his election return must be true and accurate as any candidate who makes a statement that he knows or ought to know is materially false or misleading in the election return will commit an offence under Section 20 of the ECICO.

Q13. A candidate / an election agent, who has been too busy with electioneering activities, has inadvertently contravened the provisions of the ECICO. Is there anything he can do to redress the situation?

- A13. ● Candidates and his election helpers should take heed of complying with the provisions of the ECICO and the regulations of the Electoral Affairs Commission in running an election so as to avoid any inadvertent infringement of the law and regulations.

- They should note that a corrupt conduct referred to in the ECICO is a serious offence. Nothing can be done to redress the situation once an offence is committed.
- A candidate or any other person who has done or omitted to do an act which is classified as an “illegal conduct” under the ECICO may, according to Section 31 of the ECICO, apply to the Court for an order relieving him from the penalties and disqualification to be imposed on him. He, however, has to satisfy the Court that such an act or omission was due to inadvertence, an accidental miscalculation or any reasonable cause and was not due to bad faith.
- Any person who has published a printed election advertisement without the printing details required by the law or has failed to furnish 2 copies of the printed election advertisement to the Returning Officer within 7 days after the said advertisement has been published may, according to Section 35 of the ECICO, apply to the Court for an order relieving him from the penalties to be imposed on him for his non-compliance with Section 34 of the ECICO. He, however, has to satisfy the Court that such non-compliance was due to inadvertence, an accidental miscalculation or any reasonable cause and was not due to bad faith.
- A candidate who fails to lodge an election return before the end of the permitted period as required by the law may, according to Section 40(1) of the ECICO, apply to the Court for an order allowing him to lodge the election return with the appropriate authority within such further period as the Court specifies. The candidate, however, has to satisfy the Court that the failure to comply with the requirement was attributable to the applicant’s illness or absence from Hong Kong; or the death, illness, absence from Hong Kong or misconduct of an agent or employee of the applicant; or due to inadvertence, an accidental miscalculation or any reasonable cause and was not due to bad faith.
- On the other hand, a candidate who fails to lodge an accurate election return or send in the required documents may, according to Section 40(3) and Section 40(5) of the ECICO, apply to the Court for an order for relief. He, however, has to satisfy the Court that the act was attributable to the misconduct of his agent or employee; inadvertence or accidental miscalculation; an accidental loss or destruction of the documents concerned or any reasonable cause and was not due to bad faith.

Q14. If a person knowingly provides the ICAC with false information with intent to harm or influence a certain candidate, what will the ICAC do?

- A14. ● Any person who makes or causes to be made to an ICAC officer a false report of the commission of any offence, or misleads an ICAC officer by giving false information or by making false statements or accusations commits an offence under Section 13B of the ICAC Ordinance. The maximum penalty for the offence is a fine of \$20,000 and imprisonment for one year.
- Any person who suspects any conduct in contravention of the ECICO is encouraged to make a report to the ICAC by visiting / calling its 24-hour Report Centre or any of the seven ICAC Regional Offices (addresses and telephone numbers can be found in the segment on “Channels for Reports and Enquiries” of this Handbook), or by writing to Hong Kong GPO Box 1000.
 - The ICAC will investigate each pursuable complaint so as to ascertain whether such a malpractice exists.

CHANNELS FOR REPORTS AND ENQUIRIES

REPORTS

Any person who discovers or suspects any conduct in contravention of the ECICO may call the 24-hour ICAC **Report Hotline 25 266 366**, or make a report in person to any ICAC Regional Office, or write to Hong Kong GPO Box 1000.

ENQUIRIES

Any person who wishes to make enquiries on the ECICO may call the 24-hour ICAC **Election Enquiry Hotline 2920 7878**, or approach any ICAC Regional Office from 9:00 a.m. to 7:00 p.m. Monday to Friday (closed on Saturday, Sunday and public holidays).

ADDRESSES AND TELEPHONE NUMBERS OF ICAC REGIONAL OFFICES

Hong Kong Island

ICAC Regional Office (Hong Kong West/Islands)

G/F, Harbour Commercial Building
124 Connaught Road Central, Sheung Wan
Tel: 2543 0000

ICAC Regional Office (Hong Kong East)

G/F, Tung Wah Mansion
201 Hennessy Road, Wanchai
Tel: 2519 6555

Kowloon

ICAC Regional Office (Kowloon West)

G/F, Nathan Commercial Building
434-436 Nathan Road, Yau Ma Tei
Tel: 2780 8080

ICAC Regional Office (Kowloon East/Sai Kung)

Shop No.4, G/F, Kai Tin Building

67 Kai Tin Road, Lam Tin

Tel: 2756 3300

New Territories**ICAC Regional Office (New Territories South West)**

G/F, Foo Yue Building

271-275 Castle Peak Road, Tsuen Wan

Tel: 2493 7733

ICAC Regional Office (New Territories North West)

G/F, Fu Hing Building

230 Castle Peak Road, Yuen Long

Tel: 2459 0459

ICAC Regional Office (New Territories East)

G06-G13, G/F, Shatin Government Offices

1 Sheung Wo Che Road, Shatin

Tel: 2606 1144

[Amended in September 2006]

支持同意書 Consent of Support

適用於個人 For an individual

1. 我同意 _____〔候選人姓名〕（香港身份證號碼：_____）可根據《選舉（舞弊及非法行為）條例》（第 554 章）第 27 條的規定，以我的*個人名義／職銜名義“_____”使用我的姓名或標識或跟我有關聯的姓名或標識或我的圖像，以示支持*他／她在_____〔日期〕舉行的選舉委員會*界別分組／小組*選舉／補選中參選，藉以促使或協助*他／她在選舉中獲選。

I hereby give consent to _____ [Name of candidate] (Hong Kong Identity Card Number: _____) to use my name or logo of or associated with me or my pictorial representation in *my personal capacity/in my official capacity as “_____” in the manner described in section 27 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554), as an indication of my support, for the purpose of promoting or procuring *his/her election as a member of the Election Committee for the _____ *subsector/sub-subsector at the *election/by-election to be held on _____ [Date].

2. # 我已在 _____〔組織名稱〕於_____〔日期〕_____〔時間〕舉行的*管理層會議／大會中，獲准同意支持上述候選人。

I have obtained the approval of _____ [Name of organisation] for my giving of the above consent *by the governing body of the organisation / at the general meeting of the organisation held on _____ [Date] at _____ [Time].

適用於組織 For an organisation

3. 我獲_____〔組織名稱〕授權，同意_____〔候選人姓名〕（香港身份證號碼：_____）可根據《選舉（舞弊及非法行為）條例》（第 554 章）第 27 條的規定，使用該組織的名稱或標識（包括圖片及照片）或跟該組織有關的名稱或標識（包括圖片及照片），以示支持*他／她在_____〔日期〕舉行的_____選舉委員會*界別分組／小組*選舉／補選中參選，藉以促使或協助*他／她在選舉中獲選。

I have been authorised by _____ [Name of organisation] to give consent to _____ [Name of candidate] (Hong Kong Identity Card Number: _____) to use the name or logo of or associated with the organisation in the manner described in section 27 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554), as an indication of its support, for the purpose of promoting or procuring *his/her election as a member of the Election Committee for the _____ *subsector/sub-subsector at the *election/by-election to be held on _____ [Date].

4. ## 有關同意支持上述候選人的決議，已獲組織於 _____ [日期] _____
_____ [時間]舉行的 * 管理層會議／大會中通過。

A resolution to give the above consent has been approved *by the governing body of organisation / passed at the general meeting of the organisation held on _____ [Date] at _____ [Time].

個人／組織均須填寫 For completion in both cases

5. *我／本組織從 _____ [候選人姓名]
(香港身份證號碼： _____) 處得悉，根據《行政長官選舉條例》(第 569 章) 附表第 18 及 18A 條的規定，*他／她並沒有喪失獲提名為候選人的資格。

*I/The organisation *have/has been given to understand by _____

[Name of candidate] (Hong Kong Identity Card Number : _____) that *he/she is not disqualified from being nominated as a candidate under sections 18 and 18A of the Schedule to the Chief Executive Election Ordinance (Cap 569).

由候選人簽署 —

SIGNED BY CANDIDATE

簽署： _____ 候選人姓名： _____
Signature Name of Candidate

香港身份證號碼： _____ 日期： _____
Hong Kong Identity Card Number Date

由同意人士／組織簽署 —

SIGNED BY INDIVIDUAL/ORGANISATION

由下列人士見證 —

WITNESSED BY

簽署： _____
Signature

簽署： _____
Signature

姓名： _____
Name

姓名： _____
Name

香港身份證號碼： _____
Hong Kong Identity Card Number

香港身份證號碼： _____
Hong Kong Identity Card Number

個人身分／職銜名義： _____
Capacity

日期： _____
Date

組織蓋章： _____
Chop of organisation

日期： _____
Date

備註
Note

- * 請刪去不適用者
Delete as appropriate.
- # 根據選舉委員會界別分組選舉活動指引第十八章，在某組織擔任職位的人如欲以他本人的職銜支持某候選人，除非經由他所屬組織的管理層批准或經該組織的成員在全體大會議決批准，否則應小心處理，避免令人誤會他對該候選人的支持即是整個組織對該候選人的支持。如該人士的職銜有具體提及有關組織的名稱，或有關的選舉廣告將會在該人士服務的樓宇內張貼，是項必須填寫。
According to Chapter 18 of the Guidelines on Election-related Activities in respect of the Election Committee Subsector Elections, in the case where an office-bearer of an organisation wishes to use his office title to support a candidate, he should be careful not to give the impression that it represents the support of the whole organisation except where a decision has been so taken by the governing body of the organisation or by a resolution of the members of that organisation passed at a general meeting. This part must be completed if the name of the concerned organisation is specifically mentioned in the office-bearer's title or the relevant election advertisement is posted in the building in which he is serving.
- # # 根據《選舉(舞弊及非法行為)條例》(第554章)第27(5)條，一個組織所作的書面同意，必須由該組織的管理層批准，或由該組織的成員在全體大會所通過的決議批准。
According to s 27(5) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554), consent of support in writing by an organisation must be approved by the governing body of the organisation or by a resolution of the members of the organisation passed at a general meeting.
- (1) 根據《選舉管理委員會(選舉程序)(選舉委員會)規例》(第541I章)第100條，候選人必須在展示、分發或以其他方式使用任何選舉廣告前，向選舉主任繳存《選舉(舞弊及非法行為)條例》第27(1)或(2)條(視屬何情況而定)所提述的同意書的文本(如該選舉廣告屬該條例第27(1)或(2)條所提述的選舉廣告)。
*In accordance with s 100 of the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap 541I), the candidate must, **before he or she displays, distributes or otherwise uses an election advertisement**, deposit with the Returning Officer, in case the election advertisement is of a kind referred to in section 27(1) or (2) of the Elections (Corrupt and Illegal Conduct) Ordinance, a copy of the consent in writing referred to in section 27(1) or (2), as the case may be, of that Ordinance.*
- (2) 你須注意下列有關填報個人資料的說明：—
You may wish to note the following with regard to the personal data supplied in this form: —
- (a) 資料用途
此表格內的個人及其他有關的資料，會供選舉事務處作選舉有關的用途。支持同意書亦會供公眾查閱。在展示支持同意書前，表格中所有香港身份證號碼將會被遮蓋。
Purpose of Collection
The personal data and other related information supplied in this form will be used by the Registration and Electoral Office and the Returning Officer for election-related purposes. The consent form will also be made available for public inspection and all Hong Kong Identity Card numbers provided in the form will be covered before the form is displayed.
- (b) 資料轉介
有關資料可能會提供給其他獲授權處理該等資料的部門或機構，以用作選舉有關的用途。
Classes of Transferees
The information provided in this form may also be provided to departments/agencies authorised to process the information for election-related purposes.

(c) 索閱個人資料

任何人有權根據《個人資料（私隱）條例》(第 486 章) 內所載的條款要求索閱及修訂所提供的個人和其他有關資料。

Access to Personal Data

Any person has a right to request access to, and to request the correction of, the personal data which he/she provided in accordance with the provisions of the Personal Data (Privacy) Ordinance (Cap 486).

(d) 查詢

有關透過本表格收集的個人資料的查詢、包括索閱及修正個人資料，應向總選舉事務主任（地址：香港灣仔港灣道 25 號海港中心 10 樓）提出。

Enquiry

Enquiries concerning the personal data collected by means of this form, including the making of access and corrections, should be addressed to the Chief Electoral Officer at 10th Floor, Harbour Centre, 25 Harbour Road, Wan Chai, Hong Kong.

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