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**Electoral Legislation (Miscellaneous Amendments)  
Bill 2012**

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# A BILL

## To

Amend various pieces of legislation to introduce amendments to the regulatory regime of election advertisements; to introduce amendments relating to organizations which are constituents in several functional constituencies of the Legislative Council or subsectors of the Election Committee; to improve the electoral procedures for various elections; to provide for the counting arrangements for the District Council (second) functional constituency; to make technical amendments to the Elections (Corrupt and Illegal Conduct) Ordinance; and to make related and incidental amendments.

Enacted by the Legislative Council.

### Part 1

#### Preliminary

##### 1. Short title and commencement

- (1) This Ordinance may be cited as the Electoral Legislation (Miscellaneous Amendments) Ordinance 2012.
  - (2) Subject to subsection (3), this Ordinance comes into operation on the day on which it is published in the Gazette.
  - (3) Parts 3, 6, 7 and 8 come into operation on 1 June 2012.
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## Part 2

### Amendments Relating to Consent for Support in Election Advertisements

**2. Elections (Corrupt and Illegal Conduct) Ordinance amended**

The Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) is amended as set out in section 3.

**3. Section 27 amended (illegal conduct to publish election advertisement that includes false claim of support)**

(1) Section 27(1)—

**Repeal**

everything after “unless”

**Substitute**

“the condition specified in subsection (1A)(a) or (b) is met and the requirement specified in subsection (1B) is complied with.”.

(2) After section 27(1)—

**Add**

“(1A) The conditions are—

(a) before the publication of the election advertisement, the person or organization consented in writing to the inclusion of the name, logo or pictorial representation in the advertisement;

(b) the candidate has neither requested or directed nor authorized any person to request or direct the inclusion of the name, logo or pictorial representation in the advertisement.

(1B) If—

- (a) a candidate publishes an election advertisement which—
- (i) includes the name, logo or pictorial representation of any person or organization; and
  - (ii) meets the condition specified in subsection (1A)(a) or (b); and
- (b) any content of the advertisement is provided by the person or organization,

the candidate must not modify, or authorize any person to modify, the name, logo or pictorial representation or the content unless before the modification, the person or organization consented in writing to the name, logo, pictorial representation or content as modified.”.

- (3) Section 27(2)—

**Repeal**

everything after “unless”

**Substitute**

“the condition specified in subsection (2A)(a) or (b) is met and the requirement specified in subsection (2B) is complied with.”.

- (4) After section 27(2)—

**Add**

“(2A) The conditions are—

- (a) before the publication of the election advertisement, the other person or organization consented in writing to the inclusion of the name, logo or pictorial representation in the advertisement;

(b) the person has neither requested or directed nor authorized any other person to request or direct the inclusion of the name, logo or pictorial representation in the advertisement.

(2B) If—

(a) a person publishes an election advertisement which—

(i) includes the name, logo or pictorial representation of another person or an organization; and

(ii) meets the condition specified in subsection (2A)(a) or (b); and

(b) any content of the advertisement is provided by the other person or organization,

the person must not modify, or authorize any person to modify, the name, logo or pictorial representation or the content unless before the modification, the other person or organization consented in writing to the name, logo, pictorial representation or content as modified.”.

(5) Section 27(3)—

**Repeal**

“(1) and (2)”

**Substitute**

“(1A), (1B), (2A) and (2B)”.

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## **Part 3**

### **Amendments Relating to Election Advertisements**

#### **Division 1—Enactments Amended**

**4. Enactments amended**

The enactments specified in Divisions 2 to 9 are amended as set out in those Divisions.

#### **Division 2—Amendments to Electoral Affairs Commission Ordinance (Cap. 541)**

**5. Section 7 amended (regulations)**

(1) Section 7(1)(e)—

**Repeal**

everything after “candidates”

**Substitute a semicolon.**

(2) After section 7(1)(e)—

**Add**

“(ea) the matters relating to the display or use of election advertisements or other publicity materials relating to an election and matters relating to grant of relief by the Court of First Instance in respect of election advertisements;”.

**Division 3—Amendments to Electoral Affairs Commission  
(Electoral Procedure) (Legislative Council) Regulation  
(Cap. 541 sub. leg. D)**

**6. Section 2 amended (interpretation)**

(1) Section 2(1)—

**Repeal the definition of *election advertisement***

**Substitute**

“*election advertisement* (選舉廣告), in relation to an election, means—

(a) a publicly exhibited notice, leaflet, circular, bill, booklet, placard or poster;

(b) a notice, leaflet, circular, bill, booklet, placard or poster delivered by hand or electronic transmission;

(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;”.

(2) Section 2(1), definition of *election expenses*—

**Repeal**

“4(b)”

**Substitute**

“4(1)(b)”.

(3) Section 2(2)(b)—

**Repeal**

“sections 25 and 102”

**Substitute**

“section 25 and Part VII”.

**7. Section 102 repealed (election advertisements)**

Section 102—

**Repeal the section.**

**8. Part VII added**

After section 103—

**Add**

**“Part VII**

**Election Advertisements**

**104. Interpretation (Part VII)**

(1) In this Part—

*Court* (法院) means the Court of First Instance;

*election period* (選舉期), in relation to an election, means the period—

(a) beginning on the first day of the nomination period; and

(b) ending on—

(i) the day on which a declaration is made under section 42C or 46 of the Legislative Council Ordinance (Cap. 542) or section 22C; or

(ii) the day on which the polling ends;

*open platform* (公開平台) means a platform operated through the Internet to which the public has access without having to go through an access control process put in place for that platform;

*printed election advertisement* (印刷選舉廣告) means an election advertisement printed on any material;

*printer* (印刷人), in relation to a printed article, includes any person who reproduces the article by any means;

*publish* (發布) means print, display, exhibit, distribute, post up, publicly announce or make publicly known by any other means, and includes continue to publish.

(2) Any person who authorizes the publication of an election advertisement is taken to have published the advertisement for the purposes of this Part.

(3) If a Returning Officer has not been appointed for a constituency, any reference in this Part to a Returning Officer is to be construed as a reference to the Chief Electoral Officer.

(4) A document published by a candidate during an election period that gives details of the work done by the candidate in the capacity of—

(a) the Chief Executive;

(b) a Member;

(c) a member of a District Council;

(d) a member of the Heung Yee Kuk;

(e) the Chairman or Vice-Chairman or a member of the Executive Committee of a Rural Committee within the meaning of section 3(3)(a) of the Heung Yee Kuk Ordinance (Cap. 1097); or

(f) a Village Representative,

is an election advertisement for the purposes of this Part.

### **105. Requirements applicable to election advertisements**

(1) A candidate who publishes an election advertisement must comply with subsection (2) or (3) in relation to—

- 
- (a) the advertisement and any information related to the advertisement required by the Commission;
  - (b) if the publication is by means of displaying the advertisement in the form of a bill or poster within the meaning of section 104E(4) of the Public Health and Municipal Services Ordinance (Cap. 132), the permission obtained for the purposes of section 104A(1) of that Ordinance; and
  - (c) if the advertisement is of a kind referred to in subsection (1) or (2) of section 27 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), the consent referred to in subsection (1A), (1B), (2A) or (2B) of that section.
- (2) A candidate must—
- (a) make an electronic copy of the advertisement, information, permission or consent available for inspection on an open platform maintained by the Chief Electoral Officer or a person authorized by the Chief Electoral Officer (***Central Platform***) in the manner and within the time specified by the Commission;
  - (b) make an electronic copy of the advertisement, information, permission or consent available for inspection on an open platform maintained by the candidate or a person authorized by the candidate (***Candidate's Platform***) in the manner and within the time specified by the Commission until the end of the period for which copies of election returns are available for inspection under section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) and provide information about the Candidate's Platform required by the Commission in the manner and within the time specified by the Commission; or

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- (c) if the Commission considers that it is technically impracticable to make available for inspection on the Central Platform or a Candidate's Platform an election advertisement published through the Internet by means of an open platform, provide a hyperlink to that open platform on the Central Platform or Candidate's Platform in the manner and within the time specified by the Commission.
- (3) A candidate must provide, in the manner and within the time specified by the Commission, to the Returning Officer—
- (a) the information and 2 copies of the advertisement in paper form or any other form specified by the Commission; and
  - (b) a hard copy of the permission or consent.
- (4) A person must not publish a printed election advertisement that fails to show, in the English or Chinese language—
- (a) the name and address of the printer;
  - (b) the date on which it was printed; and
  - (c) the number of copies printed.
- (5) Subsection (4) does not apply to an election advertisement that is printed in a newspaper registered under section 7 of the Registration of Local Newspapers Ordinance (Cap. 268).
- (6) Subsection (4) does not apply to the publication of a printed election advertisement if, not later than 7 days after the advertisement is published, the publisher, or a person authorized by the publisher, has provided to the Returning Officer a statutory declaration that states—
- (a) the name and address of the printer;
  - (b) the date on which it was printed; and

- (c) the number of copies printed.
- (7) The Returning Officer must make available for public inspection a copy of each of any advertisement, information, permission, consent or statutory declaration provided under subsection (3) or (6) from when it is provided until the end of the period for which copies of election returns are available for inspection under section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).
- (8) The Chief Electoral Officer must publicize any platform maintained under subsection (2)(a) and ensure that the platform is maintained until the end of the period for which copies of election returns are available for inspection under section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).
- (9) A person who fails to comply with subsection (1) or (4) commits an offence and is liable to a fine at level 2 and to imprisonment for 6 months.

#### **106. Court may grant relief for election advertisements**

- (1) A person who publishes an election advertisement without complying with section 105(1)(a) or (4) may apply to the Court for an order under subsection (2).
- (2) On the hearing of an application made under subsection (1), the Court may make an order excepting the act which would, but for the order, constitute an offence under subsection (9) of section 105, from the relevant requirement under that section, but only if the Court—
  - (a) is satisfied that—
    - (i) the non-compliance was due to inadvertence, an accidental miscalculation or any reasonable cause and was not due to bad faith; and

- (ii) if the Court requires notice of the application to be given in Hong Kong, the notice has been given; and
  - (b) believes it to be just that the act be so excepted.
- (3) If an application is made under subsection (1), no prosecution against the applicant for not having complied with section 105(1)(a) or (4) may be instituted or carried on until the application is disposed of by the Court.
- (4) An applicant is not liable to be convicted of an offence under section 105(9) if the non-compliance by the applicant with section 105(1)(a) or (4) is the subject of an order made under subsection (2).

**107. Power to seize, etc. election advertisements**

The Returning Officer or any person authorized by that Officer may seize and dispose of, or destroy, or obliterate, or cover with any materials that Officer or the person thinks fit, any election advertisement on display and in respect of which any requirement in section 105 has not been complied with.

**108. Commission may grant exemption**

The Commission may, by notice published in the Gazette, exempt any class or type of election advertisement from the application of any provision of section 105.”.

**Division 4—Amendments to Electoral Affairs Commission  
(Electoral Procedure) (District Councils) Regulation  
(Cap. 541 sub. leg. F)**

**9. Section 2 amended (interpretation)**

- (1) Section 2(1)—

**Repeal the definition of *election advertisement***

**Substitute**

“*election advertisement* (選舉廣告), in relation to an election, means—

- (a) a publicly exhibited notice, leaflet, circular, bill, booklet, placard or poster;
- (b) a notice, leaflet, circular, bill, booklet, placard or poster delivered by hand or electronic transmission;
- (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;”.

(2) Section 2(2)(b)—

**Repeal**

“section 103”

**Substitute**

“Part VII”.

**10. Section 103 repealed (election advertisements)**

Section 103—

**Repeal the section.**

**11. Part VII added**

After section 104—

**Add**

## “Part VII

### Election Advertisements

#### 105. Interpretation (Part VII)

(1) In this Part—

*Court* (法院) means the Court of First Instance;

*election period* (選舉期), in relation to an election, means the period—

(a) beginning on the first day of the nomination period; and

(b) ending on—

(i) the day on which a declaration is made under section 39 of the District Councils Ordinance (Cap. 547); or

(ii) the day on which the polling ends;

*open platform* (公開平台) means a platform operated through the Internet to which the public has access without having to go through an access control process put in place for that platform;

*printed election advertisement* (印刷選舉廣告) means an election advertisement printed on any material;

*printer* (印刷人), in relation to a printed article, includes any person who reproduces the article by any means;

*publish* (發布) means print, display, exhibit, distribute, post up, publicly announce or make publicly known by any other means, and includes continue to publish.

(2) Any person who authorizes the publication of an election advertisement is taken to have published the advertisement for the purposes of this Part.

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- (3) If a Returning Officer has not been appointed for a constituency, any reference in this Part to a Returning Officer is to be construed as a reference to the Chief Electoral Officer.
- (4) A document published by a candidate during an election period that gives details of the work done by the candidate in the capacity of—
- (a) the Chief Executive;
  - (b) a member of the Legislative Council;
  - (c) a member of a District Council;
  - (d) a member of the Heung Yee Kuk;
  - (e) the Chairman or Vice-Chairman or a member of the Executive Committee of a Rural Committee within the meaning of section 3(3)(a) of the Heung Yee Kuk Ordinance (Cap. 1097); or
  - (f) a Village Representative,
- is an election advertisement for the purposes of this Part.

#### **106. Requirements applicable to election advertisements**

- (1) A candidate who publishes an election advertisement must comply with subsection (2) or (3) in relation to—
- (a) the advertisement and any information related to the advertisement required by the Commission;
  - (b) if the publication is by means of displaying the advertisement in the form of a bill or poster within the meaning of section 104E(4) of the Public Health and Municipal Services Ordinance (Cap. 132), the permission obtained for the purposes of section 104A(1) of that Ordinance; and

- (c) if the advertisement is of a kind referred to in subsection (1) or (2) of section 27 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), the consent referred to in subsection (1A), (1B), (2A) or (2B) of that section.
- (2) A candidate must—
- (a) make an electronic copy of the advertisement, information, permission or consent available for inspection on an open platform maintained by the Chief Electoral Officer or a person authorized by the Chief Electoral Officer (***Central Platform***) in the manner and within the time specified by the Commission;
  - (b) make an electronic copy of the advertisement, information, permission or consent available for inspection on an open platform maintained by the candidate or a person authorized by the candidate (***Candidate's Platform***) in the manner and within the time specified by the Commission until the end of the period for which copies of election returns are available for inspection under section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) and provide information about the Candidate's Platform required by the Commission in the manner and within the time specified by the Commission; or
  - (c) if the Commission considers that it is technically impracticable to make available for inspection on the Central Platform or a Candidate's Platform an election advertisement published through the Internet by means of an open platform, provide a hyperlink to that open platform on the Central Platform or Candidate's Platform in the manner and within the time specified by the Commission.

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- (3) A candidate must provide, in the manner and within the time specified by the Commission, to the Returning Officer—
    - (a) the information and 2 copies of the advertisement in paper form or any other form specified by the Commission; and
    - (b) a hard copy of the permission or consent.
  - (4) A person must not publish a printed election advertisement that fails to show, in the English or Chinese language—
    - (a) the name and address of the printer;
    - (b) the date on which it was printed; and
    - (c) the number of copies printed.
  - (5) Subsection (4) does not apply to an election advertisement that is printed in a newspaper registered under section 7 of the Registration of Local Newspapers Ordinance (Cap. 268).
  - (6) Subsection (4) does not apply to the publication of a printed election advertisement if, not later than 7 days after the advertisement is published, the publisher, or a person authorized by the publisher, has provided to the Returning Officer a statutory declaration that states—
    - (a) the name and address of the printer;
    - (b) the date on which it was printed; and
    - (c) the number of copies printed.
  - (7) The Returning Officer must make available for public inspection a copy of each of any advertisement, information, permission, consent or statutory declaration provided under subsection (3) or (6) from when it is provided until the end of the period for which copies of election returns are available for

inspection under section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).

- (8) The Chief Electoral Officer must publicize any platform maintained under subsection (2)(a) and ensure that the platform is maintained until the end of the period for which copies of election returns are available for inspection under section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).
- (9) A person who fails to comply with subsection (1) or (4) commits an offence and is liable to a fine at level 2 and to imprisonment for 6 months.

#### **107. Court may grant relief for election advertisements**

- (1) A person who publishes an election advertisement without complying with section 106(1)(a) or (4) may apply to the Court for an order under subsection (2).
- (2) On the hearing of an application made under subsection (1), the Court may make an order excepting the act which would, but for the order, constitute an offence under subsection (9) of section 106, from the relevant requirement under that section, but only if the Court—
  - (a) is satisfied that—
    - (i) the non-compliance was due to inadvertence, an accidental miscalculation or any reasonable cause and was not due to bad faith; and
    - (ii) if the Court requires notice of the application to be given in Hong Kong, the notice has been given; and
  - (b) believes it to be just that the act be so excepted.

- (3) If an application is made under subsection (1), no prosecution against the applicant for not having complied with section 106(1)(a) or (4) may be instituted or carried on until the application is disposed of by the Court.
- (4) An applicant is not liable to be convicted of an offence under section 106(9) if the non-compliance by the applicant with section 106(1)(a) or (4) is the subject of an order made under subsection (2).

**108. Power to seize, etc. election advertisements**

The Returning Officer or any person authorized by that Officer may seize and dispose of, or destroy, or obliterate, or cover with any materials that Officer or the person thinks fit, any election advertisement on display and in respect of which any requirement in section 106 has not been complied with.

**109. Commission may grant exemption**

The Commission may, by notice published in the Gazette, exempt any class or type of election advertisement from the application of any provision of section 106.”.

**Division 5—Amendments to Electoral Affairs Commission  
(Electoral Procedure) (Election Committee) Regulation  
(Cap. 541 sub. leg. I)**

**12. Section 1 amended (interpretation)**

- (1) Section 1(1)—

**Repeal the definition of *election advertisement***

**Substitute**

“*election advertisement* (選舉廣告), in relation to an election, means—

- (a) a publicly exhibited notice, leaflet, circular, bill, booklet, placard or poster;
- (b) a notice, leaflet, circular, bill, booklet, placard or poster delivered by hand or electronic transmission;
- (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;”.

- (2) Section 1(1), definition of *election expenses*—

**Repeal**

“4(d)”

**Substitute**

“4(1)(d)”.

- (3) Section 1(2)(b)—

**Repeal**

“sections 25 and 100”

**Substitute**

“section 25 and Part 7”.

**13. Section 100 repealed (election advertisements)**

Section 100—

**Repeal the section.**

**14. Part 7 added**

Before Schedule 1—

**Add**

**“Part 7****Election Advertisements****107. Interpretation (Part 7)**

(1) In this Part—

***Court*** (法院) means the Court of First Instance;

***election period*** (選舉期), in relation to an election, means the period—

(a) beginning on the first day of the nomination period; and

(b) ending on—

(i) the day on which a declaration is made under section 19 or 22; or

(ii) the day on which the polling ends;

***open platform*** (公開平台) means a platform operated through the Internet to which the public has access without having to go through an access control process put in place for that platform;

***printed election advertisement*** (印刷選舉廣告) means an election advertisement printed on any material;

***printer*** (印刷人), in relation to a printed article, includes any person who reproduces the article by any means;

***publish*** (發布) means print, display, exhibit, distribute, post up, publicly announce or make publicly known by any other means, and includes continue to publish.

(2) Any person who authorizes the publication of an election advertisement is taken to have published the advertisement for the purposes of this Part.

- (3) If a Returning Officer has not been appointed for a subsector, any reference in this Part to a Returning Officer is to be construed as a reference to the Chief Electoral Officer.
- (4) A document published by a candidate during an election period that gives details of the work done by the candidate in the capacity of—
  - (a) the Chief Executive;
  - (b) a member of the Legislative Council;
  - (c) a member of a District Council;
  - (d) a member of the Heung Yee Kuk;
  - (e) the Chairman or Vice-Chairman or a member of the Executive Committee of a Rural Committee within the meaning of section 3(3)(a) of the Heung Yee Kuk Ordinance (Cap. 1097); or
  - (f) a Village Representative,is an election advertisement for the purposes of this Part.

**108. Requirements applicable to election advertisements**

- (1) A candidate who publishes an election advertisement must comply with subsection (2) or (3) in relation to—
  - (a) the advertisement and any information related to the advertisement required by the Commission;
  - (b) if the publication is by means of displaying the advertisement in the form of a bill or poster within the meaning of section 104E(4) of the Public Health and Municipal Services Ordinance (Cap. 132), the permission obtained for the purposes of section 104A(1) of that Ordinance; and

- 
- (c) if the advertisement is of a kind referred to in subsection (1) or (2) of section 27 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), the consent referred to in subsection (1A), (1B), (2A) or (2B) of that section.
- (2) A candidate must—
- (a) make an electronic copy of the advertisement, information, permission or consent available for inspection on an open platform maintained by the Chief Electoral Officer or a person authorized by the Chief Electoral Officer (*Central Platform*) in the manner and within the time specified by the Commission;
- (b) make an electronic copy of the advertisement, information, permission or consent available for inspection on an open platform maintained by the candidate or a person authorized by the candidate (*Candidate's Platform*) in the manner and within the time specified by the Commission until the end of the period for which copies of election returns are available for inspection under section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) and provide information about the Candidate's Platform required by the Commission in the manner and within the time specified by the Commission; or
- (c) if the Commission considers that it is technically impracticable to make available for inspection on the Central Platform or a Candidate's Platform an election advertisement published through the Internet by means of an open platform, provide a hyperlink to that open platform on the Central Platform or Candidate's Platform in the manner and within the time specified by the Commission.

- 
- (3) A candidate must provide, in the manner and within the time specified by the Commission, to the Returning Officer—
    - (a) the information and 2 copies of the advertisement in paper form or any other form specified by the Commission; and
    - (b) a hard copy of the permission or consent.
  - (4) A person must not publish a printed election advertisement that fails to show, in the English or Chinese language—
    - (a) the name and address of the printer;
    - (b) the date on which it was printed; and
    - (c) the number of copies printed.
  - (5) Subsection (4) does not apply to an election advertisement that is printed in a newspaper registered under section 7 of the Registration of Local Newspapers Ordinance (Cap. 268).
  - (6) Subsection (4) does not apply to the publication of a printed election advertisement if, not later than 7 days after the advertisement is published, the publisher, or a person authorized by the publisher, has provided to the Returning Officer a statutory declaration that states—
    - (a) the name and address of the printer;
    - (b) the date on which it was printed; and
    - (c) the number of copies printed.
  - (7) The Returning Officer must make available for public inspection a copy of each of any advertisement, information, permission, consent or statutory declaration provided under subsection (3) or (6) from when it is provided until the end of the period for which copies of election returns are available for

inspection under section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).

- (8) The Chief Electoral Officer must publicize any platform maintained under subsection (2)(a) and ensure that the platform is maintained until the end of the period for which copies of election returns are available for inspection under section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).
- (9) A person who fails to comply with subsection (1) or (4) commits an offence and is liable to a fine at level 2 and to imprisonment for 6 months.

#### **109. Court may grant relief for election advertisements**

- (1) A person who publishes an election advertisement without complying with section 108(1)(a) or (4) may apply to the Court for an order under subsection (2).
- (2) On the hearing of an application made under subsection (1), the Court may make an order excepting the act which would, but for the order, constitute an offence under subsection (9) of section 108, from the relevant requirement under that section, but only if the Court—
  - (a) is satisfied that—
    - (i) the non-compliance was due to inadvertence, an accidental miscalculation or any reasonable cause and was not due to bad faith; and
    - (ii) if the Court requires notice of the application to be given in Hong Kong, the notice has been given; and
  - (b) believes it to be just that the act be so excepted.

- (3) If an application is made under subsection (1), no prosecution against the applicant for not having complied with section 108(1)(a) or (4) may be instituted or carried on until the application is disposed of by the Court.
- (4) An applicant is not liable to be convicted of an offence under section 108(9) if the non-compliance by the applicant with section 108(1)(a) or (4) is the subject of an order made under subsection (2).

**110. Power to seize, etc. election advertisements**

The Returning Officer or any person authorized by that Officer may seize and dispose of, or destroy, or obliterate, or cover with any materials that Officer or the person thinks fit, any election advertisement on display and in respect of which any requirement in section 108 has not been complied with.

**111. Commission may grant exemption**

The Commission may, by notice published in the Gazette, exempt any class or type of election advertisement from the application of any provision of section 108.”.

**Division 6—Amendments to Electoral Procedure (Chief Executive Election) Regulation (Cap. 541 sub. leg. J)****15. Section 2 amended (interpretation)**

- (1) Section 2(1)—

**Repeal the definition of *election advertisement***

**Substitute**

“*election advertisement* (選舉廣告), in relation to an election, means—

- (a) a publicly exhibited notice, leaflet, circular, bill, booklet, placard or poster;
- (b) a notice, leaflet, circular, bill, booklet, placard or poster delivered by hand or electronic transmission;
- (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;”.

(2) Section 2(2)(b)—

**Repeal**

“13, 16 and 81”

**Substitute**

“13 and 16 and Part 10”.

**16. Section 81 repealed (election advertisement)**

Section 81—

**Repeal the section.**

**17. Section 82 amended (offence)**

Section 82(2)—

**Repeal**

“, 78(2) or 81(1), (1B), (1D), (1E), (1F), (1G) or (1H)”

**Substitute**

“or 78(2)”.

**18. Part 10 added**

After section 85—

**Add**

**“Part 10**

**Election Advertisements**

**86. Interpretation (Part 10)**

(1) In this Part—

*Court* (法院) means the Court of First Instance;

*election period* (選舉期), in relation to an election, means the period—

(a) beginning on the first day of the nomination period; and

(b) ending on—

(i) the day on which a declaration is made under section 22 of the Election Ordinance; or

(ii) the day on which the polling ends;

*open platform* (公開平台) means a platform operated through the Internet to which the public has access without having to go through an access control process put in place for that platform;

*printed election advertisement* (印刷選舉廣告) means an election advertisement printed on any material;

*printer* (印刷人), in relation to a printed article, includes any person who reproduces the article by any means;

*publish* (發布) means print, display, exhibit, distribute, post up, publicly announce or make publicly known by any other means, and includes continue to publish.

- (2) Any person who authorizes the publication of an election advertisement is taken to have published the advertisement for the purposes of this Part.
- (3) If the Returning Officer has not been appointed, any reference in this Part to the Returning Officer is to be construed as a reference to the Chief Electoral Officer.
- (4) A document published by a candidate during an election period that gives details of the work done by the candidate in the capacity of—
  - (a) the Chief Executive;
  - (b) a member of the Legislative Council;
  - (c) a member of a District Council;
  - (d) a member of the Heung Yee Kuk;
  - (e) the Chairman or Vice-Chairman or a member of the Executive Committee of a Rural Committee within the meaning of section 3(3)(a) of the Heung Yee Kuk Ordinance (Cap. 1097); or
  - (f) a Village Representative,is an election advertisement for the purposes of this Part.

### **87. Requirements applicable to election advertisements**

- (1) A candidate who publishes an election advertisement must comply with subsection (2) or (3) in relation to—
  - (a) the advertisement and any information related to the advertisement required by the Commission;
  - (b) if the publication is by means of displaying the advertisement in the form of a bill or poster within the meaning of section 104E(4) of the Public Health and Municipal Services Ordinance (Cap. 132), the permission obtained for the

purposes of section 104A(1) of that Ordinance;  
and

- (c) if the advertisement is of a kind referred to in subsection (1) or (2) of section 27 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), the consent referred to in subsection (1A), (1B), (2A) or (2B) of that section.
- (2) A candidate must—
- (a) make an electronic copy of the advertisement, information, permission or consent available for inspection on an open platform maintained by the Chief Electoral Officer or a person authorized by the Chief Electoral Officer (***Central Platform***) in the manner and within the time specified by the Commission;
  - (b) make an electronic copy of the advertisement, information, permission or consent available for inspection on an open platform maintained by the candidate or a person authorized by the candidate (***Candidate's Platform***) in the manner and within the time specified by the Commission until the end of the period for which copies of election returns are available for inspection under section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) and provide information about the Candidate's Platform required by the Commission in the manner and within the time specified by the Commission; or
  - (c) if the Commission considers that it is technically impracticable to make available for inspection on the Central Platform or a Candidate's Platform an election advertisement published through the Internet by means of an open platform, provide a hyperlink to that open platform on the Central

Platform or Candidate's Platform in the manner and within the time specified by the Commission.

- (3) A candidate must provide, in the manner and within the time specified by the Commission, to the Returning Officer—
  - (a) the information and 2 copies of the advertisement in paper form or any other form specified by the Commission; and
  - (b) a hard copy of the permission or consent.
- (4) A person must not publish a printed election advertisement that fails to show, in the English or Chinese language—
  - (a) the name and address of the printer;
  - (b) the date on which it was printed; and
  - (c) the number of copies printed.
- (5) Subsection (4) does not apply to an election advertisement that is printed in a newspaper registered under section 7 of the Registration of Local Newspapers Ordinance (Cap. 268).
- (6) Subsection (4) does not apply to the publication of a printed election advertisement if, not later than 7 days after the advertisement is published, the publisher, or a person authorized by the publisher, has provided to the Returning Officer a statutory declaration that states—
  - (a) the name and address of the printer;
  - (b) the date on which it was printed; and
  - (c) the number of copies printed.
- (7) The Returning Officer must make available for public inspection a copy of each of any advertisement, information, permission, consent or statutory declaration provided under subsection (3) or (6) from

when it is provided until the end of the period for which copies of election returns are available for inspection under section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).

- (8) The Chief Electoral Officer must publicize any platform maintained under subsection (2)(a) and ensure that the platform is maintained until the end of the period for which copies of election returns are available for inspection under section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).
- (9) A person who fails to comply with subsection (1) or (4) commits an offence and is liable to a fine at level 2 and to imprisonment for 6 months.

#### **88. Court may grant relief for election advertisements**

- (1) A person who publishes an election advertisement without complying with section 87(1)(a) or (4) may apply to the Court for an order under subsection (2).
- (2) On the hearing of an application made under subsection (1), the Court may make an order excepting the act which would, but for the order, constitute an offence under subsection (9) of section 87, from the relevant requirement under that section, but only if the Court—
  - (a) is satisfied that—
    - (i) the non-compliance was due to inadvertence, an accidental miscalculation or any reasonable cause and was not due to bad faith; and
    - (ii) if the Court requires notice of the application to be given in Hong Kong, the notice has been given; and
  - (b) believes it to be just that the act be so excepted.

- (3) If an application is made under subsection (1), no prosecution against the applicant for not having complied with section 87(1)(a) or (4) may be instituted or carried on until the application is disposed of by the Court.
- (4) An applicant is not liable to be convicted of an offence under section 87(9) if the non-compliance by the applicant with section 87(1)(a) or (4) is the subject of an order made under subsection (2).

**89. Power to seize, etc. election advertisements**

The Returning Officer or any person authorized by that Officer may seize and dispose of, or destroy, or obliterate, or cover with any materials that Officer or the person thinks fit, any election advertisement on display and in respect of which any requirement in section 87 has not been complied with.

**90. Commission may grant exemption**

The Commission may, by notice published in the Gazette, exempt any class or type of election advertisement from the application of any provision of section 87.”.

**Division 7—Amendments to Electoral Procedure (Village Representative Election) Regulation (Cap. 541 sub. leg. L)**

**19. Section 2 amended (interpretation)**

- (1) Section 2(1)—

**Repeal the definition of *election advertisement***

**Substitute**

“*election advertisement* (選舉廣告), in relation to an election, means—

- (a) a publicly exhibited notice, leaflet, circular, bill, booklet, placard or poster;
- (b) a notice, leaflet, circular, bill, booklet, placard or poster delivered by hand or electronic transmission;
- (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;”.

(2) Section 2(2)(c)—

**Repeal**

“23, 26 and 88”

**Substitute**

“23 and 26 and Part 10”.

**20. Section 88 repealed (election advertisement)**

Section 88—

**Repeal the section.**

**21. Section 89 amended (offence)**

Section 89(2)—

**Repeal**

“, 82(1) or 88(1)”

**Substitute**

“or 82(1)”.

**22. Part 10 added**

After section 90—

**Add**

## **“Part 10**

### **Election Advertisements**

#### **91. Interpretation (Part 10)**

(1) In this Part—

*Court* (法院) means the Court of First Instance;

*Director* (署長) means the Director of Home Affairs;

*election period* (選舉期), in relation to an election, means the period—

(a) beginning on the first day of the nomination period; and

(b) ending on—

(i) the day on which a declaration is made under section 29 of the Election Ordinance or section 19; or

(ii) the day on which the polling ends;

*open platform* (公開平台) means a platform operated through the Internet to which the public has access without having to go through an access control process put in place for that platform;

*printed election advertisement* (印刷選舉廣告) means an election advertisement printed on any material;

*printer* (印刷人), in relation to a printed article, includes any person who reproduces the article by any means;

*publish* (發布) means print, display, exhibit, distribute, post up, publicly announce or make publicly known by any other means, and includes continue to publish.

- (2) Any person who authorizes the publication of an election advertisement is taken to have published the advertisement for the purposes of this Part.
- (3) If a Returning Officer has not been appointed for a village, any reference in this Part to a Returning Officer is to be construed as a reference to the Director.
- (4) A document published by a candidate during an election period that gives details of the work done by the candidate in the capacity of—
  - (a) the Chief Executive;
  - (b) a member of the Legislative Council;
  - (c) a member of a District Council;
  - (d) a member of the Heung Yee Kuk;
  - (e) the Chairman or Vice-Chairman or a member of the Executive Committee of a Rural Committee within the meaning of section 3(3)(a) of the Heung Yee Kuk Ordinance (Cap. 1097); or
  - (f) a Village Representative,is an election advertisement for the purposes of this Part.

## **92. Requirements applicable to election advertisements**

- (1) A candidate who publishes an election advertisement must comply with subsection (2) or (3) in relation to—
  - (a) the advertisement and any information related to the advertisement required by the Commission;
  - (b) if the publication is by means of displaying the advertisement in the form of a bill or poster within the meaning of section 104E(4) of the Public Health and Municipal Services Ordinance (Cap. 132), the permission obtained for the

purposes of section 104A(1) of that Ordinance;  
and

- (c) if the advertisement is of a kind referred to in subsection (1) or (2) of section 27 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), the consent referred to in subsection (1A), (1B), (2A) or (2B) of that section.
- (2) A candidate must—
- (a) make an electronic copy of the advertisement, information, permission or consent available for inspection on an open platform maintained by the Director or a person authorized by the Director (***Central Platform***) in the manner and within the time specified by the Commission;
  - (b) make an electronic copy of the advertisement, information, permission or consent available for inspection on an open platform maintained by the candidate or a person authorized by the candidate (***Candidate's Platform***) in the manner and within the time specified by the Commission until the end of the period for which copies of election returns are available for inspection under section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) and provide information about the Candidate's Platform required by the Commission in the manner and within the time specified by the Commission; or
  - (c) if the Commission considers that it is technically impracticable to make available for inspection on the Central Platform or a Candidate's Platform an election advertisement published through the Internet by means of an open platform, provide a hyperlink to that open platform on the Central Platform or Candidate's Platform in the manner and within the time specified by the Commission.

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- (3) A candidate must provide, in the manner and within the time specified by the Commission, to the Returning Officer—
    - (a) the information and 2 copies of the advertisement in paper form or any other form specified by the Commission; and
    - (b) a hard copy of the permission or consent.
  - (4) A person must not publish a printed election advertisement that fails to show, in the English or Chinese language—
    - (a) the name and address of the printer;
    - (b) the date on which it was printed; and
    - (c) the number of copies printed.
  - (5) Subsection (4) does not apply to an election advertisement that is printed in a newspaper registered under section 7 of the Registration of Local Newspapers Ordinance (Cap. 268).
  - (6) Subsection (4) does not apply to the publication of a printed election advertisement if, not later than 7 days after the advertisement is published, the publisher, or a person authorized by the publisher, has provided to the Returning Officer a statutory declaration that states—
    - (a) the name and address of the printer;
    - (b) the date on which it was printed; and
    - (c) the number of copies printed.
  - (7) The Returning Officer must make available for public inspection a copy of each of any advertisement, information, permission, consent or statutory declaration provided under subsection (3) or (6) from when it is provided until the end of the period for which copies of election returns are available for

inspection under section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).

- (8) The Director must publicize any platform maintained under subsection (2)(a) and ensure that the platform is maintained until the end of the period for which copies of election returns are available for inspection under section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).
- (9) A person who fails to comply with subsection (1) or (4) commits an offence and is liable to a fine at level 2 and to imprisonment for 6 months.

### **93. Court may grant relief for election advertisements**

- (1) A person who publishes an election advertisement without complying with section 92(1)(a) or (4) may apply to the Court for an order under subsection (2).
- (2) On the hearing of an application made under subsection (1), the Court may make an order excepting the act which would, but for the order, constitute an offence under subsection (9) of section 92, from the relevant requirement under that section, but only if the Court—
  - (a) is satisfied that—
    - (i) the non-compliance was due to inadvertence, an accidental miscalculation or any reasonable cause and was not due to bad faith; and
    - (ii) if the Court requires notice of the application to be given in Hong Kong, the notice has been given; and
  - (b) believes it to be just that the act be so excepted.

- (3) If an application is made under subsection (1), no prosecution against the applicant for not having complied with section 92(1)(a) or (4) may be instituted or carried on until the application is disposed of by the Court.
- (4) An applicant is not liable to be convicted of an offence under section 92(9) if the non-compliance by the applicant with section 92(1)(a) or (4) is the subject of an order made under subsection (2).

**94. Power to seize, etc. election advertisements**

The Returning Officer or any person authorized by that Officer may seize and dispose of, or destroy, or obliterate, or cover with any materials that Officer or the person thinks fit, any election advertisement on display and in respect of which any requirement in section 92 has not been complied with.

**95. Commission may grant exemption**

The Commission may, by notice published in the Gazette, exempt any class or type of election advertisement from the application of any provision of section 92.”.

**Division 8—Amendments to Electronic Transactions  
(Exclusion) Order (Cap. 553 sub. leg. B)**

**23. Schedule 1 amended (provisions excluded from application of section 5 of Ordinance)**

Schedule 1, item 59C, column 3—

**Repeal**

“, 80(2) and 81(1)(b)”

**Substitute**

“and 80(2)”.

**24. Schedule 2 amended (provisions excluded from application of section 6 of Ordinance)**

(1) Schedule 2, item 16, column 3—

**Repeal**

“, 66(7) and (10) and 102(4)”

**Substitute**

“and 66(7) and (10)”.

(2) Schedule 2, item 18, column 3—

**Repeal**

“, 102(4) and 103(4)”

**Substitute**

“and 102(4)”.

(3) Schedule 2, item 18B, column 3—

**Repeal**

“, 99(2)(b) and 100(4)”

**Substitute**

“and 99(2)(b)”.

(4) Schedule 2, item 18C, column 3—

**Repeal**

“, 80(2) and 81(1)(b)”

**Substitute**

“and 80(2)”.

**Division 9—Amendments to Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554)**

**25. Section 2 amended (interpretation)**

(1) Section 2(1), definition of *notice*, after “circular”—

**Add**

“, bill, booklet”.

- (2) After section 2(2)—

**Add**

“(3) For the purposes of this Ordinance, a document published by a candidate during an election period that gives details of the work done by the candidate in the capacity of—

- (a) the Chief Executive;
  - (b) a member of the Legislative Council;
  - (c) a member of a District Council;
  - (d) a member of the Heung Yee Kuk;
  - (e) the Chairman or Vice-Chairman or a member of the Executive Committee of a Rural Committee;  
or
  - (f) a Village Representative,
- is an election advertisement.”.

**26. Section 4 amended (what elections does this Ordinance apply to?)**

- (1) Section 4—

**Renumber the section as section 4(1).**

- (2) Section 4(1)—

**Repeal**

“This Ordinance”

**Substitute**

“Subject to subsection (2), this Ordinance”.

- (3) After section 4(1)—

**Add**

- “(2) Part 5 only applies to the following kinds of elections—
- (a) an election to elect members of the Heung Yee Kuk; and
  - (b) an election to elect a person as the Chairman or Vice-Chairman or a member of the Executive Committee of a Rural Committee.”.

**27. Section 16 amended (corrupt conduct with respect to voting at elections)**

- (1) Section 16(1)(c)(i)—

**Repeal**

“4(a)”

**Substitute**

“4(1)(a)”.

- (2) Section 16(1)(c)(ia)—

**Repeal**

“4(i)”

**Substitute**

“4(1)(i)”.

- (3) Section 16(1)(c)(ii)—

**Repeal**

“4”

**Substitute**

“4(1)”.

- (4) Section 16(2)(c)(i)—

**Repeal**

“4(i)”

**Substitute**

“4(1)(i)”.

- (5) Section 16(2)(c)(ii)—

**Repeal**

“4”

**Substitute**

“4(1)”.

**28. Section 28 amended (court empowered to restrain person from repeating certain illegal conduct)**

- (1) Section 28(5)(a)(i)—

**Repeal**

“4(a)”

**Substitute**

“4(1)(a)”.

- (2) Section 28(5)(a)(ii)—

**Repeal**

“4”

**Substitute**

“4(1)”.

**29. Section 33 amended (interpretation: Part 5)**

- (1) Section 33, definition of *printer*—

**Repeal**

“document, includes any person who reproduces the document”

**Substitute**

“printed article, includes any person who reproduces the article”.

(2) Section 33—

**Repeal the definitions of *incumbent candidate* and *performance report*.**

(3) Section 33—

**Add in alphabetical order**

“*printed election advertisement* (印刷選舉廣告) means an election advertisement printed on any material;”.

**30. Section 34 amended (offence to publish election advertisements that do not meet certain requirements)**

Section 34—

**Repeal subsection (9).**

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## Part 4

### Amendments Relating to Organizations which are constituents of Functional Constituencies

**31. Legislative Council Ordinance amended**

The Legislative Council Ordinance (Cap. 542) is amended as set out in sections 32 to 35.

**32. Section 20E amended (composition of the education functional constituency)**

Section 20E(b)(xiii)—

**Repeal**

“Francis Hsu College”

**Substitute**

“Institute of Higher Education”.

**33. Section 20W amended (composition of the import and export functional constituency)**

Section 20W(e)(xvi)—

**Repeal**

“South-China Paper Merchants Association Limited”

**Substitute**

“Hong Kong Paper Association Limited”.

**34. Schedule 1 amended (composition of the agriculture and fisheries functional constituency)**

Schedule 1—

**Repeal item 28.**

**35. Schedule 1A amended (composition of the transport functional constituency)**

- (1) Schedule 1A, English text, item 35—

**Repeal**

“Hong Kong & Kowloon Goods Vehicle Omnibuses and Minibuses Instructors’ Association Ltd.”

**Substitute**

“Hong Kong Kowloon Goods Vehicles, Omnibuses and Minibuses Instructors Association Limited”.

- (2) Schedule 1A, English text, item 36—

**Repeal**

“Hong Kong & Kowloon Motor Boats and Tug Boats Association Ltd.”

**Substitute**

“Hong Kong & Kowloon Motor Boats & Tug Boats Association Limited”.

- (3) Schedule 1A, item 46—

**Repeal**

“Hong Kong Driving Instruction Club Ltd.”

**Substitute**

“Hong Kong Driving Instructors’ Association”.

- (4) Schedule 1A, item 75—

**Repeal**

“(China—Hong Kong Centre)”

**Substitute**

“(Hong Kong, China)”.

- (5) Schedule 1A—  
**Repeal item 197.**
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## Part 5

### **Amendment Relating to Organization which is Constituent in Subsector of Election Committee**

**36. Chief Executive Election Ordinance amended**

The Chief Executive Election Ordinance (Cap. 569) is amended as set out in section 37.

**37. Schedule, section 2 amended (how Election Committee is to be constituted)**

The Schedule, section 2, Table 5, item 5, column 3, paragraph (2)(m)—

**Repeal**

“Francis Hsu College”

**Substitute**

“Institute of Higher Education”.

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## Part 6

### Amendments Relating to Improvement of Electoral Procedures for Various Elections

#### Division 1—Enactments Amended

**38. Enactments amended**

The enactments specified in Divisions 2 and 3 are amended as set out in those Divisions.

#### Division 2—Amendments to Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541 sub. leg. D)

**39. Section 2 amended (interpretation)**

Section 2(1), definition of *notice of nominations*, before “or (5)”—

**Add**

“, (4A)”.

**40. Section 22C amended (no poll upon death or disqualification of candidate for a GC under certain circumstances)**

Section 22C(1)(c)—

**Repeal**

“geographical” (wherever appearing).

**41. Section 54 amended (procedure for voting)**

Section 54(1), after “subsection (3)”—

**Add**

“or (3A)”.

**42. Section 72 amended (delivered ballot boxes to be given into charge of relevant Returning Officer)**

(1) Section 72, heading, after “boxes”—

**Add**

“and receptacles”.

(2) After section 72(1)—

**Add**

“(1A) After delivery of the ballot boxes and receptacles containing FC ballot papers transferred from a ballot paper sorting station to the central counting station, the ballot boxes and receptacles are to be given into the charge of a Returning Officer for a functional constituency.”.

(3) Section 72(2), before “are not”—

**Add**

“or (1A)”.

**43. Section 74A amended (arrangements for verification of ballot paper account at GC counting station)**

(1) Section 74A(1)(d), English text, before “in case”—

**Add**

“the station must,”.

(2) Section 74A(1)(d), Chinese text—

**Repeal**

“投票站的”

**Substitute**

“點票站的”.

**44. Section 74AA amended (arrangements for sorting in ballot paper sorting stations)**

Section 74AA, heading, after “for sorting”—

**Add**

**“of GC ballot papers”.**

**45. Section 74AB added**

After section 74AA—

**Add**

**“74AB. Arrangements for sorting of FC ballot papers in ballot paper sorting stations**

- (1) This section applies if any FC ballot paper is found in a ballot box for GC ballot papers delivered to a ballot paper sorting station.
- (2) The Presiding Officer of a ballot paper sorting station must—
  - (a) sort the FC ballot papers according to each functional constituency;
  - (b) count and record the number of FC ballot papers for each functional constituency;
  - (c) prepare a statement in writing as to the number of ballot papers recorded for each functional constituency under paragraph (b);
  - (d) make into separate bundles the sorted FC ballot papers together with the relevant statement prepared under paragraph (c);
  - (e) place each bundle in a separate receptacle and seal it in the presence of those present at the counting zone; and

(f) give the receptacles into the charge of an Assistant Presiding Officer in attendance at the counting zone.

(3) The Assisting Presiding Officer referred to in subsection (2)(f) must deliver the receptacles to the central counting station and hand over the receptacle containing the bundle of FC ballot papers to the Returning Officer for the relevant functional constituency.”.

**46. Section 76 amended (counting of votes for special functional constituencies)**

Section 76(1)(a)—

**Repeal**

“section 74(8)”

**Substitute**

“sections 74(8)(a), 74AAA(4)(a), 74A(3) and 74AB(3)”.

**47. Section 77 amended (counting of votes for ordinary functional constituencies)**

Section 77(1)(a)—

**Repeal**

“74(8) and 74A(3)”

**Substitute**

“74(8)(b), 74AAA(4)(b), 74A(3) and 74AB(3)”.

**48. Section 80 amended (votes recorded on invalid ballot papers not to be counted)**

Section 80(2)—

**Repeal**

“56(2A)”

**Substitute**

“56(2)”.

**49. Section 91 substituted**

Section 91—

**Repeal the section**

**Substitute**

**“91. Presiding Officer may perform functions through polling officers or counting officers**

- (1) Subject to subsection (2), a Presiding Officer may perform any act which that Officer is required or authorized to perform under this Regulation through a polling officer or a counting officer.
- (2) A Presiding Officer may not delegate under subsection (1)—
  - (a) the power to adjourn a poll or count under Schedule 2;
  - (b) the power to make a determination of the validity of a ballot paper; or
  - (c) the power to make a decision as to whether the vote recorded on a ballot paper is to be counted.”.

**50. Section 103 amended (offence of false declaration)**

Section 103(3A)—

**Repeal**

“31, 39, 40 and 53”

**Substitute**

“39 and 40”.

**Division 3—Amendments to Electoral Affairs Commission  
(Electoral Procedure) (District Councils) Regulation  
(Cap. 541 sub. leg. F)**

**51. Section 75 amended (Presiding Officer to verify ballot paper account)**

Section 75(2), after “with the”—

**Add**

“number of”.

**52. Section 89 substituted**

Section 89—

**Repeal the section**

**Substitute**

**“89. Presiding Officer may perform functions through polling officers or counting officers**

(1) Subject to subsection (2), a Presiding Officer may perform any act which that Officer is required or authorized to perform under this Regulation through a polling officer or a counting officer.

(2) A Presiding Officer may not delegate under subsection (1)—

(a) the power to adjourn a poll or count under Schedule 1;

(b) the power to make a determination of the validity of a ballot paper; or

(c) the power to make a decision as to whether the vote recorded on a ballot paper is to be counted.”.

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## Part 7

### Amendments Relating to Counting Arrangements for District Council (Second) Functional Constituency

**53. Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation amended**

The Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541 sub. leg. D) is amended as set out in sections 54 to 65.

**54. Section 2 amended (interpretation)**

(1) Section 2(1), definition of *FC ballot paper*—

**Repeal**

everything after “vote”

**Substitute**

“for—

(a) a list of candidates standing for election for the District Council (second) functional constituency; or

(b) a candidate standing for election for any other functional constituency;”.

(2) Section 2(1), definition of *verification of the ballot paper account*, after “74(1)(d)”—

**Add**

“, 74AAA(2)(c)”.

**55. Section 74 amended (arrangements for separating ballot papers and verifying ballot paper account at central counting station)**

(1) Section 74, heading, after “station”—

**Add**

**“: functional constituencies other than District Council (second) functional constituency”.**

- (2) Before section 74(1)—

**Add**

**“(1A) This section applies to any functional constituency other than the District Council (second) functional constituency.”.**

- (3) Section 74(1)(f)—

**Repeal**

**“; and”**

**Substitute a semicolon.**

- (4) Section 74(1)(g)—

**Repeal the full stop**

**Substitute**

**“; and”.**

- (5) After section 74(1)(g)—

**Add**

**“(h) in case there are any FC ballot papers for the District Council (second) functional constituency in the ballot boxes—**

- (i) count and record the number of the ballot papers;**
- (ii) prepare a statement in writing as to the number recorded under subparagraph (i);**
- (iii) make into a bundle the ballot papers together with the statement prepared under subparagraph (ii); and**
- (iv) place the bundle in a receptacle and seal it in the presence of those present at the counting zone.”.**

- (6) Section 74(5), after “with the”—

**Add**

“number of”.

- (7) Section 74(8)—

**Repeal**

“or (g)(iv)”

**Substitute**

“, (g)(iv) or (h)(iv)”.

**56. Section 74AAA added**

After section 74—

**Add**

**“74AAA. Arrangements for separating ballot papers and verifying ballot paper account at central counting station: District Council (second) functional constituency**

- (1) This section applies to the District Council (second) functional constituency.
- (2) At the central counting station, the Returning Officer for the District Council (second) functional constituency must, in relation to the FC ballot papers in the ballot boxes given into that Officer’s charge under section 72, in the counting zone for that functional constituency—
  - (a) count and record the number of FC ballot papers from each polling station;
  - (b) verify the ballot paper account by comparing it with the number recorded under paragraph (a);
  - (c) prepare a statement in writing as to the result of the verification;

- 
- (d) in case there are any GC ballot papers in the ballot boxes—
    - (i) sort the GC ballot papers according to each geographical constituency;
    - (ii) count and record the number of GC ballot papers for each geographical constituency;
    - (iii) prepare a statement in writing as to the number of GC ballot papers recorded for each geographical constituency under subparagraph (ii);
    - (iv) make into separate bundles the sorted GC ballot papers together with the relevant statement prepared under subparagraph (iii); and
    - (v) place each bundle in a separate receptacle and seal it in the presence of those present at the counting zone;
  - (e) in case there are any FC ballot papers for any functional constituency other than the District Council (second) functional constituency in the ballot boxes—
    - (i) sort the FC ballot papers according to each functional constituency;
    - (ii) count and record the number of FC ballot papers for each functional constituency;
    - (iii) prepare a statement in writing as to the number of FC ballot papers recorded for each functional constituency under subparagraph (ii);
    - (iv) make into separate bundles the sorted FC ballot papers together with the relevant statement prepared under subparagraph (iii); and

- 
- (v) place each bundle in a separate receptacle and seal it in the presence of those present at the counting zone.
- (3) If the Returning Officer considers it necessary or if required by a candidate, an election agent or a counting agent present at the counting zone, that Officer must, in preparing the verification of the ballot paper account, compare the ballot paper account with the number of ballot papers recorded by that Officer and the spoilt ballot papers, the unused ballot papers and the counterfoils or un-issued ballot papers.
  - (4) The Returning Officer must give the receptacles referred to in subsection (2)(d)(v) or (e)(v) into the charge of an Assistant Returning Officer in attendance at the relevant counting zone. The Assistant Returning Officer—
    - (a) must hand over the receptacle containing the bundle of special functional constituency ballot papers to the Returning Officer for the relevant special functional constituency;
    - (b) must hand over the receptacle containing the bundle of other FC ballot papers to the Returning Officer for the relevant functional constituency; and
    - (c) must hand over the receptacle containing the bundle of GC ballot papers to the Returning Officer for the relevant geographical constituency.
  - (5) A candidate, an election agent or a counting agent may copy what is recorded on the ballot paper account or the verification of the ballot paper account.”.

**57. Section 74A amended (arrangements for verification of ballot paper account at GC counting station)**

Section 74A(2), after “with the”—

**Add**

“number of”.

**58. Section 74B amended (arrangements for verification of ballot paper account at counting station at a by-election)**

Section 74B(2), after “with the”—

**Add**

“number of”.

**59. Section 75 amended (counting of votes for geographical constituencies)**

Section 75(6), after “74(8)(c)—”

**Add**

“or 74AAA(4)(c)”.

**60. Section 77 amended (counting of votes for ordinary functional constituencies)**

(1) Section 77, heading, after “constituencies”—

**Add**

“other than District Council (second) functional constituency”.

(2) Before section 77(1)—

**Add**

“(1A) This section applies to an ordinary functional constituency other than the District Council (second) functional constituency.”.

(3) Section 77(1)—

**Repeal**

“an ordinary functional constituency, the ballot papers for that ordinary”

**Substitute**

“a functional constituency, the ballot papers for that”.

(4) Section 77(6)—

**Repeal**

“ordinary”.

**61. Sections 77A and 77B added**

After section 77—

**Add**

**“77A. Counting of votes for District Council (second) functional constituency**

- (1) At the counting zone for the District Council (second) functional constituency, the ballot papers for the constituency the number of which is recorded under section 74AAA(2)(a) and those handed over under sections 74(8)(b), 74A(3) and 74AB(3) must be dealt with by the Returning Officer as provided in this section.
- (2) The ballot papers are to be separated with reference to the list of candidates for which the vote has been recorded.
- (3) The votes recorded on the ballot papers are to be counted according to the system of counting described in section 49 of the Legislative Council Ordinance (Cap. 542).
- (4) In the course of counting in accordance with subsection (3)—

- (a) any ballot paper—
  - (i) which appears to have any writing or mark by which the elector can possibly be identified;
  - (ii) which appears to be not marked in accordance with section 55(2);
  - (iii) which appears to be substantially mutilated; or
  - (iv) which appears to be void for uncertainty, is questionable and must be separated and forwarded to the Returning Officer or an Assistant Returning Officer to decide whether the vote is to be counted in accordance with section 81; and
- (b) any ballot paper described in section 80(1)(b), (c), (d), (f), (ha) and (i) must be separated and the vote is not to be counted pursuant to section 80.

**77B. Counting of votes for District Council (second) functional constituency by-election**

- (1) Without affecting section 3(2), if the polling day of a by-election held for the District Council (second) functional constituency does not fall on the polling day of a by-election held for any geographical constituency—
  - (a) subsections (3), (4), (5), (6) and (7) apply; and
  - (b) sections 74B(1) and 79 do not apply in relation to the District Council (second) functional constituency.
- (2) Without affecting section 3(2), if the polling day of a by-election held for the District Council (second) functional constituency falls on the polling day of a by-election held for any geographical constituency (*GC by-election*), subsections (3), (4), (5), (6) and (7) apply

in relation to all counting stations at which no polling for any GC by-election is held.

- (3) Sections 65(7A), 71(2), 74B(1A) and (1B), 75(1), 75A(1) and 79A(1), (4), (5), (6), (7), (8), (10), (11), (12), (13) and (14) are to have effect as if “District Council (second) functional constituency” was substituted for “geographical constituency”.
- (4) Sections 73A(1), 74A(1), 74B(1A) and (1B), 75(5) and (6) and 79A(1), (7), (8), (12), (13) and (14) are to have effect as if “ballot papers for the District Council (second) functional constituency” was substituted for “GC ballot papers”.
- (5) Section 70(2) does not apply in relation to the District Council (second) functional constituency.
- (6) Section 74A(1) is to have effect as if “counting station designated for the District Council (second) functional constituency” was substituted for “GC counting station”.
- (7) Section 74A(1)(d) is to have effect as if the references in that section to “FC ballot papers” did not include any ballot paper for the District Council (second) functional constituency.”.

**62. Section 79 amended (result of the counting of votes and re-count for functional constituencies)**

Section 79(1)—

**Repeal**

“or 77”

**Substitute**

“, 77 or 77A”.

**63. Section 79A amended (result of the counting of votes and re-count for geographical constituencies)**

(1) Section 79A(1), after “74(8)(c)” —

**Add**

“or 74AAA(4)(c)”.

(2) Section 79A(7), after “74(8)(c)” (wherever appearing) —

**Add**

“or 74AAA(4)(c)”.

(3) Section 79A(8)(b), after “74(8)(c)” —

**Add**

“or 74AAA(4)(c)”.

(4) Section 79A(12)(b), after “74(8)(c)” —

**Add**

“or 74AAA(4)(c)”.

(5) Section 79A(13)(b), after “74(8)(c)” —

**Add**

“or 74AAA(4)(c)”.

(6) Section 79A(14)(a) and (b), after “74(8)(c)” —

**Add**

“or 74AAA(4)(c)”.

**64. Section 81 amended (Returning Officer or Presiding Officer to make decisions on questionable ballot papers)**

Section 81(1) —

**Repeal**

“or 77(7)(a)”

**Substitute**

“, 77(7)(a) or 77A(4)(a)”.

**65. Section 92 amended (Returning Officer may perform functions through Assistant Returning Officers)**

(1) Section 92, heading—

**Repeal**

**“perform functions through Assistant Returning Officers”**

**Substitute**

**“delegate certain functions”.**

(2) After section 92(3)—

**Add**

“(4) Despite subsections (1) and (3), the Returning Officer appointed for the District Council (second) functional constituency may delegate—

(a) the power to make a determination of the validity of a ballot paper; or

(b) the power to make a decision as to whether the vote recorded on a ballot paper is to be counted,

to an Assistant Returning Officer appointed for the constituency or the Presiding Officer appointed for a counting station in relation to which section 77B(3), (4), (5), (6) and (7) applies under section 77B(1) or (2).”.

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## Part 8

### Technical Amendments to Elections (Corrupt and Illegal Conduct) Ordinance

**66. Elections (Corrupt and Illegal Conduct) Ordinance amended**

The Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) is amended as set out in section 67.

**67. Section 2 amended (interpretation)**

(1) Section 2(1), definition of *candidate*, after “geographical constituency”—

**Add**

“or the District Council (second) functional constituency”.

(2) Section 2(1), definition of *group of candidates*, paragraph (a), after “geographical constituency”—

**Add**

“or the District Council (second) functional constituency”.

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## Explanatory Memorandum

The object of this Bill is to amend various pieces of legislation for the purposes set out in the long title.

### Part 1 of the Bill

2. Clause 1 sets out the short title and provides for commencement.

### Part 2 of the Bill

3. Clause 3 amends section 27 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) to specify the condition and requirement that a candidate or person must meet and comply with if the candidate or person publishes, or authorizes the publication of, an election advertisement that includes the name, logo or pictorial representation of another person or organization in such a way as to imply that the candidate or a particular candidate has the support of that another person or organization.

### Part 3 of the Bill

4. Clause 5 amends section 7 of the Electoral Affairs Commission Ordinance (Cap. 541) to empower the Electoral Affairs Commission (*Commission*) to make regulations providing for matters relating to grant of relief by the Court of First Instance in respect of election advertisements.
5. Clauses 6 to 22 amend the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541 sub. leg. D), the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap. 541 sub. leg. F), the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap. 541 sub. leg. I), the Electoral Procedure (Chief Executive Election) Regulation (Cap. 541 sub. leg. J) and the Electoral Procedure (Village

Representative Election) Regulation (Cap. 541 sub. leg. L) to specify the requirements applicable to election advertisements in respect of various elections.

6. In particular, a candidate who publishes an election advertisement is required under the current legislation to provide the Returning Officer with 2 copies of the advertisement before publishing the advertisement. In the case of an electronic election advertisement, the candidate is required to provide the Returning Officer with an electronic copy or 2 hard copies of the advertisement before publishing the advertisement or within the time specified by the Commission. The amendments require a candidate—
  - (a) to make an electronic copy of any election advertisement (whether an electronic advertisement or not) for inspection on an Internet platform maintained by the Chief Electoral Officer (or, in the case of a Village Representative election, the Director of Home Affairs) or the candidate within the time specified by the Commission; or
  - (b) to provide, within the time specified by the Commission, to the Returning Officer 2 copies of the advertisement in paper form or any other form specified by the Commission.

The amendments also allow a candidate to provide, in certain circumstances, a hyperlink to the Internet platform on which the advertisement is published as an alternative to providing a copy of the advertisement.

7. Clauses 23, 24, 25, 26, 27, 28, 29 and 30 introduce consequential amendments to the Electronic Transactions (Exclusion) Order (Cap. 553 sub. leg. B) and the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).

#### **Part 4 of the Bill**

8. Clauses 32, 33, 34 and 35 amend the Legislative Council Ordinance (Cap. 542) to introduce amendments to update the lists of persons of whom certain functional constituencies are composed.

#### **Part 5 of the Bill**

9. One constituent of the higher education subsector has changed its name. Clause 37 amends the Chief Executive Election Ordinance (Cap. 569) to reflect the change.

#### **Part 6 of the Bill**

10. Clauses 39, 40, 41, 42, 43, 44, 46, 47, 48 and 50 introduce certain technical amendments to the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541 sub. leg. D).
11. Clause 45 adds a new section 74AB to the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541 sub. leg. D) to set out the procedures that the Presiding Officer of a ballot paper sorting station must follow if any functional constituency ballot paper is found in a ballot box for geographical constituency ballot papers delivered to the ballot paper sorting station.
12. Clauses 49 and 52 respectively repeal and substitute section 91 of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541 sub. leg. D) and section 89 of the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap. 541 sub. leg. F) to provide that a Presiding Officer may not delegate to a polling officer or counting officer the power to make a determination of the validity of a ballot paper or the power to make a decision as to whether the vote recorded on a ballot paper is to be counted.

### **Part 7 of the Bill**

13. Clauses 54 to 65 amend the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap. 541 sub. leg. D) to provide for the counting arrangements for the District Council (second) functional constituency including—
- (a) adding a new section 74AAA to provide for the arrangements for separating the District Council (second) functional constituency ballot papers and verifying ballot paper account at the central counting station (clause 56);
  - (b) adding a new section 77A to provide for the system of counting of votes for the District Council (second) functional constituency (clause 61);
  - (c) adding a new section 77B to provide for the counting arrangements for a District Council (second) functional constituency by-election (clause 61); and
  - (d) adding a new section 92(4) to provide that the Returning Officer appointed for the District Council (second) functional constituency may delegate certain power to an Assistant Returning Officer appointed for that constituency or, in certain circumstances, the Presiding Officer appointed for a counting station (clause 65).

### **Part 8 of the Bill**

14. Clause 67 introduces technical amendments to the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554).