

## **IMPORTANT**

1. The Guidelines come into operation in October 2016. Subject to any subsequent revisions, they apply to all Chief Executive elections conducted under the Chief Executive Election Ordinance (Cap 569) to be held after publication.
2. The law stated in the Guidelines is that prevailing as at the date of publication.
3. For the 2017 Chief Executive Election, all specified forms referred to in the Guidelines will be gradually obtainable from the Registration and Electoral Office (tel: 2891 1001; fax: 2891 1180; e-mail: reoenq@reo.gov.hk) and its website at <http://www.reo.gov.hk>.
4. Electioneering, campaigning and canvassing activities referred to in the 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.
5. In the event that future amendments to the Guidelines are necessary, the updated Guidelines will be made available at the website of the Electoral Affairs Commission at <http://www.eac.gov.hk>.

## 2017 CHIEF EXECUTIVE ELECTION

### *Key Information*

- (1) Polling Date : 26 March 2017
- (2)(a) Polling Hours for Contested Election : First round of voting: 9 am to 11 am  
Second round of voting: 2 pm to 3 pm  
Third round of voting: 7 pm to 8 pm \*
- (b) Polling Hours for Uncontested Election : 9 am to 11 am
- (3) Nomination Period of Candidature : To be announced
- (4) Chairman's Briefing for Candidates : To be announced
- (5) Maximum Amount of Election Expenses : \$ 15,700,000
- (6) Deadline to Remove all Election Advertisements on Display : Not later than 5 April 2017  
(Assuming that the poll is completed on 26.3.2017)
- (7) Submission of Return and Declaration of Election Expenses and Election Donations by Candidates : Not later than 25 April 2017  
(Assuming that the election result is published in Gazette notice on 26.3.2017)
- (8) Deadline to Lodge Election Petition : Not later than 3 April 2017  
(Assuming that the election result is published in Gazette notice on 26.3.2017)

*\* In the event that there is a need for a fourth round or further rounds of voting, it will be held on the following day.*

## ABBREVIATIONS

ARO, AROs	Assistant Returning Officer, Assistant Returning Officers
BO	Buildings Ordinance (Cap 123)
Cap	Chapter of the Laws of Hong Kong
CAS	Civil Aid Service
CE	Chief Executive
CEEO	Chief Executive Election Ordinance (Cap 569)
CEO	Chief Electoral Officer
CFA	Court of Final Appeal
CFI	Court of First Instance
CMLS	Candidate Mailing Label System
CPG	Central People's Government
CPPCC	Chinese People's Political Consultative Conference
CSD	Correctional Services Department
DC, DCs	District Council, District Councils
DCO	District Councils Ordinance (Cap 547)
DLO	District Lands Office
EA, EAs	Election Advertisement, Election Advertisements
EAC	Electoral Affairs Commission
EP (CEE) Reg	Electoral Procedure (Chief Executive Election) Regulation (Cap 541J)
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
ECICO	Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554)
FR	Final Register
HKSAR	Hong Kong Special Administrative Region
HYK	Heung Yee Kuk
ICAC	Independent Commission Against Corruption
LCO	Legislative Council Ordinance (Cap 542)
LegCo	Legislative Council
MAC	mutual aid committee
NCO	Noise Control Ordinance (Cap 400)
NCZ	No Canvassing Zone
NPC	National People's Congress
NSZ	No Staying Zone
OPCPD	the Office of the Privacy Commissioner for Personal Data
para., paras.	paragraph, paragraphs
PD(P)O	Personal Data (Privacy) Ordinance (Cap 486)
PHMSO	Public Health And Municipal Services Ordinance (Cap 132)
POBO	Prevention of Bribery Ordinance (Cap 201)
POO	Public Order Ordinance (Cap 245)
PRO	Presiding Officer
REO	Registration and Electoral Office
RO	Returning Officer

RTO	Road Traffic Ordinance (Cap 374)
S, s, Ss, ss	section, sections
SOO	Summary Offences Ordinance (Cap 228)
TD	Transport Department
RR	Rural Representative
RREO	Rural Representative Election Ordinance (Cap 576)

## CONTENTS

		<u>Page</u>
<b>CHAPTER 1</b>	<b>INTRODUCTION</b>	<b>1</b>
Part I	: The Chief Executive Election	1
Part II	: The Guidelines	3
Part III	: Advisory Service to Candidates on the Guidelines	5
Part IV	: Sanction	5
<b>CHAPTER 2</b>	<b>THE ELECTION COMMITTEE</b>	<b>6</b>
Part I	: Functions, Term of Office and Composition of the Election Committee	6
Part II	: EC Subsector Elections	6
Part III	: Disqualification of EC Members	7
<b>CHAPTER 3</b>	<b>NOMINATION OF CANDIDATES</b>	<b>10</b>
Part I	: Eligibility and Disqualification for Nomination	10
Part II	: When and How to Nominate	13
Part III	: Validity of Nominations	16
Part IV	: Withdrawal of Candidature	17
Part V	: Notice of Valid Nominations	18
Part VI	: Candidates' Briefing and Introduction to Candidates	19
<b>CHAPTER 4</b>	<b>THE VOTING SYSTEM</b>	<b>22</b>
Part I	: Contested Election	22
Part II	: Uncontested Election	27

<b>CHAPTER 5</b>	<b>POLLING AND COUNTING ARRANGEMENTS</b>	<b>28</b>
Part I	: The Venue	28
Part II	: Voting and Counting	29
Part III	: Inside and Outside the Polling Station	31
Part IV	: Admission to the Polling Station	34
Part V	: Conduct inside the Polling Station	37
Part VI	: The Count	45
Part VII	: Rules relating to Counting	49
Part VIII	: Disposal of Documents	52
<b>CHAPTER 6</b>	<b>ELECTION PETITION AND JUDICIAL REVIEW</b>	<b>54</b>
Part I	: Grounds for Lodging an Election Petition	54
Part II	: Who could, and When to, Lodge Election Petitions and Appeals	55
Part III	: Judicial Review	56
<b>CHAPTER 7</b>	<b>APPOINTMENT AND ROLES OF ELECTION AGENT, ELECTION EXPENSE AGENTS, POLLING AGENTS AND COUNTING AGENTS</b>	<b>57</b>
Part I	: General	57
Part II	: Types and Numbers of Agents	57
Part III	: Qualifications of Agents	58
Part IV	: Civil Servants Acting as Agents	58
Part V	: Election Agent	59
Part VI	: Election Expense Agents	63
Part VII	: Polling Agents	66
Part VIII	: Counting Agents	79

<b>CHAPTER 8</b>	<b>ELECTION ADVERTISEMENTS</b>	<b>83</b>
Part I	: What Constitutes an Election Advertisement	83
Part II	: Period and Area of Display	90
Part III	: Allocation of Designated Spots	95
Part IV	: Conditions and Limitations on Display	97
Part V	: Application for Temporary Occupation of Government Land at Public Place for Holding Electioneering Activities	99
Part VI	: Requirements relating to Publication of Election Advertisements	100
Part VII	: Requirements relating to Printed Election Materials	104
Part VIII	: Non-Compliance and Consequences	105
Part IX	: Advertisements of Political, Professional/Trade Bodies or Other Organisations	107
Part X	: Free Postage for Election Advertisements	109
Part XI	: Election Advertisements for Registered Electors in the Custody of CSD and Other Law Enforcement Agencies	117
<b>CHAPTER 9</b>	<b>ELECTIONEERING ACTIVITIES AT PREMISES OR BUILDINGS WHERE ELECTORS RESIDE, WORK OR FREQUENT</b>	<b>118</b>
Part I	: General	118
Part II	: Guidelines to be Observed by Candidates in the Conduct of Electioneering Activities	119
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	125
Part IV	: Conduct of Electioneering Activities in Premises under the Management of Housing Department and Hong Kong Housing Society	129



Part V	: Sanction	129
<b>CHAPTER 10</b>	<b>ELECTION MEETINGS</b>	<b>130</b>
Part I	: General	130
Part II	: Election Meetings in Public Places	132
Part III	: Election Meetings at Private Premises	138
Part IV	: Electioneering Exhibitions	138
Part V	: Fund-raising Activities at Election Meetings	139
<b>CHAPTER 11</b>	<b>ELECTION BROADCASTING, MEDIA REPORTING AND ELECTION FORUMS</b>	<b>140</b>
Part I	: General	140
Part II	: Electioneering on Television and Radio	140
Part III	: Advertising through the Print Media	145
Part IV	: Election Forums	147
Part V	: Sanction	148
<b>CHAPTER 12</b>	<b>USE OF SOUND AMPLIFYING DEVICE AND VEHICLES</b>	<b>150</b>
Part I	: General	150
Part II	: Use of Loudspeakers and Vehicles	150
Part III	: Sanction	154

<b>CHAPTER 13</b>	<b>ELECTIONEERING ACTIVITIES CONDUCTED IN SCHOOLS OR PARTICIPATED BY SCHOOL PUPILS</b>	<b>155</b>
Part I	: General	155
Part II	: School Pupils	155
Part III	: Electioneering Activities in Schools	157
Part IV	: Sanction	158
<b>CHAPTER 14</b>	<b>PROHIBITION AGAINST CANVASSING ACTIVITIES OUTSIDE POLLING STATION</b>	<b>159</b>
Part I	: General	159
Part II	: Determination of No Canvassing Zone and No Staying Zone	159
Part III	: Conduct inside the No Canvassing Zone and No Staying Zone	160
Part IV	: Penalty	163
<b>CHAPTER 15</b>	<b>EXIT POLL</b>	<b>164</b>
Part I	: General	164
Part II	: Secrecy of the Vote	164
Part III	: Conduct of Exit Polls	165
Part IV	: Identification of Interviewers	167
Part V	: Sanction	168

<b>CHAPTER 16</b>	<b>ELECTION EXPENSES AND ELECTION DONATIONS</b>	<b>169</b>
Part I	: What Constitutes Election Expenses	169
Part II	: Who may incur Election Expenses and their Limit	172
Part III	: Election Donations	174
Part IV	: Return and Declaration of Election Expenses and Election Donations	177
Part V	: Advance Return of Election Donations	181
Part VI	: Enforcement and Penalty	182
<b>CHAPTER 17</b>	<b>CORRUPT AND ILLEGAL CONDUCT</b>	<b>185</b>
Part I	: General	185
Part II	: Corrupt Conduct relating to Nomination and Withdrawal of Candidature	186
Part III	: Illegal Conduct relating to Electioneering	187
Part IV	: Corrupt Conduct relating to Electioneering and Voting	190
Part V	: Corrupt and Illegal Conduct relating to Election Expenses and Election Donations	193
Part VI	: Power of Court to Excuse Innocent Acts	193
Part VII	: Non-compliance with the Law and Sanction	194
<b>CHAPTER 18</b>	<b>NAMEDROPPING</b>	<b>196</b>

<b>CHAPTER 19</b>	<b>PARTICIPATION IN ELECTION-RELATED ACTIVITIES BY CIVIL SERVANTS AND OFFICIALS UNDER THE POLITICAL APPOINTMENT SYSTEM AND ATTENDANCE OF PUBLIC FUNCTIONS BY BOTH CIVIL SERVANTS AND CANDIDATES</b>	<b>202</b>
Part I	: General	202
Part II	: Participation in Electioneering Activities by Civil Servants	202
Part III	: Attendance of Public Functions by Civil Servants	203
Part IV	: Attendance of Public Functions by Candidates	205
Part V	: Officials under the Political Appointment System	205
<b>CHAPTER 20</b>	<b>COMPLAINTS PROCEDURE</b>	<b>207</b>
Part I	: General	207
Part II	: To Whom a Complaint may be Made	207
Part III	: Time and Procedure for Making Complaint	208
Part IV	: Complaints inside the Polling Station	209
Part V	: The Processing of Complaint	210
Part VI	: Electoral Affairs Commission's Report on Complaints	212
Part VII	: Obligations of the Returning Officer, a Presiding Officer and the Chief Electoral Officer	212
Part VIII	: Sanction for False Complaint	213
<b>APPENDICES</b>		
Appendix A	: Chief Executive Election Action Checklist for Candidates	215
Appendix B	: The 4 Sectors of the Election Committee and Subsectors of Sectors	230

Appendix C	: Legal Provisions against Pressuring Electors Not to Nominate a Particular Candidate	233
Appendix D	: Submission Method, Formats and Standard on Posting Electronic Copy of Election Advertisement and Relevant Information/Documents onto an Open Platform for Public Inspection (with Annexes I and II on the guidelines and basic layout design requirements for Candidate's Platform)	234
Appendix E	: Methods of Folding of Election Mail	242
Appendix F	: Canvassing Activities which are Forbidden Within a No Canvassing Zone	244
Appendix G	: Conduct of Electioneering Activities and Election Meetings in Premises under the Management of the Housing Department and the Hong Kong Housing Society	245
Appendix H	: Guidance on Electioneering Activities	247
Appendix I	: Complaint Cases Provided by Office of the Privacy Commissioner for Personal Data	250
Appendix J	: Guidance Note on Safe Conduct of Election-related Activities	252
Appendix K	: Application for a Permit under S4(17) of Summary Offences Ordinance, Cap.228 for Non-Charitable Purposes – Administrative Guidelines and Licensing Conditions for the Issue of Public Fund-raising Permits for Non-charitable Purposes	254
Appendix L	: Observations made by the Court in an Election Petition relating to a Television Programme on 2010 Legislative Council By-election	262
Appendix M	: Fair and Equal Treatment of Candidates by the Print Media	263
Appendix N	: Application Procedure for the Approval of Float Design	264

Appendix O	: Observations made by the Court of Final Appeal in a case touching upon Election Expenses (FACV No. 2 of 2012)	266
Appendix P	: Items of Expenses which may be Counted towards Election Expenses	267
Appendix Q	: Elaboration of Paragraph 16.8 of Chapter 16	271
Appendix R	: Collection of Election Donations	272
Appendix S	: Guidelines for Candidates on Sending Election Advertisements to Registered Electors in the Custody of the Correctional Services Department	273
<b>INDEX</b>		<b>275</b>

## CHAPTER 1

### INTRODUCTION

#### PART I : THE CHIEF EXECUTIVE ELECTION

1.1 The Chief Executive (“CE”) of the Hong Kong Special Administrative Region (“HKSAR”) is the head of the HKSAR and the head of the HKSAR Government. The CE is elected by the Election Committee (“EC”) and appointed by the Central People’s Government (“CPG”). The specific method for selecting the CE is prescribed in Annex I to the Basic Law [s 7 of the CEEO].

1.2 In accordance with Article 46 of the Basic Law, the term of office of the CE of the HKSAR shall be 5 years, and he/she may serve for not more than two consecutive terms. When a vacancy arises in the office of the CE other than due to expiry of the term of office, the new CE who is elected to fill the vacancy may, if re-elected, only serve for one more term after the expiry of the remainder term. The remainder of the term is regarded as one term. [Ss 3(1A), (2) and (2A) of the CEEO.] *[Added in January 2007]*

1.3 The term of office of the CE shall commence on the date on which he/she assumes office being the date specified for this purpose by the CPG in the instrument of appointment and published by notice in the Gazette. The first term of office of the CE commenced on 1 July 1997 [s 3 of the CEEO]. *[Added in January 2007]*

1.4 Article 53 of the Basic Law stipulates that in the event that the office of the CE becomes vacant, a new CE shall be selected within 6 months in accordance with the provisions of Article 45 of the Basic Law. A polling

date will be fixed in accordance with ss 10 and 11 of the Chief Executive Election Ordinance (Cap 569) (“CEEEO”) to elect a CE. If an election for a CE of a new term (5-year) is to be held within 6 months after a vacancy in the office of the CE has arisen, it will not be necessary to hold a by-election [s 6 of the CEEEO]. *[Added in January 2007]*

### **Governing Legislation**

1.5 The CE elections are governed by the statutory requirements provided in 3 different ordinances, namely the CEEEO, the Electoral Affairs Commission Ordinance (Cap 541) (“EACO”) and the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) (“ECICO”).

1.6 The CEEEO provides for the election of the CE in accordance with Annex I to the Basic Law. The Schedule to the CEEEO provides details on how the EC is to be constituted to elect the CE.

1.7 The EACO tasks the Electoral Affairs Commission (“EAC”) with the conduct and supervision of CE 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 6 pieces of subsidiary legislation which provide the detailed procedures for the conduct of the CE elections.

1.10 The electoral procedures for conducting CE elections are provided in the Electoral Procedure (Chief Executive Election) Regulation (Cap 541J) (“EP (CEE) Reg”).



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, amongst other things, registration of members of the EC who are to elect the CE. *[Amended in January 2007]*

1.12 The Election Committee (Registration) (Voters for Subsectors) (Members of Election Committee) (Appeals) Regulation (Cap 569B) sets out the procedures for, amongst other things, hearing and ruling by Revising Officer concerning the registration of members of the EC. *[Amended in January 2007]*

1.13 The Election Committee (Appeals) Regulation (Cap 569A) sets out the procedures for appeal against the results of subsector elections to the Revising Officer, and in relation to registration of nominees declared by the Returning Officer (“RO”) as members of the EC.

1.14 The Chief Executive Election (Election Petition) Rules (Cap 569E) set out the procedures for lodgement of petitions against the result of a CE election to the High Court.

1.15 The Maximum Amount of Election Expenses (Chief Executive Election) Regulation (Cap 554A) sets out the maximum amount of election expenses that can be incurred by or on behalf of a candidate at a CE election.

## **PART II : THE GUIDELINES**

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

*[Amended in November 2011]*

1.17 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. They also give guidance in layman’s language on the compliance with the relevant electoral legislation. The guidelines are issued for reference by the public to ensure that all public elections are conducted in an open, honest and fair manner. *[Amended in November 2011]*

1.18 This set of Guidelines explains the various electoral arrangements made for the CE 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 at **Appendix A**. *[Amended in November 2011]*

### **PART III : ADVISORY SERVICE TO CANDIDATES ON THE GUIDELINES**

1.19 Any person including candidates and their election agents may make enquiries with the ICAC on the provisions of the ECICO. Candidates may also seek their independent legal advice in case of doubt. In addition, candidates (including those who have publicly declared their intention to stand for election, whether or not they have submitted a nomination form) may raise, in writing, with the EAC any questions that they may have on the interpretation or operation of this set of Guidelines, other than those covered by the ICAC. The EAC will, wherever practicable, respond to the candidate concerned within 3 working days after receiving his/her written enquiry; the question(s) and answer(s) relevant to the Guidelines will be published for public information for the better understanding of the Guidelines.

### **PART IV : SANCTION**

1.20 Electors, candidates and their agents as well as government officials engaged in election-related duties, or members of the public as the case may be, should read, familiarise themselves with, and strictly observe, the Guidelines.

1.21 The EAC is committed to ensuring that all elections are conducted openly, honestly and fairly. If it comes to know that any candidate or person is in breach of the Guidelines, apart from notifying the relevant authorities for actions to be taken, it may make a reprimand or censure in a public statement which will include the name of the candidate or person concerned and, where appropriate, other relevant parties (if any). The reprimand or censure is separate from and in addition to the criminal liability for any offences committed. *[Amended in November 2011]*

## CHAPTER 2

### THE ELECTION COMMITTEE

#### PART I : FUNCTIONS, TERM OF OFFICE AND COMPOSITION OF THE ELECTION COMMITTEE

2.1 The EC is responsible for electing the CE [s 7 of the CEEO]. The term of office of the EC is 5 years and will commence on 1 February in the year in which the term of office of the CE is to expire [s 9 of the CEEO]. The composition of the EC is provided in s 2 of the Schedule to the CEEO and is set out in **Appendix B** for easy reference. *[Amended in January 2007]*

#### PART II : EC SUBSECTOR ELECTIONS

2.2 Before the office of the CE becomes vacant on the expiry of a 5-year term, EC subsector ordinary elections will be held, and nominations will be called for from the religious subsector, to form the EC of a new term, which will then elect the CE for a new term. *[Amended in January 2007]*

2.3 When a vacancy for the office of the CE arises otherwise than due to expiry of the term of the office, the current term EC will elect a new CE<sup>1</sup>. Before a by-election is held to elect a CE, a subsector by-election and/or supplementary nomination will be held to fill any vacancies among the EC members [ss 4 and 5 of the Schedule to the CEEO]. *[Amended in January 2007]*

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<sup>1</sup> If an election for a CE of a new term (5-year) is to be held within 6 months after a vacancy in the office of the CE has arisen, it will not be necessary to hold a by-election.

2.4 For details on the compilation of the different types of registers of EC members, please refer to paras. 2.5 to 2.12 of the Guidelines on Election-related Activities in respect of the Election Committee Subsector Elections. *[Amended in January 2007]*

### **PART III : DISQUALIFICATION OF EC MEMBERS**

#### **(a) from making nomination**

2.5 An EC member is disqualified from making a nomination at the CE election if he/she:

- (a) has resigned as an EC member (other than an ex-officio member);
- (b) is serving a sentence of imprisonment for the time being;
- (c) has ceased to have a substantial connection with the subsector concerned;
- (d) has ceased to be registered or eligible to be registered as an elector for a geographical constituency;
- (e) 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<sup>2</sup>;

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<sup>2</sup> The Court of First Instance delivered written judgment on 21 June 2012 on *Wong Hin Wai & another v Secretary for Justice* (HCAL 51 & 54/2012) and declared the similar provision under section 39(1)(b) of the Legislative Council Ordinance (Cap 542) to be unconstitutional. On 12 July 2012, the Government announced its decision not to appeal against the judgment. The future CE election will be organised in accordance with the prevailing electoral laws. Any EC member who would like to make a nomination at the CE election and is doubtful about his/her eligibility for making the nomination may seek independent legal advice.

- (f) is found for the time being, to be incapable, by reason of mental incapacity, of managing and administering his/her property and affairs under Part II of the Mental Health Ordinance (Cap 136);
- (g) is a member of the armed forces of the People’s Republic of China or any other country or territory; or
- (h) is or has been convicted, within the 3 years before the polling date-
  - (i) of having engaged in corrupt 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 regulations made by the EAC.

[S 16(5) of the CEEO.] *[Amended in January 2010]*

**(b) from voting**

2.6 An EC member will be eligible to vote at the CE election unless he/she has become disqualified to do so because he/she:

- (a) has resigned as an EC member (other than an ex-officio member);
- (b) has ceased to have a substantial connection with the subsector concerned;

- (c) has ceased to be registered or eligible to be registered as an elector for a geographical constituency;
- (d) is found for the time being, to be incapable, by reason of mental incapacity, of managing and administering his/her property and affairs under Part II of the Mental Health Ordinance (Cap 136);  
or
- (e) is a member of the armed forces of the People's Republic of China or any other country or territory.

[S 26 of the CEEO.] *[Amended in January 2010]*

2.7 For the subsectors of the Chinese People's Political Consultative Conference ("CPPCC"), Heung Yee Kuk ("HYK") and District Councils ("DCs"), EC members representing these subsectors who cease to be members of these bodies will be deemed to have resigned from the EC<sup>3</sup>. *[Added in January 2007]*

### **Online Voter Information Enquiry System**

2.8 EC members may log on to the Online Voter Information Enquiry System ([www.voterinfo.gov.hk](http://www.voterinfo.gov.hk)) anytime to check whether they are registered EC members. *[Added in October 2016]*

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<sup>3</sup> Unless the cessation of their membership in these bodies is due to the expiry of the term of office in these respective representing bodies and they are members in the immediately following term of office of the bodies concerned.

## CHAPTER 3

### NOMINATION OF CANDIDATES

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

3.1 The law governing the eligibility for and disqualification from the nomination of candidates for a CE election is contained in the CEEO. The procedure for nomination of candidates for the CE election is provided in the EP (CEE) Reg made by the EAC. *[Amended in October 2016]*

#### **Eligibility**

3.2 To be eligible for nomination as a candidate at a CE election, a person must:

- (a) be a permanent resident of the HKSAR;
- (b) be a Chinese citizen as defined by s 2 of the Hong Kong Special Administrative Region Passports Ordinance (Cap 539);
- (c) have no right of abode in any foreign country; and
- (d) have reached 40 years of age, and have ordinarily resided in Hong Kong for a continuous period of not less than 20 years.

[S 13 of the CEEO.]



3.3 A person is considered to **ordinarily reside in Hong Kong** when he/she habitually and normally lives there lawfully for a settled purpose, apart from temporary and occasional absences such as holidays and absence abroad for studying purposes. Each case has to be examined upon its own facts. Matters like the length of the person's absence, the reason for his/her absence, the location of the home of him/her, his/her spouse, children and parents and his/her maintenance of connections with Hong Kong are all relevant factors. In case of doubt, a prospective candidate should consult his/her independent legal adviser.

### **Disqualification**

3.4 A person is disqualified from being nominated as a candidate, if he/she:

- (a) is the incumbent CE and holds the office for the second consecutive term;
- (b) is a judicial officer, or a prescribed public officer<sup>4</sup>;
- (c) is adjudged bankrupt under the Bankruptcy Ordinance (Cap 6) and has not been discharged under section 30A or 30B of the Ordinance;

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<sup>4</sup>

A prescribed public officer means any of the following-

- (i) the Chairman of the Public Service Commission;
- (ii) the Commissioner and Deputy Commissioner of the ICAC and the holder of any other office under the ICAC Ordinance (Cap 204);
- (iii) the Ombudsman and the holder of any appointment under s 6 of the Ombudsman Ordinance (Cap 397);
- (iv) a member of the EAC;
- (v) the Chief Executive of the Hong Kong Monetary Authority and any member of the senior management of that Authority, including divisional heads, executive directors, managers and counsel employed by that Authority;
- (vi) the Privacy Commissioner for Personal Data and any person employed or engaged by him/her under the Personal Data (Privacy) Ordinance (Cap 486);
- (vii) the Chairperson of the Equal Opportunities Commission and any person employed or whose services are engaged by the Commission under the Sex Discrimination Ordinance (Cap 480); or
- (viii) any person holding an office, whether permanent or temporary, in a Government department or bureau and employed in the department or bureau.

- (d) holds a passport or similar travel document other than a passport or Certificate of Identity issued by the HKSAR or an entry permit issued by an authority in any part of the People's Republic of China;
- (e) has, in Hong Kong, or any other place, been sentenced to death, and has not either served the sentence or any substitute sentence or received a free pardon<sup>5</sup>;
- (f) has been convicted of treason ;
- (g) has been convicted, within 5 years before the date of nomination,
  - (i) of any offence in Hong Kong or in any other place, the sentence for which is imprisonment (suspended or not) for not less than 3 months;
  - (ii) of having engaged in corrupt or illegal conduct in contravention of the ECICO;
  - (iii) of an offence against Part II of the POBO; or
  - (iv) of any offence prescribed by the regulations made by the EAC;
- (h) is found, for the time being, to be incapable, by reason of mental incapacity, of managing and administering his/her property and affairs under Part II of the Mental Health Ordinance (Cap 136).

[S 14 of the CEEO.] *[Amended in October 2016]*

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<sup>5</sup> The Court of First Instance delivered written judgment on 21 June 2012 on *Wong Hin Wai & another v Secretary for Justice* (HCAL 51 & 54/2012) and declared the similar provision under section 39(1)(b) of the Legislative Council Ordinance to be unconstitutional. On 12 July 2012, the Government announced its decision not to appeal against the judgment. The future CE election will be organised in accordance with the prevalent electoral laws. Any person who would like to be nominated as a candidate for CE election and is doubtful about his/her eligibility for nomination may seek independent legal advice.

## **PART II : WHEN AND HOW TO NOMINATE**

### **When to Nominate**

3.5 Nomination may be made during the **nomination period** specified in the notice published in the Gazette [s 3 of the EP (CEE) Reg]. The nomination period for a CE election shall not be less than 14 days, and shall terminate at least 21 days before the polling date [s 15 of the CEEO]. The EAC shall appoint a judge of the Court of Final Appeal (“CFA”), a Justice of Appeal or a judge of the Court of First Instance (“CFI”) of the High Court to be the RO of a CE election [s 41 of the CEEO]. An election timetable will be provided to each candidate by the RO. The RO shall receive nominations during the ordinary business hours on each working day (i.e. any day other than a general holiday) in the nomination period from 9 am to 5 pm on Monday to Friday, and from 9 am to 12 noon on a Saturday. **Candidates are well advised to submit their nominations in good time before the end of the nomination period to allow time for any errors in their nomination forms to be corrected.** *[Amended in October 2016]*

### **How to Nominate**

3.6 Nomination forms specified by the EAC are available from the Registration and Electoral Office (“REO”), or can be downloaded from the website of the REO (<http://www.reo.gov.hk>).

3.7 The nomination form comprises:

- (a) **The Nomination.** This must be subscribed by not less than **150 members of the EC.** An EC member may nominate only one

candidate, and the nomination shall not be withdrawn or revoked.

*[Amended in November 2011]*

**IMPORTANT :**

A candidate who submits a nomination form on the last few days of the nomination period is advised to include more than the required number of subscribers for his/her nomination to avoid the risk of invalidation of the nomination should 1 or more of the subscribers be subsequently found not to be qualified as subscribers. A candidate should use his/her best endeavour to ensure that the EC members subscribing his/her nomination form are eligible and have not subscribed another nomination previously. Each EC member subscribing a nomination shall sign the nomination form **personally**.

No unlawful means shall be used to procure an elector to subscribe or not to subscribe a nomination. Please see **Appendix C** on legal provisions against pressuring electors not to nominate a particular candidate.

Candidates are also required to observe Principle 4 of Schedule 1 to the Personal Data (Privacy) Ordinance (Cap 486) (“PD (P) O”) in safeguarding the personal data of subscribers held for the nomination form. They should take all practicable steps to ensure that the aforesaid personal data are protected against unauthorised or accidental access, processing, erasure, loss or use.

*[Added in October 2016]*

- (b) The Candidate's Consent to Nomination and Declarations. This must be completed and signed by the candidate and attested by a witness. The following declarations must be made before a justice, notary, commissioner or other authorised person:
- (i) a declaration to the effect that the candidate stands for the election in an individual capacity and that he/she will uphold the Basic Law and pledge allegiance to the HKSAR; and
  - (ii) a declaration as to the candidate's nationality and whether he/she has a right of abode in any foreign country.

To ensure that all candidates clearly understand the contents of the Basic Law and the legal requirements and responsibilities involved in signing the relevant declaration in the nomination form, the EAC will prepare a Confirmation Form for the use of the RO with a view to assisting the RO in the exercise of his/her statutory power to discharge his/her duties to ensure that the nomination procedure is completed in accordance with the law. The Confirmation Form also enables the candidate to confirm that he/she understands the above requirements and responsibilities.

[S 16 of the CEEO.] *[Amended in January 2007 and October 2016]*

3.8 Candidates should ensure that their nomination forms are properly completed before submission. The completed nomination form must be delivered to the RO by the candidate **in person** during ordinary business hours within the nomination period (see para. 3.5). The RO may, in exceptional circumstances, e.g. the candidate's temporary absence from Hong Kong or incapacity due to illness, authorise any other form of delivery of the nomination form [s 4(1)(e) of the EP (CEE) Reg]. *[Amended in January 2007 and October 2016]*

### **False Declarations**

3.9 A candidate who knowingly and wilfully makes a statement which is false in a material particular in the declaration in the nomination form shall be guilty of an offence under the Crimes Ordinance (Cap 200) and shall be liable to a fine and to imprisonment for 2 years. Under s 84 of EP (CEE) Reg, a person who knowingly makes a false statement in a material particular or recklessly makes an incorrect statement in a material particular or omits a material particular in an election-related document commits an offence and shall be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months, which is a prescribed offence with the same disqualifying effect as conviction of a corrupt or illegal conduct under the ECICO (as described in paras. 16.46 and 17.30 of the Guidelines). *[Amended in January 2007, November 2011 and October 2016]*

### **PART III : VALIDITY OF NOMINATIONS**

3.10 The RO will make a decision as to the validity of a nomination as soon as practicable after receipt of the nomination form [s 17 of the CEEEO].

3.11 Where a nomination appears to the RO to be invalid because of some errors which can be corrected **within** the nomination period, the RO will, if practicable, give the candidate a reasonable opportunity of correcting the errors before making a decision that the nomination is invalid [s 5 of the EP (CEE) Reg]. 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/her nomination form as practicable. However, no substitution for any subscriber or re-submission of a nomination form will be accepted after the end of the nomination period.

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

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

3.14 A nomination will not be valid unless it contains all the information and signatures required to be shown on the nomination form or other information required by the RO and the candidate has made the declarations referred to in para. 3.7(b). *[Amended in November 2011]*

#### **PART IV : WITHDRAWAL OF CANDIDATURE**

3.15 A candidate may withdraw his/her candidature only before the end of the nomination period. He/She should complete and sign a specified form entitled “Notice of Withdrawal of Candidature” and lodge it with the RO [s 19 of the CEEO and s 9 of the EP (CEE) Reg].

#### **IMPORTANT:**

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

*[Amended in November 2011]*

**PART V : NOTICE OF VALID NOMINATIONS**

3.16 The RO shall, as soon as practicable after determining that a person is validly nominated as a candidate or is not so nominated, send a written notice of the determination to the person and to each validly nominated candidate [s 7(1) of the EP (CEE) Reg]. Within 7 days after the end of the nomination period, the RO will declare by notice in the Gazette the names of the validly nominated candidates and, for each of these candidates, the names of the EC members nominating him/her. The RO will also make available copies of the nomination forms for public inspection free of charge at his/her office during ordinary business hours until the result of the election is declared or until the termination of the proceedings for the election under s 22(1AA), (1AB)(e), (1) or (3)(e) of the CEEO [s 18 of the CEEO and s 8 of the EP (CEE) Reg]. Should the RO determine that a nomination is invalid, he/she is required to endorse on the nomination form his/her determination and the reasons for it [s 6 of the EP (CEE) Reg]. *[Amended in October 2016]*

3.17 The RO may decide that a nomination is invalid only where:

- (a) the number of qualified subscribers are less than 150 as required by s 16 of the CEEO; *[Amended in November 2011]*
- (b) the nomination form, including the nomination and declarations, has not been completed or signed as required by s 16 of the CEEO and s 4(1) of the EP (CEE) Reg;
- (c) he/she is satisfied that the candidate is not eligible to be, or is disqualified from being, nominated as a candidate;
- (d) he/she is satisfied that the candidate has died; or



- (e) the nomination form is not duly delivered within the nomination period [see para. 3.5].

3.18 If at any time after the end of the nomination period but before the declaration of the result of the election, proof is given to the satisfaction of the RO that any candidate has died or is disqualified from being elected, the RO must publicly declare that the proceedings for the election are terminated [s 22(1AA) and 22(1) of the CEEO].

## **PART VI : CANDIDATES' BRIEFING AND INTRODUCTION TO CANDIDATES**

3.19 The EAC will conduct a briefing for all validly nominated candidates on important matters related to the election. After the end of the nomination period, the RO will inform each validly nominated candidate of the date and time of the Candidates' Briefing. In a contested election, the RO will conduct a lots drawing session immediately after the briefing to allocate to each of such candidates a candidate number to be shown on the ballot paper; and a set of designated spots for displaying EAs. *[Amended in October 2016]*

3.20 The REO will publish an **Introduction to Candidates**. The number of each candidate on the ballot paper allocated to him/her by the drawing of lots will also be shown on the Introduction to Candidates, which will be mailed to electors together with the polling notice before the polling day. The Introduction to Candidates will be published even if there is only one validly nominated candidate at an uncontested election, although no candidate number will be allocated to the candidate. Copies of the Introduction to Candidates will be made available in the Correctional Services Department ("CSD") and other law enforcement agencies for electors imprisoned or held in custody. *[Amended in January 2007, January 2010 and October 2016]*

3.21 Candidates are free to make use of the Introduction to Candidates to promote their election platforms. Any candidate who so wishes should submit the following to the RO **before the end of the nomination period**:

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

If a candidate does not submit the grid paper, the Introduction to Candidates will only show the name and the candidate number (in contested election) in respect of him/her, and “Relevant information has not been provided by the candidate” will be printed in the space provided for the election platform.

*[Amended in January 2010, November 2011 and October 2016]*

3.22 The contents, nature and presentation of the candidate’s message in the Introduction to Candidates are exclusively the idea and work of the candidate himself/herself. They will not be subject to alteration or editing by the REO unless they are considered to be indecent, defamatory, unlawful or contain information not relating to the promotion of the candidature of the candidate concerned. *[Amended in January 2010 and November 2011]*

3.23 To assist persons with visual impairment to read the contents of the election platform in the Introduction to Candidates, the REO has put in place a mechanism for candidates to provide separately the typed texts of their messages therein. With these typed texts, the REO would prepare a text version of the Introduction to Candidates for uploading onto the dedicated website for the election. This text version would enable persons with visual impairment to read the contents of the document with the aid of a computer.

If the candidate does not provide the typed text of the Introduction to Candidates, the website will only show the name and the candidate number (in contested election) in respect of him/her with the remark that the candidate has not provided a text version of his/her election platform. The EAC appeals to all candidates to support this initiative and make use of this text version to communicate their electoral messages to persons with visual impairment. As a general principle, candidates should be sensitive to the needs of persons with disabilities and, in the course of their electioneering campaign, make their utmost efforts to ensure that persons with disabilities, irrespective of their different forms of disability, can have fair access to their electoral messages.

*[Added in October 2016]*

## CHAPTER 4

### THE VOTING SYSTEM

4.1 A poll would be held in a contested as well as an uncontested election, and different voting systems will be adopted, as appropriate [ss 23 and 24 of the CEEO]. In both cases, if a candidate obtains more than 600 valid votes, he/she is returned at the election. Details of the 2 different systems are provided in Parts I and II of this chapter. *[Added in January 2007 and amended in October 2016]*

#### **PART I : CONTESTED ELECTION**

4.2 The voting system to be adopted if there are 2 or more validly nominated candidates contesting in an election is detailed below. *[Amended in January 2007]*

4.3 Each elector may cast only 1 vote by marking the candidate of his/her choice with the chop with a “✓” provided.

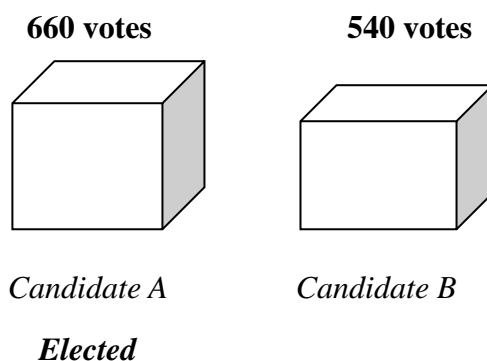
4.4 Where there are only 2 validly nominated candidates at the end of the nomination period, the candidate who obtains more than 600 valid votes in that single round of voting is returned at the election. The RO shall as soon as practicable publicly declare that candidate as elected at the election and publish the result of the election in the Gazette. However, if no candidate obtains more than 600 valid votes in that single round of voting, no candidate is returned at the election and the RO must publicly declare that no candidate is returned at the election, and publish the declaration and result of the poll as well as a notice of termination of the election proceedings for the election in

the Gazette. [Ss 22(3), 24, 27(2), 27(2A) and 28(2) of the CEEO.]  
*[Amended in November 2011 and October 2016]*

4.5 Where there are 3 or more validly nominated candidates, the candidate who obtains more than 600 valid votes in the first round of voting at the election will be elected. If no candidate obtains more than 600 valid votes, the candidate who obtains the highest number of valid votes and those candidate(s) who obtain the next highest and the same number of valid votes, or those candidates who obtain the highest and same number of valid votes shall remain and all other candidates shall be eliminated. If there are only 2 remaining candidates, only one single round of voting shall be conducted for these 2 candidates as described in para. 4.4 above. Otherwise, the aforesaid voting and elimination process shall be repeated until a candidate obtains more than 600 valid votes, or 2 candidates remain and one single round of voting is conducted for the 2 candidates as described in para. 4.4 above. If a candidate obtains more than 600 valid votes at the end of any subsequent round of voting in the election, the RO shall as soon as practicable publicly declare the candidate as elected at the election and publish the result of the election in the Gazette[ss 24, 27(3) and (4) and 28 of the CEEO]. *[Amended in January 2007, November 2011 and October 2016]*

4.6 Examples are given below to illustrate how the voting system operates:

**Scenario 1** (where there are 2 candidates in the election or 2 candidates remain after the elimination of all other candidates – a single round of voting must be conducted for the 2 candidates)



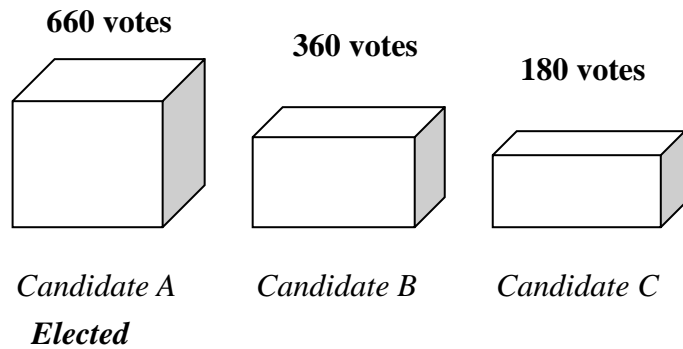
- Candidate A is elected as he/she has obtained more than 600 votes.

**IMPORTANT:**

If no candidate obtains more than 600 votes, no candidate will be returned at the election. The RO must terminate the proceedings for the election.

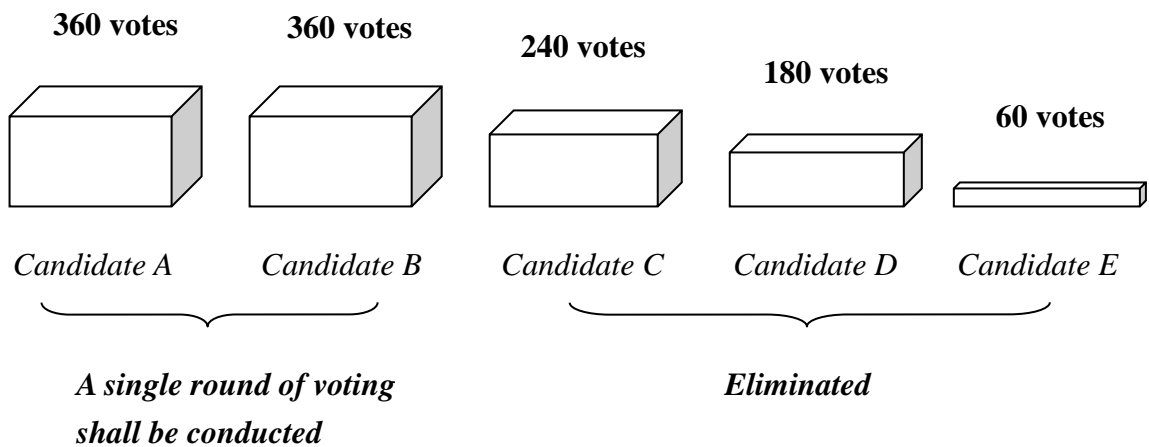
**Scenario 2** (where there are 3 or more candidates in the election)

**Scenario 2(a)**



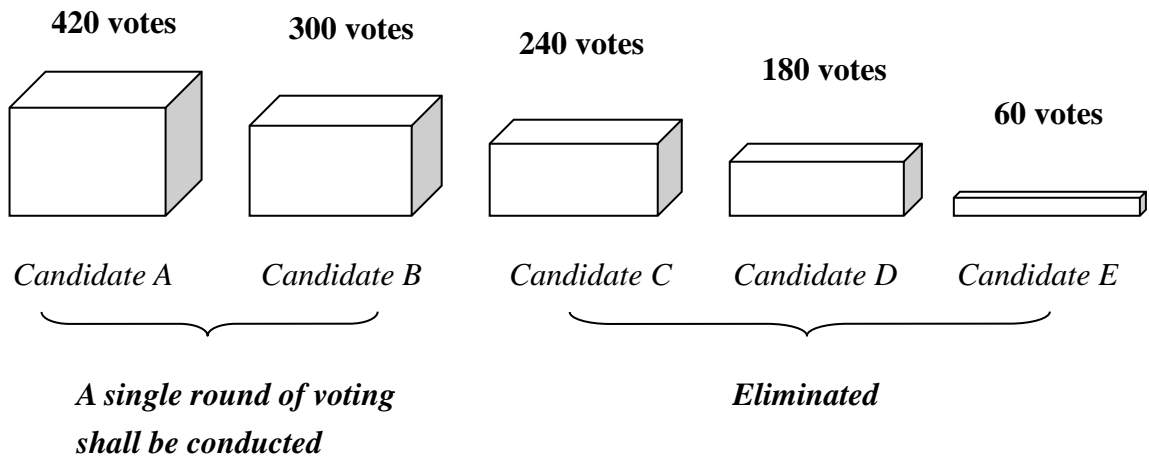
- 1 candidate (Candidate A) has obtained more than 600 votes in the first round of voting.
- Candidate A is elected.

**Scenario 2(b)**



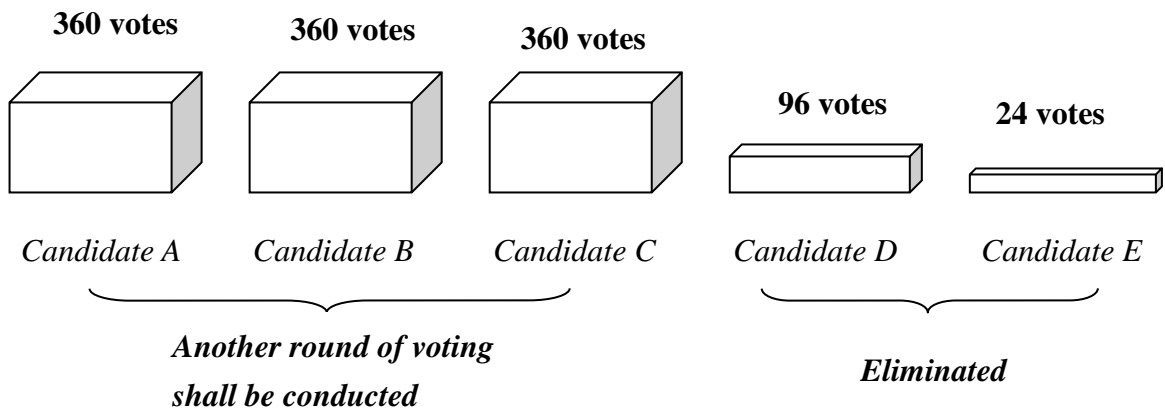
- Only 2 candidates (Candidates A and B) have obtained the highest and the same number of votes cast.
- A single round of voting shall be conducted for Candidates A and B (see scenario 1).

**Scenario 2(c)**



- Only 1 candidate (Candidate A) has obtained the highest number of votes cast but he/she does not obtain more than 600 votes.
- Only 1 candidate (Candidate B) has obtained the next highest number of votes cast.
- A single round of voting shall be conducted for Candidates A and B (see scenario 1).

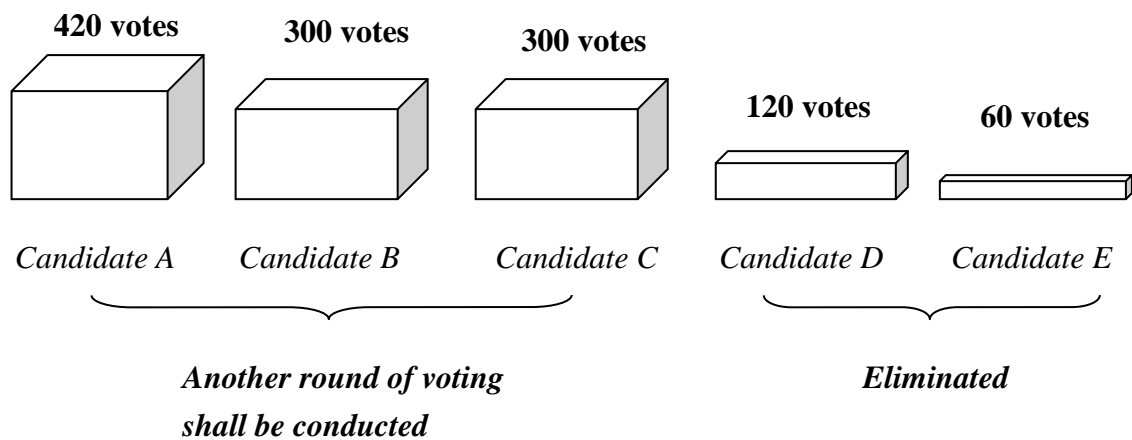
**Scenario 2(d)**



- 3 candidates (Candidates A, B and C) have obtained the highest and the same number of votes cast.

- As many rounds of voting as may be necessary shall be conducted until (i) one of them (Candidate A, B or C) who has obtained more than 600 votes in any round of voting and is returned (see scenarios 1, 2(a), 2(b) and 2(c)); or (ii) the proceedings for the election are terminated when neither one of the 2 candidates who remain after elimination of the other candidate obtains more than 600 votes in the required single round of voting (see scenario 1).

### **Scenario 2(e)**



- Only 1 candidate (Candidate A) has obtained the highest number of votes cast but he/she does not obtain more than 600 votes.
- 2 candidates (Candidates B and C) have obtained the next highest and the same number of votes cast.
- As many rounds of voting as may be necessary shall be conducted until (i) one of them (Candidate A, B or C) who has obtained more than 600 votes in any round of voting and is returned (see scenarios 1, 2(a), 2(b) and 2(c)); or (ii) the proceedings for the election are terminated when neither one of the 2 candidates who remain after elimination of the other candidate obtains more than 600 votes in the required single round of voting (see scenario 1).

(Note: “vote” and “votes” mentioned in the aforesaid scenarios refer to “valid vote” and “valid votes” respectively.)

*[Amended in November 2011]*



## **PART II : UNCONTESTED ELECTION**

4.7 The voting system to be adopted if there is only 1 validly nominated candidate in the election is detailed below. *[Added in January 2007]*

4.8 Each elector may cast either a “support” vote or a “not support” vote. The candidate shall be returned at the election if the number of valid “support” votes obtained by him/her exceeds 600. The RO shall then publicly declare him/her as elected at the election, and publish the result of the election in the Gazette [ss 23, 26A(1), (2) (3) and 28 of the CEEO]. *[Added in January 2007 and amended in November 2011]*

4.9 If the number of valid “support” votes obtained by the candidate does not exceed 600, the candidate shall not be returned at the election. The RO shall publicly declare that no candidate is returned at the election, and publish the declaration and the result of the poll as well as a notice of termination of the election proceedings for the election in the Gazette [ss 22(1AB) and 26A(1), (2) and (4) of the CEEO]. There will then be another round of nomination and, if necessary, the electoral process will be repeated until a candidate is returned. *[Added in January 2007 and amended in November 2011]*

## CHAPTER 5

### POLLING AND COUNTING ARRANGEMENTS

#### PART I : THE VENUE

5.1 The Chief Electoral Officer (“CEO”) must designate by notice in the Gazette a place as the main polling station, a place as the counting station, and one or more places as dedicated polling station(s)<sup>6</sup> at least 10 days before the polling day. Subject to the availability of suitable venues, both the main polling station and the counting station will be set up at the same location, or locations in close proximity to each other, with accessibility to electors with mobility difficulty [s 18 of the EP (CEE) Reg]. *[Amended in January 2010, November 2011 and October 2016]*

5.2 If both the main polling station and the counting station are set up at the same location, the venue will be partitioned into 2 parts, i.e. the main polling station and the counting station. Within the counting station, there will be a counting zone, seating areas for the electors, the candidate(s) and his/her/their agent(s), and an area for members of the public to observe the counting of votes [s 46 of the EP (CEE) Reg]. *[Amended in January 2010]*

5.3 An area outside each polling station will be designated as the No Canvassing Zone (“NCZ”) and No Staying Zone (“NSZ”), the boundaries of which will be determined by the RO. All candidates will be notified of these zones before the polling day [s 23 of the EP (CEE) Reg]. The RO may also authorise the Presiding Officer ( “PRO” ) to vary the NCZ or the NSZ on the polling day [s 23(5A) of the EP (CEE) Reg]. *[See Chapter 14.] [Amended*

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<sup>6</sup> A dedicated polling station means a place situated inside penal institutions or other suitable places at which registered electors, who are imprisoned or held in custody by the law enforcement agencies on the polling day, will be allocated to vote.

*in January 2007, January 2010 and October 2016]*

## **PART II : VOTING AND COUNTING**

### **Contested Election**

5.4 At a contested election where there is more than one validly nominated candidate, different rounds of voting may need to be held on the polling day, and generally the first round of voting will start at 9 am and close at 11 am (except for dedicated polling stations situated in penal institutions – please see para. 5.5 below). Thereafter the count will start. If none of the candidates obtains more than 600 valid votes and another round of voting has to be held in accordance with the voting system described in Part I of Chapter 4, the new round will start at 2 pm and close at 3 pm. The count will follow thereafter. If again none of the candidates obtains more than 600 valid votes and more than 2 candidates remain after the elimination process, the third round of voting will be held as required in accordance with the voting system. This round, if required, will start at 7 pm and close at 8 pm. Again, the count will follow thereafter. In the event that there is a need for the fourth round or further rounds to be conducted in accordance with the voting system, it will be held on the following day [s 17(3) of the EP (CEE) Reg]. Under the voting system, where only 2 candidates remain and none of them obtains more than 600 valid votes in a single round of voting conducted for them, the election proceedings will be terminated and no further round of voting will be required [s 22(3)(e) of the CEEEO]. For details of the voting system, please refer to Part I of Chapter 4. *[Amended in January 2007, January 2010 and November 2011]*

5.5 Due to security reasons, different polling hours may be appointed for dedicated polling stations situated in penal institutions and there is a need to

separate some persons imprisoned or held in custody from others inside the penal institutions. The Commissioner of Correctional Services may assign a time slot during the polling hours of a dedicated polling station situated in a penal institution to an elector allocated to that polling station to vote, and inform the elector of the time slot assigned. The Commissioner of Correctional Services must assign time slots so as to give the electors a reasonable opportunity to vote. An elector to whom a time slot is assigned may only cast his/her vote during that time slot (see para. 5.25 below). [S 17(7) to (11) of the EP (CEE) Reg.] *[Amended in January 2007, January 2010 and October 2016]*

### **Uncontested Election**

5.6 At an uncontested election where there is only 1 validly nominated candidate, the time for conducting the poll will be published in the gazette notice and in the polling notice sent to electors at least 10 days before the polling day. The polling arrangements in respect of the dedicated polling station are similar to those for a contested election as set out in para. 5.5 above. For details on the voting system, please refer to Part II of Chapter 4. *[Added in January 2007 and amended in January 2010 and October 2016]*

### **Polling Notice**

5.7 For both contested and uncontested elections, at least 10 days before the polling day, the REO will issue to each elector a polling notice. The polling notice details the polling date, the address of the polling station allocated to him/her, and the time of the first 3 rounds of voting at a contested election or the time of voting at an uncontested election. Along with the polling notice, there will be a location map of the polling station, detailed voting instructions and procedures on how the poll and the count will be conducted. To allow electors serving a sentence of imprisonment on the polling day to receive the polling notices as early as possible, the REO will

send the polling notices to the prisons where the electors are serving their sentences insofar as practicable [s 19 of the EP (CEE) Reg]. *[Amended in January 2007 and January 2010]*

5.8 At both contested and uncontested elections, the RO shall give notice in writing to a candidate or the election agent or any counting agent of the address of the counting station and the time of counting of votes. *[Added in January 2007 and amended in October 2016]*

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

5.9 The PRO will be responsible for maintaining order inside a polling station, the NCZ and the NSZ. At the main polling station, there will be police officers and members of the Civil Aid Service (“CAS”) present to provide assistance whenever necessary. For dedicated polling stations, the PRO will be assisted by officers of the CSD or other law enforcement agencies. *[Amended in January 2010]*

5.10 About 15 minutes before the commencement of the poll, the PRO will show the candidate(s), his/her/their election agent(s) or polling agent(s), if they are present, the empty ballot boxes before proceeding to lock and seal them. Candidate(s) concerned or his/her/their agent(s) may observe the locking and sealing of the ballot boxes [s 29 of the EP (CEE) Reg]. For each candidate, only 1 such person may be present to observe the locking and the sealing of the ballot boxes: a candidate, the election agent or a polling agent. For dedicated polling station, due to security reasons,

- (a) only a maximum of 2 candidates may be present to observe the locking and the sealing of the ballot boxes at a dedicated polling station situated inside a maximum security prison; and

- (b) a maximum of 2 candidates, election agents or polling agents may be present to observe the locking and the sealing of the ballot boxes at a dedicated polling station situated in a prison other than a maximum security prison.

*[Amended in November 2011]*

Admission of candidates, election agents or polling agents to the aforesaid dedicated polling stations to observe the locking and sealing of ballot boxes will be on a **first-come-first-served basis**. Where no candidates or any of their agents are present at the polling station, the above process of locking and sealing of ballot boxes will be conducted in the presence of any two of the following persons: police officer, member of the CAS, officer of the CSD or polling staff, as the case may be, present at the polling station. [See also Chapter 7 on the procedures for applying for the presence of election agents or polling agents in dedicated polling stations situated in prisons.] *[Amended in January 2010 and October 2016]*

5.11 The PRO will also inform and show to the candidate(s), his/her/their election agent(s) or polling agent(s), if they are present, the number of unissued ballot papers which are in his/her possession.

5.12 Unless it is not practicable to do so, the PRO will arrange a copy of the relevant Introduction to Candidates published by the REO to be displayed outside the main polling station, or if it is a dedicated polling station, inside the polling station to facilitate easy reference by electors. *[Amended in November 2011 and October 2016]*

5.13 The CEO will display a map or plan showing the respective boundaries of the main polling station, counting station and dedicated polling station outside the main polling station and counting station, or if it is a

dedicated polling station inside the polling station [s 18(7) of the EP (CEE) Reg]. A NCZ will be designated outside the polling station to ensure the free and safe passage of electors into the polling station. A NSZ in which no one is allowed to stay or loiter will also be designated immediately outside the entrance/exit of a polling station to avoid any obstruction of entry/exit. Canvassing activities within a NCZ will not be allowed (except for static display of EAs mounted at designated spots approved by the RO). 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. [See Chapter 14.] *[Amended in January 2007, January 2010, November 2011 and October 2016]*

5.14 On the polling day, a person must not:

- (a) engage in canvassing for votes (including suggesting not to vote for any candidate in the case of a contested election, or suggesting not to vote in support of the candidate in the case of an uncontested election) in a NCZ; *[Amended in January 2007]*
- (b) use a sound amplifying system or device for any purpose in the NCZ without lawful authority, except for the performance of duties by officers of the CSD on the polling day at the dedicated polling stations situated in prisons; *[Amended in November 2011]*
- (c) use a sound amplifying system or device, or conduct any activity for canvassing for votes, so that the sound of the activity can be heard in the NCZ; *[Amended in January 2007 and October 2016]*
- (d) display in the NCZ any propaganda material relating to any candidate or the election of the CE, except for static display of EAs mounted at designated spots approved by the RO; *[Amended in October 2016]*

- (e) stay or loiter in the NSZ without the express permission of the PRO;
- (f) fail to comply with a lawful direction given by the RO or the PRO in a NCZ or NSZ;
- (g) cause an obstruction to any person who is in the zone and on his/her way to vote; or
- (h) otherwise misconduct himself/herself in a NCZ or NSZ.

[S 24 of the EP (CEE) Reg.]

5.15 If a person contravenes the requirements in para. 5.14 above, he/she may be (a) required by the RO or PRO to produce his/her identity card for inspection and (b) ordered by the RO or PRO to leave the zone. If he/she fails to leave immediately, he/she may be removed by a police officer or by any other person authorised in writing by the RO or PRO, or an officer of the CSD or any law enforcement agency if the NCZ or NSZ is determined in relation to a dedicated polling station. The person so removed may not re-enter the relevant zone except with the express permission of the RO or PRO.  
*[Amended in January 2010 and October 2016]*

5.16 A person who violates the provisions in paras. 5.14 and 5.15 commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months [s 82 of the EP (CEE) Reg].

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

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



- (a) a member of the EAC;
- (b) the RO;
- (c) an Assistant Returning Officer (“ARO”);
- (d) the CEO;
- (e) the PRO;
- (f) a polling officer;
- (g) a candidate;
- (h) an election agent (this does not apply to dedicated polling stations situated in maximum security prisons);
- (i) a polling agent appointed for the polling station (this does not apply to dedicated polling stations situated in maximum security prisons);
- (j) a public officer on duty at the polling station;
- (k) a police officer and a member of CAS on duty at the polling station;
- (l) a child who accompanies an elector who enters the main polling station for the purpose of voting (if the PRO considers that the child should not be left unattended while that elector is inside the polling station and will not disturb or cause inconvenience to any person in the main polling station);

- (m) a person authorised in writing by a member of the EAC or the CEO, subject to the conditions as imposed in the authorisation; or
- (n) a person authorised in writing by the RO for liaison purposes.

[S 26 of the EP (CEE) Reg.] *[Amended in January 2007, January 2010 and October 2016]*

A notice will be displayed at the entrance to the main polling station to show that only the above persons and electors may be allowed to enter. *[Amended in January 2010]*

5.18 For each candidate, only 1 of the following persons may be present in a dedicated polling station (other than that situated inside a maximum security prison) to observe the poll at any one time: a candidate, the election agent or the polling agent. For security reasons,

- (a) only a maximum of 2 candidates may be present at any one time to observe the poll at a dedicated polling station situated inside a maximum security prison; and
- (b) a maximum of 2 candidates, election agents or polling agents may be admitted to a dedicated polling station situated in a prison other than a maximum security prison at any one time.

Admission to the dedicated polling station is on a **first-come-first-served basis**. Observers will have to take turn in case more than two candidates/agents intend to observe the poll at the same time. The PRO may regulate the number of people entering the dedicated polling stations. [See also Chapter 7.] *[Added in January 2010]*

5.19 Except for an elector, a police officer, an officer of the CSD, an officer of any law enforcement agency or a member of the CAS on duty, all other persons permitted to enter a polling station are required to sign a **Declaration of Secrecy** on a specified attested form and observe the provisions governing the secrecy of voting [s 69 of the EP (CEE) Reg]. *[Amended in January 2010]*

## **PART V : CONDUCT INSIDE THE POLLING STATION**

5.20 Inside the polling station, there will be a number of ballot paper issuing desks and voting compartments. On arrival at the polling station, an elector shall approach the ballot paper issuing desks to obtain his/her ballot paper by producing his/her identity document for verification of his/her identity by the polling staff manning the desk. The polling staff will call out the name of the elector as stated in the entry in the copy of the final register (“FR”) of EC members and cross out the name and the identity document number of that entry, before issuing a ballot paper to the elector [s 34 of the EP (CEE) Reg]. At the time of issuing the ballot paper, the polling staff will also supply an elector with a chop with a “✓” sign.

5.21 No record will be made as to which particular ballot paper is given to an elector. For control purpose regarding the total number of ballot papers issued, the counterfoil of each ballot paper bears a serial number on its front. However, the serial number on the counterfoil will not be recorded as correlating to the particular elector to whom the ballot paper is issued.

5.22 If there are reasonable grounds for questioning the bona fides of an elector, the PRO shall ask him/her the following questions at the time of his/her application for a ballot paper (but not afterwards):

- (a) Are you the person registered in the EC FR as follows (reads the whole of the relevant entry in the FR)?
- (b) Have you already cast a vote in this round of voting? (for a contested election)
- or
- Have you already cast a vote? (for an uncontested election)

A person will not be issued with any ballot paper unless he/she has answered the questions to the satisfaction of the PRO [s 32 of the EP (CEE) Reg].  
*[Amended in January 2007]*

5.23 Where there is reasonable cause to believe that a person has engaged in corrupt conduct of impersonation of an elector, the PRO may request the police officer on duty at the polling station to arrest that person. If the polling station is a dedicated polling station, the PRO may request the officer of the CSD or the law enforcement agency to remove the person concerned from the polling station and report the case to the police [s 33 of the EP (CEE) Reg]. *[Amended in January 2010]*

5.24 Where a person claiming to be a particular elector, applies for a ballot paper after a person has already been issued with a ballot paper as such an elector, the PRO may issue a tendered ballot paper to the latter elector **only if** he/she is not certain that the latter person is the former person who had been issued with a ballot paper earlier, and the latter person has answered the appropriate questions in accordance with the law as set out in para. 5.22 to the satisfaction of the PRO. The PRO may in such circumstances issue a ballot paper with the words “**TENDERED**” and “**重複**” endorsed on the front of it. Such ballot paper shall not be counted at the counting of votes. [Ss 38 and 50 of the EP (CEE) Reg.] *[Amended in October 2016]*

5.25 If for a reason considered justified by the PRO, an elector cannot cast his/her vote after a ballot paper has been issued to him/her, he/she may, with the permission of the PRO, hand back the ballot paper to the PRO and return later to cast his/her vote [s 35(1) of the EP (CEE) Reg]. If after having been issued with a ballot paper, an elector has become incapacitated from voting by physical illness and has left the polling station without casting his/her vote, he/she may return to the polling station to cast his/her vote before the close of that round of voting at a contested election or the close of poll at an uncontested election, provided that before he/she leaves the polling station, his/her ballot paper has been retrieved by the PRO. For a dedicated polling station situated in a prison, the elector has to return to cast his/her vote within the existing or any newly assigned time slot. Under the above circumstances, the following actions must be taken by the PRO and/or the Commissioner of Correctional Services or his/her officer:

- (a) the PRO must keep the ballot paper in his/her custody and re-issue such ballot paper, in the presence of a police officer for the main polling station or an officer of the CSD or any law enforcement agency for a dedicated polling station, to the elector in question when the latter returns before the close of that round of voting at a contested election or the close of poll at an uncontested election to cast his/her vote [s 35(3) of the EP(CEE) Reg]; and/or
- (b) the Commissioner of Correctional Services or his/her officer must, as far as practicable, assign to an elector of a dedicated polling station situated in a prison a new time slot during the polling hours appointed for the polling station and notify the elector of the time slot [s 35(3) and (5A) of the EP(CEE) Reg]; and
- (c) if at the close of that round of voting at a contested election or the

close of poll at an uncontested election, the elector has not returned, the PRO shall endorse the ballot paper with the words “UNUSED” and “未用” ; such ballot paper shall not be counted [ss 35, 39 and 50 of the EP (CEE) Reg].

*[Amended in January 2007, January 2010 and October 2016]*

5.26 The PRO would need to keep a ballot paper left in the polling station in his/her custody in the circumstances described in para. 5.25 above only if he/she knows which elector had left the ballot paper behind. Otherwise, a ballot paper found to be left in the polling station should be endorsed as “UNUSED” and “未用” and shall not be counted. *[Amended in January 2007 and October 2016]*

5.27 Ballot papers which have been issued (whether marked or unmarked) may sometimes be abandoned or found left behind by electors in the voting compartments or lying on the floor of the polling station, or otherwise not used. Any person who discovers such a ballot paper is required to hand it to the PRO. Such a ballot paper will be endorsed on the front with the words “UNUSED” and “未用” and will be kept by the PRO. In no circumstances shall such ballot paper be put into a ballot box. Such a ballot paper will not be counted at the counting of the votes [ss 39 and 50 of the EP (CEE) Reg].

5.28 Upon obtaining his/her ballot paper, the elector should immediately proceed to any one of the voting compartments to mark his/her ballot paper. One compartment may be used by one elector at one time. *[Amended in January 2007 and October 2016]*

5.29 An elector must use the chop supplied to mark his/her choice of candidate on the ballot paper at a contested election or his/her choice of “support” or “not support” at an uncontested election. He/She should then

fold the ballot paper so that the marked side is inside, before leaving the voting compartment and insert the folded ballot paper into the ballot box located near the exit of the polling station. *[Amended in January 2007]*

5.30 Any elector who has inadvertently torn or damaged his/her ballot paper or has made an error in marking his/her ballot paper issued to him/her may ask the PRO to exchange it for another unmarked ballot paper. If the PRO considers the request reasonable, he/she will issue a new ballot paper to the elector in exchange for the spoilt ballot paper. Such spoilt ballot paper will be endorsed on the front of it with the words “**SPOILT**” and “**損壞**” and will be kept by the PRO. The spoilt ballot papers will not be counted at the counting of the votes [ss 40 and 50 of the EP (CEE) Reg]. *[Amended in January 2007 and October 2016]*

5.31 An elector may seek help from the PRO to mark his/her ballot paper if he/she finds it necessary (see paras. 7.36 and 7.37 of Chapter 7).

5.32 **The ballot is secret. No one can force a person to vote or not to vote for any particular candidate at a contested election** [s 13 of the ECICO], **or to vote or not to vote in support of the candidate at an uncontested election. Also no one is required to tell which candidate he/she has voted for or is about to vote for at a contested election, or whether or not he/she has voted or is about to vote in support of the candidate at an uncontested election.** A person who, without lawful authority, requires or purports to require an elector to disclose the name of, or any particular relating to, the candidate for whom the elector voted at a contested election or disclose whether or not he/she has voted in support of the candidate at an uncontested election commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months [ss 78 and 82 of the EP (CEE) Reg]. *[Amended in January 2007]*

5.33 For the protection of the elector's privacy, no one shall, at any time, disclose whether an elector has or has not applied for a ballot paper or voted; or disclose the identity of an elector at a dedicated polling station. Anyone who makes such disclosure commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months [ss 70(1)(a) and (aa) and 82 of the EP (CEE) Reg]. *[Added in January 2010 and amended in October 2016]*

5.34 After casting their votes, electors shall leave the main polling station and may proceed to the counting station to observe the count, or leave the venue. In a contested election, electors at the main polling station are encouraged to observe the count and stay until the counting result is known so that they may proceed to the polling station for the second round of voting and so on if required (please see para. 5.4). If any additional round of voting is required, the RO will make a public announcement through the electronic media. Electors who have left the main polling station should keep a close watch on such an announcement and return to the main polling station in time to cast their votes. Alternatively, they may enquire through the REO hotline about the need to return for another round of voting if they do not have access to the electronic media. *[Amended in January 2007 and January 2010]*

5.35 An elector who has cast his/her vote in a dedicated polling station in the first round of voting will be informed by an officer of the CSD or law enforcement agency if an additional round of voting is required. The Commissioner of Correctional Services or his/her officer shall assign a time slot to an elector allocated to vote at a dedicated polling station situated in a prison to cast his/her vote in the next round of voting. *[Added in January 2010 and amended in October 2016]*

5.36 In a polling station, a person must not:

- (a) engage in canvassing for votes (including suggesting not to vote



for any candidate in case of a contested election, or suggesting not to vote in support of the candidate in the case of an uncontested election); *[Amended in January 2007]*

- (b) display any propaganda material relating to any candidate or the CE election;
- (c) fail to obey any lawful order of the RO or PRO;
- (d) disrupt the poll or disturb or cause inconvenience to any person;  
or
- (e) misconduct himself/herself,

otherwise he/she commits an offence and will be liable to a fine and to imprisonment and may be (a) required by the RO or PRO to produce his/her identity card for inspection, and (b) ordered by the RO or PRO to leave the polling station. An elector must cast his/her vote without undue delay. If an elector who is allocated to vote at a dedicated polling station fails to cast his/her vote without undue delay, the RO or the PRO may order him/her to leave the polling station immediately. If a person fails to leave immediately as ordered by the RO or the PRO, he/she may be removed by:

- (a) a police officer if the polling station is the main polling station; or
- (b) an officer of the CSD or other law enforcement agency if the polling station is a dedicated polling station; or
- (c) any other person authorised in writing by the RO or PRO to remove him/her.

The person so removed may not re-enter the polling station on the polling day except with the express permission of the RO or PRO [s 27 of the EP (CEE) Reg]. *[Amended in January 2010 and October 2016]*

5.37 Only the following persons may communicate with electors within a polling station:

- (a) a member of the EAC;
- (b) the RO and an ARO;
- (c) the CEO;
- (d) the PRO and other polling staff;
- (e) a public officer, a police officer or a member of the CAS on duty at the polling station;
- (f) an officer of the CSD or other law enforcement agency on duty at a dedicated polling station;
- (g) a person authorised in writing by the RO for liaison purposes; and
- (h) a person authorised in writing by a member of the EAC or the CEO.

[S 27 of the EP (CEE) Reg.] *[Amended in January 2007, January 2010 and October 2016]*

5.38 No person shall use a mobile telephone, paging machine or any other communication device to communicate with any other person, in the polling station during the polling hours, contrary to a direction of the RO, ARO,

PRO or any polling officer not to do so. Any person who undertakes photographing, filming and video or audio recording within a polling station without the express permission of the PRO, the RO or a member of the EAC, commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months [ss 27 and 82 of the EP (CEE) Reg]. Normally such permission is only granted to members of the media or government photographers for publicity purposes. *[Amended in January 2007]*

5.39 After the close of poll, the PRO will lock the ballot box and seal it [s 41 of the EP (CEE) Reg.]. Candidate(s) and his/her/their agent(s) can accompany the PRO in the delivery of the ballot boxes from a polling station to the counting station. *[Added in January 2010]*

## **PART VI : THE COUNT**

5.40 The count will be conducted in the presence of the candidate(s), or his/her/their election agent(s) or counting agent(s), if they are present. The ballot box(es) at the dedicated polling station(s) will be delivered to the counting station under police escort. Such ballot box(es), together with the ballot box(es) at the main polling station, will then be unsealed and opened by the RO, witnessed by all those present in the counting zone. The ballot papers cast at all polling stations will be mixed and the count will be conducted manually by counting staff. *[Amended in January 2010]*

5.41 The following persons may be present at the counting of votes:

- (a) a member of the EAC;
- (b) the RO, an ARO and counting staff;

- (c) the CEO;
- (d) candidate(s), his/her/their election agent(s) and counting agent(s);
- (e) an elector;
- (f) a public officer, a police officer or a member of the CAS on duty at the counting station; and
- (g) a person authorised in writing by a member of the EAC or the CEO, subject to the conditions as imposed in the authorisation.

Candidate(s) and his/her/their agent(s) must not go into the restricted zone. Any member of the public may observe the counting of the votes from an area at the counting station set apart for that purpose by the RO unless the RO considers that his/her presence may:

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

[Ss 46 and 47 of the EP (CEE) Reg.] *[Amended in January 2007]*

5.42 Before entry, every person authorised to be present at a counting station, other than an elector, the police officers and members of the CAS on duty, must make a **Declaration of Secrecy** on a specified attested form and observe the provisions governing the secrecy of voting [s 69 of the EP (CEE) Reg]. Members of the public present within the public area will not be required to make a Declaration of Secrecy.

5.43 The valid ballot papers will be placed in separate plastic and transparent boxes on the table according to the choices marked by the electors on the ballot papers and counted manually. Questionable ballot papers, if any, will be put aside. The RO will then gather together all candidates or their election/counting agents at a contested election, or, the only validly nominated candidate or his/her election/counting agent(s) at an uncontested election to witness his/her determination on the validity of these questionable ballot papers. For details of the procedure, see Part VII below. Thereafter, the valid votes obtained by each/the candidate will be counted. **At no time should a candidate, his/her election agent or counting agent(s) touch any ballot papers.** At the end of the count, the ballot paper account will be verified by checking against the summation of valid votes cast for individual candidates at a contested election, or valid “support” and “not support” votes cast for the only validly nominated candidate at an uncontested election, as well as invalid ballot papers. *[Amended in January 2007]*

5.44 When the ballot paper account has been verified, the RO will declare the election result. He/She shall display a notice of the result of the election at a prominent place immediately outside the counting station and shall also publish the notice in the Gazette as soon as practicable [s 55 of the EP (CEE) Reg and s 28 of the CEEEO].

5.45 Except with the express permission of the RO or a member of the EAC, as the case may be, any person who undertakes photographing, filming and video or audio recording in 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 [ss 47(2), 47(2A) and 82(1) of the EP (CEE) Reg]. *[Amended in November 2011]*

5.46 In a counting station, a person must not:

- (a) fail to obey any lawful order of the RO;
- (b) display any propaganda material relating to any candidate or the CE election;
- (c) use a sound amplifying system or device for any purpose without lawful authority or the express permission of the RO;
- (d) disrupt the counting of votes or disturb or cause inconvenience to any person; or
- (e) misconduct himself/herself,

otherwise he/she commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months and may be (a) required by the RO to produce his/her identity card for inspection, and (b) ordered by the RO to leave the counting station immediately. The RO may also require a person to produce his/her identity card for inspection and order the person to leave the counting station if the person conducts himself/herself in such a way that the purpose of his/her presence is not that for which he/she was authorised or permitted to enter or remain in the counting station. If he/she fails to leave immediately, he/she may be removed by a police officer or by any other person authorised in writing by the RO. The person so removed may not re-enter the counting station on the same day except with the permission of the RO [ss 47 and 82(1) of the EP (CEE) Reg]. *[Amended in October 2016]*

## **PART VII : RULES RELATING TO COUNTING**

### **Invalid Ballot Papers**

5.47 A ballot paper is invalid if:

- (a) it is endorsed on the front with the words “TENDERED” and “重複” ;
- (b) it is endorsed on the front with the words “SPOILT” and “損壞” ;
- (c) it is endorsed on the front with the words “UNUSED” and “未用” ; or
- (d) it is unmarked.

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 RO concerning these ballot papers. [S 50 of the EP (CEE) Reg.] *[Amended in January 2007]*

### **Questionable Ballot Papers**

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

- (a) it has any writing or mark by which the elector can possibly be identified;

- (b) it is substantially mutilated;
- (c) it is not marked in accordance with s 36(1)(b) of the EP (CEE) Reg, i.e.
  - (i) in the case of a contested election, not marked by giving a single “√” in the circle opposite the name of the candidate of his/her choice on the ballot paper; or
  - (ii) in the case of an uncontested election, not marked by giving a single “√” in the circle opposite the word “SUPPORT” or “NOT SUPPORT” on the ballot paper;

However, the RO may count that ballot paper if he/she is satisfied that the elector’s intention is clear, notwithstanding the “√” mark is not placed inside the circle; or

- (d) it is void for uncertainty.

[Ss 50 and 51 of the EP (CEE) Reg.] *[Added in January 2007 and amended in October 2016]*

When deciding on the validity of the ballot papers in (a) above, 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 elector could possibly be identified. The validity of ballot papers with any other writing or mark will remain to be determined by the RO on a case-by-case basis. [S 51 (3) of the EP (CEE) Reg.] *[Added in November 2011]*



5.49 A ballot paper which appears to the **counting staff** to be one which may not be valid or which may not be counted for any of the reasons set out in the preceding paragraph will be placed aside as **questionable ballot paper**. The validity of all questionable ballot papers shall be decided by the RO [s 51(2) of the EP (CEE) Reg]. Before the RO makes his/her decision, a candidate, his/her election agent or counting agent(s) is allowed to inspect questionable ballot papers so set aside, in the presence of the RO and, in a contested election, other candidates or their election or counting agents who are present. The candidate(s), his/her/their election agent(s) or counting agent(s) may also make representations to the RO [s 51(1)(b) of the EP (CEE) Reg]. After considering the representations, the RO must make his/her decision on the validity of the questionable ballot paper. *[Amended in January 2007]*

5.50 The determination process will be conducted in the following manner:

- (a) the RO will inform the candidate(s) and the election/counting agent(s) of his/her initial decision on the validity of each questionable ballot paper. A candidate, an election agent or a counting agent, may inspect and make representations concerning any questionable ballot paper [s 51(1) of the EP (CEE) Reg];
- (b) the RO will then consider their representations and make his/her final decision on the validity of the questionable ballot paper (see para. 5.51 below) [s 51(2) of the EP (CEE) Reg];
- (c) if the RO decides that a questionable ballot paper is invalid and, therefore, not to be counted, he/she must endorse the words “rejected” and “不獲接納” on the front of the ballot paper. In that case, if a candidate, an election agent or a counting agent

objects to the determination, the RO must also endorse the words “rejection objected to” and “反對此選票不獲接納” on the front of the ballot paper [s 51(4) of the EP (CEE) Reg];

- (d) if a candidate, an election agent or a counting agent objects to the decision of the RO to count a questionable ballot paper, the RO must endorse the words “acceptance objected to” and “反對此選票獲接納” on the front of the ballot paper [s 51(5) of the EP (CEE) Reg]; and
- (e) the RO shall prepare a statement to record his/her decisions made in respect of all questionable ballot papers [s 51(6) of the EP (CEE) Reg].

*[Amended in January 2007 and October 2016]*

5.51 The decision of the RO in regard to any question arising in respect of any ballot paper shall be **final** [s 51(8) of the EP (CEE) Reg], and may be questioned only by an election petition [s 32 of the CEEEO].

## **PART VIII : DISPOSAL OF DOCUMENTS**

5.52 As soon as practicable after the RO has ascertained the result of the poll in an election, he/she shall seal all the relevant documents and ballot papers into packets. Candidate(s) and his/her/their agent(s) may observe the packaging, if they so wish [s 56 of the EP (CEE) Reg].

5.53 The RO will deposit these sealed packets together with other documents including the nomination form(s), notices of appointment of agents,

etc. with the CEO for safe custody for at least 6 months before they are destroyed [ss 57 and 59 of the EP (CEE) Reg].

5.54           **Except pursuant to a court order** in relation to an election petition or other legal proceedings, **no person may inspect any ballot paper in the custody of the CEO** [s 58 of the EP (CEE) Reg].

## CHAPTER 6

### ELECTION PETITION AND JUDICIAL REVIEW

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

6.1 The result of a CE election may be questioned only by an election petition on the ground that:

- (a) the person declared as elected by the RO was not duly elected because:
  - (i) he/she was not eligible to be nominated as a candidate;
  - (ii) he/she was disqualified from being nominated as a candidate;
  - (iii) he/she should have been disqualified from being elected but he/she was not so disqualified;
  - (iv) he/she engaged in corrupt or illegal conduct at the election;
  - (v) another person engaged in corrupt or illegal conduct at the election in respect of him/her in connection with his/her candidature;
  - (vi) corrupt or illegal conduct was generally prevalent at the election; or

- (vii) material irregularity occurred in relation to the election, the poll at the election or the counting of votes in respect of the election; or
- (b) the only validly nominated candidate was not returned at the election because material irregularity occurred in relation to the election, the poll at the election or the counting of votes in respect of the election.

[S 32 (1) of the CEEO.] *[Amended in January 2007]*

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

6.2 An election petition:

- (a) may be lodged by a candidate; or
- (b) may be lodged by:
  - (i) a person who was determined to be not validly nominated by the RO;
  - (ii) a person whose nomination was not accepted by the RO; or
  - (iii) a person who was disqualified from being elected after the end of the nomination period under section 20 of the CEEO,

provided that the election petition is supported by at least 10 electors.

[S 33 of the CEEO.] *[Amended in January 2007]*

6.3 An election petition must be lodged with the CFI within 7 working days from the declaration of the election result. Any application for leave to appeal against the decision of the CFI, must be lodged with the CFA within 7 working days after the day on which the relevant judgment of the CFI is handed down, and the applicant shall give the opposite party 3 days' notice of his/her intended application at any time during the period of 7 working days. At the end of the trial of an election petition, the CFI shall announce its determination by means of a written judgment [ss 34 and 37 of the CEEO].

*[Amended in November 2011]*

### **PART III : JUDICIAL REVIEW**

6.4 An application for judicial review which puts in issue whether a candidate is duly determined to be not returned at an election and whether the candidate elected can lawfully assume the office of the CE must be made within 30 days after the publication of election result. This deadline may be extended only if:

- (a) the applicant has used his/her best endeavours to make the application or commence the proceedings within the 30 days; and
- (b) the Court considers that it would be in the interest of justice to do so.

[S 39 of the CEEO.] *[Amended in January 2007]*

## CHAPTER 7

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

#### PART I : GENERAL

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

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

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

7.3 A candidate may appoint the following agents to assist him/her in the CE election:

- (a) **1** election agent [s 12 of EP (CEE) Reg];
- (b) **any number** of election expense agents [s 13 of EP (CEE) Reg];
- (c) not more than **3** polling agents for the main polling station [s 25 of EP (CEE) Reg];

- (d) **1** polling agent for each dedicated polling station not situated in a maximum security prison

(Only candidates themselves may enter maximum security prison (see para. 7.22 below). For arrangements regarding admission of election agents or polling agents to dedicated polling stations situated in prisons, please refer to paras. 7.12 to 7.14 and paras. 7.22 to 7.24 below.) [s 25 of EP (CEE) Reg]; and

- (e) not more than **2** counting agents [s 44 of EP (CEE) Reg].

*[Amended in January 2010 and October 2016]*

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

7.4 The election, polling and counting agents should be holders of Hong Kong identity card and have attained the age of 18 years [ss 12(2), 25(3) and 44(2) of the EP (CEE) Reg] while an election expense agent needs to be a person who has attained the age of 18 years [s 13(1) of the EP (CEE) Reg].

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

7.5 Civil servants, other than directorate officers, Administrative Officers, Information Officers and Police Officers and those officers acting in the above grades or ranks with a view to substantive appointment thereto, (i.e. other than acting for temporary relief purpose), may act as agents or assist in electioneering activities **provided that** they are not already appointed as RO, AROs, PROs, 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. To avoid any unfairness or appearance of unfairness or conflict of interest, civil servants who have extensive contacts with the public are strongly advised not to accept appointment by a candidate in the election to be his/her agent and/or participate in electioneering activities in the election. Civil servants who participate in electioneering activities, including the seeking of election donations, for any candidate should not use or give the impression of using any public resources in such activities. The guidelines set out in this paragraph are equally applicable to the non-civil service contract staff of the Government. *[Amended in November 2011 and October 2016]*

## **PART V : ELECTION AGENT**

### **Appointment**

7.6 A candidate may appoint **1** election agent to assist him/her in the CE election. The candidate shall give notice of the appointment of his/her election agent to the RO. The notice must be in the specified form, signed by both the candidate and the election agent and delivered by hand, by electronic mail, by facsimile transmission or by post to the RO. If the notice of appointment is given on the polling day, it should not be delivered to the RO by post. [S 14(3) of the EP (CEE) Reg.] The appointment will not be effective until the notice of appointment is received by the RO [s 14(7) of the EP (CEE) Reg]. *[Amended in October 2016]*

7.7 Expenses incurred by any purported agent before the notice of appointment is received for promoting the election of a candidate or for prejudicing the election of another candidate or other candidates may, depending on the circumstances, still be treated as the election expenses incurred in respect of the candidate. 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 election expenses at or in connection with an election** [s 23(1) of the ECICO]. An election agent must not incur election expenses for or on behalf of a candidate unless he/she has been appointed as an election expense agent. *[Amended in November 2011 and October 2016]*

### **Revocation**

7.8 The appointment of an election agent may be revoked by the candidate at any time. The candidate must give notice of the revocation in writing in the specified form and deliver the signed notice by hand, by electronic mail, by facsimile transmission or by post to the RO. If the notice of revocation is given on the polling day, it should not be delivered to the RO by post. A revocation of appointment of an election agent will not be effective until such notice is received by the RO [s 14(4), (5) and (7) of the EP (CEE) Reg]. *[Amended in November 2011 and October 2016]*

7.9 If an election agent dies or has his/her 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. 7.6 above. Like other election agents, the new election agent has to follow the arrangements set out in paras 7.11 to 7.14 below, including the need to submit an application to the CEO if he/she wishes to observe the poll at a dedicated polling station situated in a prison (other than a maximum security prison). [S 14(6) of the EP (CEE) Reg.] *[Amended in January 2010 and October 2016]*

### **Notification**

7.10 As soon as practicable after the receipt of a notice of appointment of an election agent by a candidate, the RO will send a notice containing the particulars of the election agent (i.e. name and correspondence address) to every

other candidate (including a person who is being or has been nominated to stand for the election) [s 15 of the EP (CEE) Reg]. The RO must also display outside his/her office a notice of the particulars of the election agent [s 14(8) of the EP (CEE) Reg]. *[Amended in November 2011]*

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

7.11 A duly appointed election agent ranks in the **most important position** amongst all kinds of agents of a candidate. He/She has the **authority to do everything a candidate is authorised to do** under the EP (CEE) Reg for the purposes of the election **except:**

- (a) to sign the nomination form or make any requisite declaration in relation to a candidate's nomination;
- (b) to withdraw the candidate's candidature;
- (c) to appoint an election agent;
- (d) to appoint an election expense agent;
- (e) to incur election expenses save where he/she has been appointed as an election expense agent by the candidate;
- (f) to revoke the appointment of an election agent or election expense agent; and
- (g) to be present in a dedicated polling station situated in a maximum security prison.

[S 12(3) of the EP (CEE) Reg.] *[Amended in January 2007, January 2010 and October 2016]*

**IMPORTANT :**

An election agent is, along with the candidate, responsible for the management of the election campaign. A candidate is responsible for all the acts of his/her election agent. If the election agent fails in his/her duties, he/she may contravene the law, 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 appointed as an election expense agent by a candidate to incur election expenses. If so appointed, the election agent becomes also an election expense agent. [See Part VI of this Chapter.] *[Amended in November 2011]*

7.12 The candidate(s) and his/her/their election agent(s) may be present inside the polling station and at the counting of the votes. They should observe the same rules as applied to the polling agents and counting agents [see Parts VII and VIII of this Chapter]. Due to security reasons, only candidates may enter dedicated polling stations situated in maximum security prisons to observe the poll. An election agent, who wishes to observe the poll at a dedicated polling station situated in a prison other than a maximum security prison, must deliver an application in the specified form to the CEO by hand, by post, by electronic mail or by facsimile transmission at least 1 week before the polling day. The election agent may not be present at that dedicated polling station unless the Commissioner of Correctional Services has given consent to his/her presence. If the Commissioner of Correctional Services refuses to give consent to the application received, he/she will notify the candidate or the election agent as soon as practicable. [S 12(3) and (3C) of the EP (CEE) Reg.] *[Amended in January 2007, January 2010 and October 2016]*

7.13 The Commissioner of Correctional Services may, on an application delivered to the CEO during the week before the polling date, give consent if he/she is satisfied that a person imprisoned or held in custody by the CSD, who

is entitled to vote at a dedicated polling station concerned, is admitted or transferred to the prison concerned during that week and the application is made without undue delay after the admission or transfer [s 12(3B) of the EP (CEE) Reg]. The REO will post and update on its website the number of registered electors who are imprisoned or held in custody in individual prisons daily from Monday to Friday (other than a general holiday) starting from three weeks before the polling day and on the Saturday immediately before the polling day for candidates' reference. *[Added in January 2010 and amended in October 2016]*

7.14 No election agent may be present at a dedicated polling station situated in a prison if a polling agent has already been appointed by the same candidate for that polling station [s 12(3A) of the EP (CEE) Reg]. *[Added in January 2010]*

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

### **Appointment**

7.15 A candidate may appoint any number of election expense agents to incur election expenses on his/her behalf in the CE election. The appointment shall be in writing in the 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. It should be signed by both the candidate and the election expense agent [ss 14(3) and 16 of the EP (CEE) Reg]. A notice of appointment must be delivered by hand, by electronic mail, by facsimile transmission or by post to the RO, or the CEO if the RO has not been appointed. If the notice of appointment is given on the polling day, it should not be delivered to the RO by post [s 14(1) and (3)(a) of the EP (CEE) Reg]. *[Amended in November 2011 and October 2016]*

7.16 The appointment is not effective until it has been received by the RO or the CEO, as the case may be. Before the notice of appointment is received, no election expenses should be incurred by a person purporting to be appointed 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(1) of the ECICO]. The expenses so incurred may also be counted as the candidate's election expenses. *[Amended in November 2011]*

### **Revocation**

7.17 The appointment 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 in the specified form and deliver the signed notice by hand, by electronic mail, by facsimile transmission or by post to the RO, or the CEO if the RO has not been appointed. If the notice of appointment is given on the polling day, it should not be delivered to the RO by post. The revocation will only be effective when the RO or the CEO, as the case may be, receives the notice [s 14(1), (5) and (7) of the EP (CEE) Reg]. The election expenses already incurred will still be counted as election expenses of the candidate. *[Amended in November 2011 and October 2016]*

### **Role of Election Expense Agents**

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

**Candidate's Duty to Know the Details of Election Expenses Incurred by his/her 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/her election expenses and election donations (thereafter referred to as "election return") with supporting invoices and receipts issued by recipients of the payments. The candidate must ensure that the election return is lodged before the expiry of the period of 30 days after the date on which —

- (a) the result of the election is published in the Gazette; or
- (b) the proceedings for the election are declared to have been terminated,

or within such extended period as may be allowed by the CFI under the relevant law [s 37(1A) and (1N) of the ECICO]. *[Amended in October 2016]*

For the efficient and effective discharge of his/her duty, the candidate should **make sure** that his/her election expense agents will keep account of all election expenses incurred on his/her behalf and will provide to him/her, as soon as practicable but not later than the same 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/her 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 of donation is more than \$1,000, it should be supported by a copy of the receipt issued to a donor (in a standard form signed by the donor). Without such statements, invoices and receipts issued by recipients of the payments or to donor(s), as the case may be, provided by the election expense agents, the candidate will no doubt have difficulty in

discharging his/her duty to file the election return, which **may render him/her liable for a criminal offence** under s 38 of the ECICO. *[Amended in November 2011 and October 2016]*

### **Public Inspection of Notices of Appointment of Election Expense Agents**

7.20 The RO or the CEO, as the case may be, will make available for public inspection all notices of appointment of election expense agents submitted by candidates until the expiration of the period for which copies of the election return lodged by the candidates are available for inspection, i.e. the period ending with the 30<sup>th</sup> day before the first anniversary of the date of the deadline for lodging the relevant election return (disregarding any order made by the CFI under s 40 of the ECICO allowing a candidate to lodge an election return within a further period as specified by the CFI) [s 41(6) of the ECICO]. This offers the public and other candidates an opportunity to scrutinise the maximum amount of election expenses that could be incurred by the election expense agents on behalf of the candidates [s 14(9) of the EP (CEE) Reg]. *[Amended in November 2011 and October 2016]*

## **PART VII : POLLING AGENTS**

### **Appointment**

7.21 A candidate may appoint **not more than 3 polling agents** for the main polling station. The notice of appointment must be in writing in the specified form, signed by the candidate and the polling agent and delivered by hand, by post, by electronic mail or by facsimile transmission to the CEO, at least **7 days** before the polling day. Where a candidate wishes to appoint a polling agent after the above deadline, he/she is required to give notice of the appointment to the PRO. Such a notice must be given by the candidate or the



election agent **in person** by delivering the notice of appointment to the PRO of the polling station on the polling day and before the agent concerned enters the polling station [s 25(4) of the EP (CEE) Reg]. The appointment will not be effective until the notice of appointment is received by the CEO or the PRO, as the case may be [s 25(9) of the EP (CEE) Reg]. *[Amended in January 2010, November 2011 and October 2016]*

7.22 In respect of the appointment of a polling agent to be admitted to a dedicated polling station situated in a prison, the following provisions would apply:

- (a) only the candidate is allowed to be present in a dedicated polling station situated in a maximum security prison [s 25(1A)(b) of the EP (CEE) Reg];
- (b) only 1 polling agent may be appointed for a dedicated polling station situated in a prison which is not a maximum security prison and the Commissioner of Correctional Services has given consent to the presence of the agent [s 25(1) and (4A) of the EP (CEE) Reg]. The appointment is effective only when an application made in the specified form is delivered to the CEO by hand, by post, by electronic mail or by facsimile transmission at least 7 days before the polling day [s 25(4A) of the EP (CEE) Reg]; and
- (c) for a dedicated polling station situated in a prison which is not a maximum security prison, no polling agent may be appointed if the Commissioner of Correctional Services has already given consent to the presence of the election agent of the same candidate at that polling station [s25 (1A)(a) of the EP (CEE) Reg].

*[Amended in October 2016]*

7.23 If the Commissioner of Correctional Services refuses to give consent to the application received, he/she will notify the candidate or the election agent as soon as practicable. [S 25(4C) of the EP (CEE) Reg.] *[Added in January 2010]*

7.24 The Commissioner of Correctional Services may, upon receipt of a notice of appointment given during the week before the polling day, still give consent if he/she is satisfied that a person imprisoned or held in custody by the CSD, who is entitled to vote at a polling station concerned, is admitted or transferred to the prison concerned during that week and that the application is given without undue delay after the admission or transfer [s25 (4B) of the EP (CEE) Reg]. The REO will post and update on its website the number of registered electors who are imprisoned or held in custody in individual prisons on every Monday to Friday (other than a general holiday) starting from 3 weeks before the polling day and on the Saturday immediately before the polling day for candidates' reference. *[Added in January 2010 and amended in October 2016]*

### **Revocation**

7.25 The appointment of a polling agent may be revoked by the candidate at any time. The candidate must give notice of revocation in writing in the specified form and deliver the signed notice by hand, by post, by electronic mail or by facsimile transmission to the CEO (other than on the polling day). If the notice of revocation is given on the polling day:

- (a) for a polling agent appointed for a polling station other than a dedicated polling station situated in a prison, such notice must be delivered to the PRO by either the candidate or the election agent **in person**; and

- (b) for a polling agent appointed for a dedicated polling station situated in a prison, such notice must be delivered to the CEO by hand, by electronic mail or by facsimile transmission.

[S25(7A) and (7B) of the EP (CEE) Reg.] *[Amended in October 2016]*

7.26 A revocation of appointment of a polling agent is not effective until the notice thereof is received by the CEO or the PRO, as the case may be [s 25(9) of the EP (CEE) Reg]. If a replacement of polling agent is appointed and he/she wishes to observe the poll at a dedicated polling station in a prison (other than a maximum security prison), he/she is required to follow the arrangements set out in paras. 7.22 to 7.24 above. *[Amended in January 2010 and October 2016]*

### **Role of Polling Agents**

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

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

7.28 The polling agent(s) appointed for a polling station may be admitted at any time during the poll to the polling station, but they are required to stay and keep their movements within the area designated for observation of the poll and not outside. The polling agents appointed for the main polling station may remain inside the polling station even when the candidate they represent or his/her election agent is present. Where a candidate is present in a dedicated polling station other than that situated in a maximum security prison, the election agent or the polling agent of that candidate appointed for that dedicated polling station will not be allowed to be present at the same time within the polling station [s 26(1A) and (1B) of the EP (CEE) Reg]. [See also Part IV of

Chapter 5 regarding the admission of candidates, election agents and polling agents to the polling station.] *[Amended in January 2010]*

7.29 Before entering a polling station, every person, other than an elector, a police officer, an officer of the CSD, an officer of any law enforcement agency or a member of the CAS on duty, must make a Declaration of Secrecy on a specified form and observe the provisions governing the secrecy of voting [s 69(1), (2) and (3) of the EP (CEE) Reg]. This is to make sure that, subject to penalty of making a false declaration, all persons inside a polling station will observe the secrecy of the vote of the elector and, in particular, not to divulge which elector has voted for which candidate at a contested election or whether or not an elector has voted in support of the candidate at an uncontested election. *[Amended in January 2007 and January 2010]*

7.30 On attending the polling station for which he/she has been appointed, a polling agent shall report to the PRO and produce his/her identity card and the Declaration of Secrecy completed by him/her for inspection. *[Amended in January 2010]*

7.31 The following procedures shall apply on the polling day:

- (a) Before the poll
  - (i) About 15 minutes before the commencement of the poll, the PRO will inform the candidate(s) or his/her/their agents (either election agent or polling agent) if they are present, of the number of ballot papers in the PRO's possession, showing them the books of ballot papers not yet issued to any elector (“**UNISSUED** ballot papers”).
  - (ii) The PRO will show the empty ballot boxes to such persons before proceeding to lock and seal them.

(b) During the poll

- (i) Where a person, claiming to be a particular elector on the EC FR, applies for a ballot paper after a person has already been issued with a ballot paper under the name of such an elector, the PRO may issue a tendered ballot paper to the latter elector **only if** he/she is not certain that the latter person is the former person who had been issued with a ballot paper earlier, and the latter person has answered the appropriate questions in accordance with the law as set out in para. 5.22 to the satisfaction of the PRO. The PRO will in such circumstances issue a ballot paper with the word **“TENDERED”** and **“重複”** endorsed on the front. Such a ballot paper shall not be counted at the counting of the votes.

[Ss 38(1) and 50(1)(b) of the EP (CEE) Reg.]

- (ii) Any elector who has inadvertently torn or damaged any ballot paper or has made an error in marking any ballot paper issued to him/her may ask the PRO to exchange it for another ballot paper. If the PRO considers the request reasonable, he/she will issue a new ballot paper to the elector in exchange for the spoilt one. The PRO shall endorse on the front of such spoilt ballot paper with the word **“SPOILT”** and **“損壞”** and keep it in his/her own custody. The spoilt ballot paper will not be put into a ballot box and will not be counted at the counting of votes.

[Ss 40 and 50(1)(c) of the EP (CEE) Reg.]

(iii) The PRO shall endorse on the front of any abandoned ballot papers that have been issued or any torn pieces of such ballot papers found lying anywhere in the polling station with the word “**UNUSED**” and “**未用**” and keep them in his/her own custody. Such ballot papers shall not be put into a ballot box and will not be counted at the counting of votes [ss 39 and 50(1)(d) of the EP (CEE) Reg ]. Under these circumstances, the PRO will show to each candidate or his/her election agent or polling agent, who is present at the relevant time, such ballot papers.

(c) After the poll

(i) The PRO shall, in the presence of persons at the polling station, lock the ballot box and seal it. He/She will also inform each candidate or his/her agent, if present, of the number of the following types of ballot papers in his/her possession: unissued ballot papers, unused ballot papers, and spoilt ballot papers [s41(1) of the EP (CEE) Reg].

(ii) The candidate(s) or his/her/their respective agents, if they so wish, may accompany the PRO in the delivery of the ballot boxes from the polling station to the counting station.

(iii) The candidate(s) and his/her/their agents who do not accompany the PRO in the delivery must then leave the polling station.

*[Amended in January 2007 and October 2016]*

7.32 Generally speaking, a polling agent may observe all proceedings in the polling station for which he/she has been appointed and record his/her observations but shall not do anything that may interfere with the conduct of the poll. A polling agent **may**: *[Amended in November 2011]*

- (a) observe the locking and sealing of empty ballot boxes before the poll commences and the locking and sealing of the ballot boxes during or at the close of the poll; *[Amended in October 2016]*

**NOTE :**

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

- (b) leave the polling station at any time during the poll;
- (c) subject to para. 7.33(b) below, observe the issue of ballot papers to electors and the crossing out of entries from the EC FR, subject to the condition that they cannot interfere with the work of the polling staff;
- (d) where there is reasonable ground for questioning the bona fides of an elector, ask the PRO to put the following prescribed questions (subject to necessary modifications) to that person at the time of his/her application for a ballot paper (but not afterwards):
  - (i) Are you the person registered in the EC FR as follows (reads the whole of the relevant entry in the register)?

(ii) Have you already cast a vote in this round of voting? (for a contested election)

or

Have you already cast a vote? (for an uncontested election)

**NOTE :**

The person will not be issued with any ballot paper unless he/she has answered the questions to the satisfaction of the PRO [s 32(2), (3) and (4) of the EP (CEE) Reg].

*[Amended in January 2007 and October 2016]*

- (e) where there is reasonable cause to believe that a person who has applied for a ballot paper has engaged in corrupt conduct by impersonation, inform 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 give evidence to substantiate the allegation in a court of law [s 33(1) of the EP (CEE) Reg].

*[Amended in January 2010 and October 2016]*

7.33 Inside polling station, a polling agent **must not**:

- (a) interfere with or attempt to influence any elector;
- (b) speak to or communicate with any elector, or interfere with or attempt to interfere with any ballot boxes, ballot papers, the marked copy of final register of EC members or other relevant election materials. In this regard, a polling agent should station



within the designated area demarcated by red adhesive tapes, and must not enter, or move close to, the restricted zone delineated with yellow tapes about 1 metre, or 2 metres (depending on the configuration), around the voting compartments. Moreover, it is most improper for a polling agent to ask an elector about his/her identity card number, let alone check an elector's identity card;

- (c) attempt to obtain information, or disclose any knowledge acquired, concerning the vote of any elector. 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) display any propaganda material relating to any candidate or the election; and
- (f) use a mobile telephone or any telephone or paging machine or any other form of electronic communication device.

[Ss 27 and 70 of the EP (CEE) Reg.] *[Amended in January 2007, November 2011 and October 2016]*

7.34 A polling agent must not misconduct himself/herself in or in the vicinity of a polling station or fail to obey any lawful direction of the RO or the PRO; otherwise he/she commits an offence and will be liable to a fine and to imprisonment and may be ordered by such officer to leave the area. If he/she fails to leave immediately, he/she may be removed by:

- (a) a police officer if the polling station is not a dedicated polling station; or

- (b) an officer of the CSD or any law enforcement agency if the polling station is a dedicated polling station; or
- (c) any other person authorised in writing by the RO or the PRO to remove him/her.

The person so removed may not re-enter the polling station during that day except with the permission of the RO or the PRO. [Ss 27 and 82 of the EP (CEE) Reg.]

*[Added in November 2011]*

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

7.35 Polling staff, candidate(s), his/her/their election agent(s) 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 elector who is about to vote or has voted. *[Amended in January 2007 and October 2016]*

7.36 Only the PRO, the Deputy PRO or an Assistant PRO may, in the presence of one of the polling officers as a witness, help an elector to mark a ballot paper if he/she claims he/she is unable to read or is incapacitated from casting his/her vote due to visual impairment or other physical disabilities [s 37(1) of the EP (CEE) Reg]. The responsible officer should inform the candidate(s) or his/her/their agents who are present when such a request for assistance is received. A candidate or his/her polling agent in the polling station may suggest 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, the Deputy PRO or an Assistant PRO. An elector's relative, friend or any other person is in no circumstances allowed to accompany the elector in the course of voting. *[Amended in October 2016]*

7.37 In the polling station, a number of **braille templates** are made available for the use of electors with visual impairment, if they so choose, to facilitate them to mark their vote on the ballot paper [s 37(2) and (3) of the EP (CEE) Reg]. The basic features of the template are as follows:

- (a) the template is of the same width and length as the ballot paper;
- (b) the template contains numbers in braille starting with the first numeral in a sequence assigned to the candidates from the top downwards and on the right hand side against each of the number is a round hole;
- (c) the **top left hand corner** of the ballot paper and the template is cut so as to guide the elector to place the template on top of the face of the ballot paper in the proper direction; and
- (d) when the template is placed properly on the ballot paper, each braille 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 holes equals the number of candidates.

An elector with visual impairment should apply the chop with a “✓” sign so provided in the circle through the holes of the templates against the candidate's number.

*[Amended in November 2011 and October 2016]*

7.38 No person may canvass or display any election propaganda material relating to any candidate or the election within a polling station. The candidate(s) and his/her/their agents should not bring electioneering materials 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/she use such system or device or conduct any activities (e.g. lion dance), for canvassing, so that the sound emitted by it can be heard within the NCZ. However, an officer of the CSD may use a sound amplifying system or device in the NCZ of a dedicated polling station situated in a prison for the performance of his/her duties on the polling day [s 24(2)(b) and (3A) of the EP (CEE) Reg]. Also, a person must not stay or loiter in the NSZ without the express permission of the PRO [s 24(2)(e) of the EP(CEE) Reg]. Any person who undertakes photographing, filming and video or audio recording within the polling station without the express permission of the PRO, the RO, or a member of the EAC, commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months [ss 27(4) and 82 of the EP (CEE) Reg]. Normally such permission is only granted to government photographers for publicity purposes. Polling agents should also read Parts I to V of Chapter 5 on all matters relating to polling and in particular, paras. 5.36 to 5.38 of Chapter 5 for other activities that are prohibited, and the consequences of conducting such activities, in a polling station. *[Amended in January 2007 and November 2011]*

7.39 **The ballot is secret.** No one can force a person to vote or not to vote for any particular candidate at a contested election [s 13 of the ECICO] or to vote or not to vote in support of the candidate in the case of an uncontested election. Also, no one is required to tell which candidate he/she has voted for or is about to vote for at a contested election or whether or not he/she has voted or is about to vote in support of the candidate at an uncontested election. A person who, without lawful authority, requires or purports to require an elector to disclose the name of, or any particulars relating to, the candidate for whom the elector voted at a contested election or disclose whether or not he/she has voted

in support of the candidate at an uncontested election commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months [ss 78 and 82 of the EP (CEE) Reg]. *[Amended in January 2007]*

7.40 If a candidate or his/her election or polling agent has any complaint about whatever happens inside a polling station, he/she should follow the procedures laid down in Chapter 20 on Complaints Procedure of these Guidelines.

## **PART VIII : COUNTING AGENTS**

### **Appointment**

7.41 A candidate may appoint not more than 2 counting agents. The notice of appointment must be in writing in the specified form signed by the candidate and the counting agent and delivered by hand, by post, by electronic mail or by facsimile transmission to the RO at least **7 days** before the polling day [s 44(3) and (4) of the EP (CEE) Reg]. Where a candidate wishes to appoint a counting agent after the above deadline, the notice of appointment must be delivered by the candidate or the election agent **in person** to the RO on the polling day [s 44(3) of the EP (CEE) Reg]. The appointment is only effective when the notice of such appointment is received by the RO [s 44(8) of the EP (CEE) Reg]. *[Amended in January 2007 and October 2016]*

### **Revocation**

7.42 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 in the specified form and deliver the signed notice by hand, by post, by electronic mail or by facsimile transmission to the RO (other than on the polling

day). If the notice of revocation is given on the polling day, such notice must be delivered by the candidate, or his/her election agent **in person** to the RO. [Ss 44(6),(6A) and (6B) of the EP (CEE) Reg.] A revocation of an appointment of a counting agent is not effective until notice thereof is received by the RO [s 44(8) of the EP (CEE) Reg]. *[Amended in October 2016]*

### **Role of Counting Agents**

7.43 Counting agents are appointed to attend at the counting station **to observe the breaking of the seals on the ballot boxes, the 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 VI of Chapter 5].

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

7.44 Before the counting of votes commences, every person authorised to be present at a counting station, other than an elector, police officers and members of the CAS on duty or a member of the public observing the counting of the votes, must make a Declaration of Secrecy on a specified form and observe the provisions governing the secrecy of voting [s 69(2) of the EP (CEE) Reg]. This is to make sure that, subject to penalty of making a false declaration, all persons inside a counting station will observe the secrecy of the vote of the elector and, in particular, not to divulge which elector has voted for which candidate at a contested election or whether or not an elector has voted in support of the candidate at an uncontested election. *[Amended in November 2011]*

7.45 On attending the counting station, a counting agent shall report to the RO and produce his/her identity card and the Declaration of Secrecy completed by him/her for inspection.

7.46 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 to, and around the counting table to monitor the count. Nonetheless, they must not handle any ballot papers. A counting agent **may**:

- (a) observe the breaking of the seals on the ballot boxes and the opening of the ballot boxes by the RO;
- (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;
- (d) observe the determination of questionable ballot papers by the RO and make representations on behalf of the candidate [s 51(1) of the EP (CEE) Reg]; and
- (e) observe, where he/she wishes, the packing of ballot papers by the counting officers and the RO at the conclusion of the count.

*[Amended in October 2016]*

7.47 A counting agent **must not**:

- (a) handle, separate or arrange ballot papers; and
- (b) misconduct in the counting station, or fail to obey any lawful order of the RO; otherwise he/she commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months and may be ordered by the RO to leave the counting station immediately. If he/she fails to leave immediately, he/she may be removed by a police officer or by any other person authorised in writing by the RO to remove him/her. The person so removed may

not re-enter the counting station during that day except with the express permission of the RO. [Ss 47 and 82 of the EP (CEE) Reg.]

*[Amended in November 2011 and October 2016]*

7.48 Persons who may enter or stay in the counting station are listed in para. 5.41 of Chapter 5. Counting agents should read Part VI of Chapter 5 on all matters relating to counting of votes, and in particular, para. 5.46 for activities that are prohibited, and the consequences of conducting such activities in the counting station. Matters and rules relating to the count can be found in Parts VI and VII of Chapter 5. *[Amended in January 2007 and November 2011]*



## CHAPTER 8

### ELECTION ADVERTISEMENTS

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

8.1 An EA, in relation to the CE election, means:

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

published for the purpose of promoting or prejudicing the election of a candidate or candidates at the election [s 2 of the ECICO and s 2 of the EP (CEE) Reg]. *[Amended in January 2007, November 2011 and October 2016]*

#### **IMPORTANT :**

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

“Publish” means print, display, exhibit, distribute, post up, publicly announce or make publicly known by any other means, and includes continue to publish [s 86(1) of the EP (CEE) Reg]. *[Added in October 2016]*

Any person who authorises the publication of an EA is taken to have published the EA [s 86(2) of the EP (CEE) Reg]. *[Added in October 2016]*

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

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

*[Amended in November 2011]*

8.3 As stated in para 8.1 above, EA is defined to include any messages published publicly for the purpose of promoting or prejudicing the election of a candidate or candidates at an election under s 2 of the ECICO. Any materials published by any person or organisation during or before the election period to appeal directly or indirectly to electors to vote or not to vote for a candidate or candidates belonging to or affiliated with certain organisations, irrespective of the form of publication and whether they contain any names or photographs of candidates, may also be regarded as EAs depending on all the circumstances at the time since when read in their whole context, the materials concerned may be capable of being reasonably understood by an elector as referring to certain identified candidate(s). The expenses incurred for the publication of such materials will be regarded as election expenses incurred by or on behalf of the candidate(s). If expenses are involved in the publication of the EA and the publisher is neither a candidate nor a candidate's election expense agent, the publisher may engage in illegal conduct under the ECICO. If a candidate instructs that person or organisation to publish the EAs, the candidate will also violate the law if such expenses are not accounted for as election expenses. *[Added in October 2016]*

8.4 The statutory definition of EA is very wide and encompasses anything published publicly by any means, including a message published through internet platforms (e.g. websites, social media, communication networks, etc.) for promoting the election of a candidate or prejudicing the election of other candidates. However, if web surfers merely share or forward different candidates' election campaigns through internet platforms for expression of views and do not intend to promote or prejudice the election of any candidates, such sharing or forwarding will not normally be construed as publishing EAs. However, if the web surfers are instructed by the candidate or his/her election helpers to share or forward the election campaigns through internet platforms with the intention to promote or prejudice the election of a candidate or candidates at the election, such act will be regarded as publication of the candidate's EAs and any costs incurred will have to be included in the

election expenses of the candidate(s). The candidate should also observe fully the requirements relating to publication of EAs as set out in para. 8.44 below. *[Added in October 2016]*

8.5 In addition, any publicity materials containing the name or photograph of a candidate issued or displayed during the election period (i.e. the period beginning on the first day of the nomination period for the election and ending on the day on which the polling for the election ends, or on the day on which a declaration is made in accordance with ss 22 and 28 of the CEEO), may also be regarded as EAs. Even though the content of the publicity material is not, on the face of it, election-related, the candidates may still receive the promotional effect depending on circumstances. *[Amended in October 2016]*

8.6 Under s 86 of the EP (CEE) Reg, the definition of “publish” includes “continue to publish”. In this regard, for the sake of prudence, any person who intends to stand as a candidate at the election, including but not limited to an incumbent member of the Legislative Council (“LegCo”) or a DC (who should also comply with the terms and conditions under the Lands Department’s Management Scheme for the Display of Roadside Non-commercial Publicity Materials, if his/her publicity materials are being displayed under the said Scheme), should ensure that all publicity materials published by him/her prior to the election period, especially posters or banners bearing his/her name or photograph displayed at a public place or at the common parts of a building, are removed before he/she has been nominated as a candidate or has publicly declared an intention to stand as a candidate at the election. Otherwise, any unremoved publicity material **may** be regarded as an EA in accordance with the foregoing principles. *[Added in October 2016]*

8.7 Under s 86(4) of the EP (CEE) Reg, a document published by a candidate **during** the election period that gives details of the work done by the candidate in the capacity of :

- (a) the CE; or
- (b) a member of the LegCo; or
- (c) a member of a DC; or
- (d) a member of the HYK; or
- (e) the Chairman or Vice-Chairman or member of the Executive Committee of a Rural Committee within the meaning of s 3(3)(a) of the Heung Yee Kuk Ordinance (Cap 1097); or
- (f) a Rural Representative (“RR”),

is also regarded as an EA. *[Amended in October 2016]*

8.8 For the avoidance of doubt, if a person who has publicly declared his/her intention to stand as a candidate at an election **before** the election period, publishes a document as mentioned in para. 8.7 above, the document will also be regarded as an EA if it is published for the purpose of promoting or prejudicing the election of a candidate or candidates at the election. It is important to note that a document referred to in this para. and para. 8.7 above must comply with all the requirements for an EA and the expenditure so incurred be accounted for as election expenses. *[Amended in October 2016]*

8.9 If a person publishes a document before he/she submits his/her nomination form or publicly declare his/her intention to stand as a candidate, that gives details of his/her work done by him/her in his/her capacity as set out in para. 8.7 above without promoting or prejudicing the election of any candidate at the election, the document will not be construed as an EA. On such basis, the expenditure incurred in the publication of such a document would not be counted as election expenses. *[Amended in October 2016]*

8.10 A candidate in an election may publish EAs in accordance with all the relevant laws and regulations and these guidelines. *[Amended in October 2016]*

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

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

- (a) If candidate A criticises candidate B in his/her own EAs with a view to prejudicing B’s candidature at the election, candidate A has to include the expenditure incurred in his/her election expenses.
- (b) If a third party criticises candidate B in an EA and the EA has the effect of indicating support for candidate A, the third party must obtain candidate A’s prior written consent for incurring the production expenses before he/she produces that EA, and the expenditure incurred will have to be included in candidate A’s election expenses.
- (c) If the third party publishes an EA as described in (b) above without the prior written consent of candidate A, that third party 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/her election expense agent may incur election expenses. It would only be fair to candidate A that the third party needs to obtain

candidate A's written authorisation before incurring such 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.

*[Amended in January 2007 and October 2016]*

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

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

8.14 Subject to the maximum amount that can be incurred by a candidate for election expenses [s 24 of the ECICO], there is no restriction as to the quantity of EAs employed by him/her. The maximum amount allowed for a CE election is \$15,700,000 as specified in the Maximum Amount of Election Expenses (Chief Executive Election) Regulation (Cap 554A). *[Amended in November 2011 and October 2016]*

8.15 A candidate must ensure the correctness and accuracy of all factual statements in his/her EAs. In particular, a candidate is reminded to comply with the requirements for obtaining prior written consent of support from other persons or organisations, which are summarised in Chapter 18. [For criminal sanctions, see ss 25, 26 and 27 of the ECICO]. He/She must also ensure that the content of his/her EAs is consistent with the declaration he/she has made that he/she stands for the election in an individual capacity and will not lead the

electors or the public to believe that he/she is representing a political party.  
*[Amended in October 2016]*

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

8.16 Subject to the necessary **written permission or authorisation**, a candidate may display EAs on government or private land and property [s 104A(1) of the Public Health and Municipal Services Ordinance (Cap 132) (“PHMSO”) and s 4 of the Land (Miscellaneous Provisions) Ordinance (Cap 28)].

8.17 Display spots are classified into two types:

- (a) **designated spots** which are spots on government land/property and sometimes even at the premises owned or occupied privately that have been made available to the Government for allocation to candidates; 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/herself.

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

8.18 Allocation of designated spots for the use of candidate to display his/her EAs will be made by the RO. Some of the government land /property have been allocated to some public authorities, such as the Housing Authority, and are under their respective control. The RO may designate spots on such allocated land/property in coordination with the said authorities. At a contested



election, **each candidate** will be allocated **the same number of designated spots**. *[Amended in November 2011 and October 2016]*

8.19 Prospective candidates are welcome to suggest locations of display in which they are interested. The RO will take into consideration such suggestions in drawing up the list of “**designated spots**”, but with absolute discretion to decide whether to adopt the suggestions.

**NOTE:**

Suggestions under para. 8.19 should reach the CEO not later than **8 weeks before the polling day**. *[Amended in November 2011]*

**Other Land/Property - Private Spots**

8.20 Candidates who wish to display their EAs on land/property other than government land/property and other than the designated spots must obtain the **prior written permission or authorisation** of the owner or occupier [s 104A(1) of the PHMSO]. 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 all the permissions or authorisations obtained by a candidate himself/herself must be provided by him/her for public inspection in the manner as set out in para. 8.44 below. [Please also see para. 8.25 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/her EAs forms part of his/her election expenses. If the private spot secured for displaying the EA is normally used for commercial purpose, the actual rent charged or the usual rent or market rent that would normally be charged should be counted as the election expenses of the candidate concerned, irrespective of whether it is owned by the candidate or whether the owner of it allows the candidate to use it free of charge (in which case it would be a

donation of the rent). Where a space provided by a particular private owner or occupier for a candidate to display EAs is not used for commercial advertising, but similar space belonging to other owners or occupiers is available for commercial advertising, the market value of the space should also be accounted for. The provision of this kind of rent-free space should be regarded as 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. For details on how the estimated value should be assessed, please refer to para. 16.24 of Chapter 16. If a space is not the type normally used by any private owners or occupiers for commercial advertising, there is no need for the candidate to account for its value. *[Amended in October 2016]*

8.21 For the display of EAs at the common parts of private premises (those parts to which exclusive rights of use or occupation do not belong to a particular owner or tenant), the EAC appeals to owners and occupiers of private premises concerned to give all candidates **fair and equal treatment** [for details, please see Chapter 9]. *[Amended in October 2016]*

8.22 Candidates should note that public corporations (e.g. the MTR Corporation Limited) may have their own rules for display of EAs in properties under their management. *[Amended in October 2016]*

### **Allocation of Designated Spots**

8.23 The RO will allocate the designated spots to candidates either in accordance with the mutual consent of the candidates or by the drawing of lots after the end of the nomination period, when the number of candidates contesting in the election will have been ascertained. **No display of EAs will be allowed on any designated spots before the allocation.** [Also see the requirements in para. 8.29 and Part VI below.] EAs displayed by the candidates on government land/property other than designated spots are

unauthorised and will be removed, save those EAs displayed in connection with electioneering activities conducted on government land/property with approval by the authorities concerned. A candidate will be provided with a list of the designated spots allocated to him/her, together with a set of standardised map or maps to help identify the locations. *[Amended in November 2011 and October 2016]*

8.24 Candidates using the designated spots are required to read and comply with all the requirements and conditions stipulated in the “Conditions for Display of EAs at Designated Spots”, which will be provided to each candidate in the candidate’s folder and uploaded onto the EAC’s website. To safeguard the safety of road users, candidates should ensure that EAs on display must not distract motorists or interfere with the sight lines of motorists and pedestrians, or obscure any traffic sign or traffic light signal. *[Added in October 2016]*

### **Written Permission or Authorisation**

8.25 The RO will obtain prior approval from the relevant authorities under s 104A(1) of the PHMSO and s 4 of the Land (Miscellaneous Provisions) Ordinance for candidates to display their EAs at designated spots. Immediately after the allocation of designated spots is made, a copy of the necessary written permission or authorisation under the relevant legislation will be provided to the candidates by the RO [see Part III below]. For any display on private premises, written permission or authorisation of the private owner or occupier will have to be obtained by the candidates themselves [s 104A(1) of the PHMSO]. A person displaying an EA without the necessary written permission or authorisation commits an offence and will be liable to a fine of \$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 the PHMSO]. A copy of all the permissions or authorisations obtained by a candidate himself/herself, as

opposed to those provided to him/her by the RO, must be provided by him/her for public inspection in the manner as set out in para. 8.44 below. All candidates are also reminded that if carrying out of building works (including erection of signboards) at private premises is involved for display of the EA, the relevant provisions of the Buildings Ordinance (Cap 123) (“BO”) and the subsidiary regulations should be complied with. In this regard, the candidates are strongly advised to consult building professionals, registered contractors and, where necessary, authorised persons on the compliance with the BO, and to make submission in accordance with the simplified requirements under the Minor Works Control System or formal application for approval and consent from the Buildings Department as appropriate before the carrying out of such works. *[Amended in October 2016]*

### **No Canvassing Zone**

8.26 No EA may be displayed within the boundaries of a polling station (including the outer walls of the premises) or within the NCZ on the polling day [see Chapter 14], except for static display of EAs mounted at designated spots approved by the RO. Where there are private premises situated within the NCZ, the RO should issue a notice in advance to the candidate(s) concerned asking him/her/them to remove all of his/her/their EAs, if any, posted up at the private premises within the NCZ which can be seen by electors on their way to the polling station on the polling day. If the candidate(s) fail to remove the EAs as requested by the RO, the RO may issue a warning to the candidate(s) to remove the offending EAs immediately. If the candidate(s) fail to do so, the EAC may issue a censure or reprimand. The RO will provide each candidate with 1 set of sketch maps or plans showing the boundaries of the polling station and the NCZ outside the polling station. *[Amended in November 2011]*

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

8.27 A candidate can obtain the following information from the RO at the time of submitting the nomination form:

- (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 occasionally private premises (if any) available for allocation to the candidates. The size and number of spots for allocation will be finalised by the RO, taking into account the number of candidates, **after** the end of the nomination period. In order to allow all candidates to display their EAs at all locations, particularly popular ones, the size of each spot may vary from location to location; and
- (b) the date and time for conducting the allocation of designated spots, which would normally be held within 3 working days after the end of the nomination period. 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.

*[Amended in October 2016]*

8.28 The RO will need to know the exact number of candidates who wish to display EAs at designated spots so that he/she can finalise the number of designated spots and their size for allocation. Therefore, candidates who wish to display EAs at designated spots **must register their interest in writing**

**by filing a completed form to the RO within the nomination period.**

*[Amended in November 2011 and October 2016]*

8.29 Designated spots are allocated by agreement of the representatives of candidate/candidate(s) or by the drawing of lots. At a contested election, the principle of allocation of designated spots is that candidates should each be allocated the same number of designated spots and an equal area of space for mounting EAs. After allocation of the spots and the necessary authorisations have been obtained from the relevant authorities [s 104A(1) of the PHMSO and s 4 of the Land (Miscellaneous Provisions) Ordinance] and after complying with the requirements set out under Part VI, the candidate may display EAs at such spots allocated to him/her. *[Amended in October 2016]*

8.30 A copy of all the permissions or authorisations obtained by a candidate himself/herself, as opposed to those provided to him/her by the RO, must be provided by him/her to the RO in the manner as set out in para. 8.44 below [s 87(2) and (3) of the EP (CEE) Reg]. *[Amended in November 2011 and October 2016]*

8.31 Designated spots allocated are not transferable. Nor are they exchangeable with other spots. At a contested election, where a candidate no longer wishes to use one or more of the designated spots allocated to him/her, he/she should inform the RO in writing within 1 week after the allocation of those spots. Upon request by any other candidate, the RO, if he/she considers appropriate, will re-allocate by agreement or by the drawing of lots the designated spots amongst all other candidates who are eligible to be allocated with designated spots. In such a case, paras. 8.29 and 8.30 above apply. *[Amended in November 2011 and October 2016]*

**NOTE :**

In some cases, designated spots allocated in the first round of allocation are left unused for various reasons. At a contested election, the RO may re-allocate such spots to the relevant

candidates by mutual consent or the drawing of lots. Candidates may wish to plan accordingly their resources in respect of EAs.  
*[Amended in January 2007]*

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

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

8.32 A candidate may re-use old publicity boards used at a previous election. However, any information in relation to the previous election, e.g. the candidate number and names of persons who supported the candidate at that election, should be fully obliterated before any old publicity board is re-used. This would not only avoid confusion to electors but would also help the candidate to avoid laying himself/herself open to allegations of false claim of support of persons who might not have consented to support him/her at the current election. The cost incurred in refurbishing as well as the estimated value of the old publicity boards will be counted towards the candidate's election expenses. *[Amended in November 2011]*

### **Size**

8.33 As a general rule, EAs displayed at designated spots should not exceed 1 metre high and 2.5 metres long. In the case of designated spots at roadside railings, the EAs must be **printed on one side only** and be displayed at the **designated side of the railings** with the side of EAs carrying the promotional messages **facing the designated direction of the spots**. Before displaying EAs, candidates are reminded to ensure that the EAs must not distract motorists or interfere with the sight lines of motorists and pedestrians, obscure any traffic sign or traffic light signal, or obstruct the circulation of

pedestrians. [See also para. 8.24 above.] *[Amended in November 2011 and October 2016]*

### **Mounting and Installation**

8.34 The EAs must be firmly and separately fastened. The mounting and display of EAs must not cause any risk to injuries or property damages. *[Amended in October 2016]*

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

8.36 Use “tie-on” posters (rather than “stick-on” posters or metallic wires) to facilitate subsequent removal. *[Amended in October 2016]*

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

8.38 Do not excavate or erect any structure on public pavements, e.g. nailing boards to the ground. *[Amended in October 2016]*

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

### **Dismounting**

8.40 All candidates should remove all their EAs displayed on government land/property **within 10 days** following the 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. Relevant



authorities will issue demand notes for the removal costs to the candidates concerned within 21 days after the election result has been published in the Gazette. The **cost of removal** will be construed as **election expenses** and the candidates must include all these costs as election expenses in their election returns. *[Amended in October 2016]*

## **PART V : APPLICATION FOR TEMPORARY OCCUPATION OF GOVERNMENT LAND AT PUBLIC PLACE FOR HOLDING ELECTIONEERING ACTIVITIES**

8.41 For temporary occupation of government land including public street, pavement, footbridge, public escalator systems and pedestrian tunnel for holding electioneering activities (such as setting up of a manned street counter and displaying of EAs which may include banners, roll up banners and vertical flying poster or bunting), candidates are required to submit applications with scheduled date, time, location/spot and brief description of the proposed set-up, to the relevant District Lands Office (“DLO”) of Lands Department for consideration. DLOs will only consider applications from validly nominated candidates. Approved occupation should not exceed 2 m<sup>2</sup> in area and 2 m in height. The respective DLO will consult the government departments concerned in considering the applications. *[Added in October 2016]*

8.42 The Lands Department will issue detailed guidelines for candidates to apply for temporary occupation of government land at public place for holding electioneering activities during election period. The deadlines for submission of applications will be specified in the guidelines. Applications should be submitted to the relevant DLO according to the designated deadlines. Applications for occupying government land on the polling day should be submitted to the relevant DLO by the subject deadline as specified in the guidelines. The DLO will arrange drawing of lots to determine the allocation if

necessary. On the polling day, the approval will be deemed to have been revoked if and when the spot falls within the NCZ. *[Added in October 2016]*

8.43 The DLOs will not consider applications for holding electioneering activities on government land outside the designated periods. No fee is required for the application above. Display of EAs is not permitted if and when the street counter is not manned. *[Added in October 2016]*

## **PART VI : REQUIREMENTS RELATING TO PUBLICATION OF ELECTION ADVERTISEMENTS**

### **Copies for Public Inspection**

8.44 A candidate must make available a copy of each of his/her EAs, and relevant information/documents (see **Appendix D**) including publication information, permission or consent in relation to the EAs for public inspection **within 1 working day (i.e. any day other than a general holiday or Saturday) after publication of the EAs** by the following means:

- (a) posting an electronic copy each of all his/her EAs and the relevant information/documents onto an open platform<sup>7</sup> maintained by the CEO or a person authorised by the CEO (“Central Platform”) in accordance with the procedures set out in **Appendix D**;
- (b) posting an electronic copy each of all his/her EAs and the relevant information/documents onto an open platform maintained by the candidate or a person authorised by the candidate (“Candidate’s Platform”) and provide the **electronic address** of the platform to

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<sup>7</sup> Open platform 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.

the CEO **at least 3 working days before publication of the first EA (For details, please see Appendix D);**

- (c) if it is technically impracticable to comply with (a) or (b) above for EAs published through an open platform on the internet (such as when messages are sent through social networking or communication websites on the Internet like Twitter, Facebook, blogs, etc. and the exchanges are of an interactive and spontaneous nature), posting a hyperlink of such open platform and the information/documents relevant to the EAs onto the Candidate's Platform or the Central Platform in accordance with the procedures set out in **Appendix D;**
- (d) providing 2 hard copies each of the EAs (or 2 identical full colour photographs/printouts/photocopies of each EA which cannot be practically or conveniently produced in specie) and 1 hardcopy each of the relevant information/documents to the RO; or
- (e) providing 2 identical copies of a CD-ROM or DVD-ROM each containing the EAs and 1 hardcopy each of the relevant information/documents to the RO.

As an interim arrangement, in case the RO has yet to be appointed and the Central Platform has yet to be established, the candidates should deposit his/her EAs and the relevant information/documents with the CEO in the same manner as stated in (d) or (e) above.

[S 87(2) and (3) of the EP (CEE) Reg.] *[Amended in October 2016]*

### **Publication Details**

8.45 A candidate should provide information related to the printing/publication of his/her EAs (i.e. the name and address of the printer, date of printing/publication and number of copies printed) when posting the EAs onto the Candidate's Platform or Central Platform or submit the information in a specified form to the RO **within 1 working day after publication of the EAs** (see **Appendix D**) [s 87(4) and (6) of the EP (CEE) Reg]. A candidate must ensure the accuracy of all the information provided. *[Added in October 2016]*

8.46 Where the information uploaded onto the Candidate's Platform or Central Platform or provided to the RO as set out in para. 8.45 above contains a mistake, the candidate should post such corrective information onto the Candidate's Platform or Central Platform or submit the corrective information in the specified form to the RO for public inspection. All such corrective information must be posted onto the Candidate's Platform or Central Platform or deposited with the relevant RO **within 2 working days after the polling day, the latest**. The information will be used as one of the basis for checking the candidate's election return and for the removal of unauthorised or offending EAs. For the avoidance of doubt, any amendment to the content of an EA will be regarded as publication of a new EA for which the requirements stated in paras. 8.44 and 8.45 above should be complied with, except the addition of the number of each candidate allocated at the Candidates' Briefing onto a published EA (in contested election), in which case a copy of the EA bearing such addition and the corrective information must be made available for public inspection in accordance with this paragraph. *[Added in October 2016]*

8.47 All EAs published must be posted onto the Candidate's Platform or the Central Platform or deposited with the RO by the candidate for public inspection in the manner specified in this Part VI. *[Added in October 2016]*

8.48 A candidate must not display his/her EAs other than at the places permitted or authorised. *[Added in October 2016]*

8.49 Speeches orally delivered by a candidate during election meetings or ad hoc visits will not be treated as EAs, but the copies of the speech provided to the audience or media will be regarded as printed EAs. Therefore, the candidates concerned are required to comply with all the requirements in this Chapter as applicable to EAs in the distribution of the copies and for public inspection. *[Added in January 2007 and amended in November 2011 and October 2016]*

8.50 Copies of the EAs and the relevant information/documents must be made available for public inspection till the end of the period for which copies of election returns are available for inspection under s 41 of the ECICO, i.e. the period ending with the 30<sup>th</sup> day before the first anniversary of the date of the deadline for lodging the relevant election return [s 41 of ECICO and s 87(7) of the EP (CEE) Reg]. A candidate electing to comply with para. 8.44(b) above must ensure that the Candidate's Platform is maintained till the end of the aforesaid inspection period to facilitate public inspection of the EAs [s 87(2)(b) of the EP (CEE) Reg]. The CEO will also publicise the Central Platform and the electronic address of the Candidate's Platform to facilitate public inspection of the EAs. For a candidate electing to comply with para. 8.44(d) or (e) above, the RO will make available a copy of the EAs and the relevant information/documents for public inspection at the RO's office as soon as practicable after copies of such EAs and information/documents have been furnished till the end of the aforesaid inspection period [s 87 (7) and (8) of the EP (CEE) Reg]. *[Amended in October 2016]*

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

### **Printing Details**

8.51 All printed EAs, with the exception of those printed in a registered local newspaper, should bear printing details in Chinese or English, which should state 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 (e.g. 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

[S 87(4) and (5) of the EP (CEE) Reg.] [*Amended in November 2011*]

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

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

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

8.53 A candidate who has inadvertently omitted the printing details from his/her printed EAs can make a statutory declaration giving the omitted details, and deposit such declaration with the RO **not later than 7 days after** the publication of the offending EA [s 87(6) of the EP (CEE) Reg]. Having taken this remedial step, he/she will not be prosecuted for contravention of s 87(4) of the EP (CEE) Reg. The statutory declaration will be made available for public inspection by the RO till the period for which copies of election returns are available for inspection under s 41 of the ECICO [s 87(7) of the EP (CEE) Reg]. *[Amended in November 2011 and October 2016]*

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

### **Enforcement and Penalties**

8.54 A candidate who fails to comply with the requirements set out in Parts VI and VII above commits an offence and is liable to a fine at level 2 (i.e. \$5,000) and to imprisonment for 6 months [s 87(9) of the EP (CEE) Reg]. *[Amended in October 2016]*

8.55 Each candidate must observe and comply with the conditions imposed by the permissions or authorisations for the display of EAs. Any EAs displayed in contravention of these guidelines will be removed and seized. At a contested election, candidates and their supporters should report any non-compliance to the RO and should not take removal action themselves against any unauthorised or offending EAs. *[Amended in January 2007, November 2011 and October 2016]*

8.56 Any unauthorised or offending EAs displayed may be seized, disposed of, destroyed, covered, or obliterated by the RO or any person authorised by him/her as he/she thinks fit [s 89 of the EP (CEE) Reg]. The candidate or his/her election agent responsible may also be prosecuted and if convicted, may be liable to a fine and to imprisonment [s 87(9) of the EP (CEE) Reg]. The cost of removal, being a civil debt, will be counted as election expenses. Such civil debt must be reported in the candidate's election return. The seized articles may be kept as evidence and will be disposed of or returned upon application in accordance with the PHMSO or the Housing Ordinance (Cap 283), as the case may be, and the procedures of the relevant authority [s 104C of the PHMSO and s 24 of the Housing Ordinance (Cap 283)]. *[Amended in January 2007 and October 2016]*

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

8.58 Complaints should be made to the RO. Upon complaints being received, the EAC may also issue public statements in such manner as it deems fit to reprimand or censure any non-compliance with these guidelines. Although a censure may be a further detriment to the candidate in addition to his/her liability for removal expenses and criminal liability, the EAC will not hesitate to publish one in an appropriate case. *[Amended in October 2016]*

### **Relief for Election Advertisements**

8.59 A person, who publishes an EA without complying with the requirements as set out in paras. 8.44 (except that related to the submission of permission/authorisation document under s 104A(1) of the PHMSO), 8.45, 8.46, and 8.51 above may apply to the CFI for an order allowing the publication of the above EAs to be excepted from the relevant requirements and relieving



him/her from the penalties. The CFI may make such an order provided that the CFI 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 88 of the EP (CEE) Reg.] *[Added in October 2016]*

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

8.60 Any thing or material published by any political organisation, professional or trade organisation, owners' corporation, MAC, tenants' association, owners' committee, etc. which advertises its platform or services **with reference to candidate** (irrespective of whether or not the candidate concerned is its office-bearer or member) **during or even before the election period** by name or photograph or otherwise may be treated as EA put up by, or on behalf of, or on account of, the candidate. The expenses for doing so may be construed as election expenses incurred by or on behalf of the candidate. It is therefore a prudent step for the relevant organisations to suspend such advertising activities. However, if the material published by the organisation concerned, as opposed to the candidate himself/herself, 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 will not be regarded as an EA.

8.61 It is an offence for anyone to incur election expenses unless he/she is a candidate or an election expense agent of a candidate [s 23(1) of the ECICO].

8.62 Candidates should protect their own interest by advising their organisations of these guidelines as soon as they have any intention or plan to run for the CE election.

8.63 To sum up the important points, where any organisation publishes an EA promoting a candidate,

- (a) the expenses incurred will be treated as the candidate's own election expenses;
- (b) the officer-in-charge of the organisation needs to be appointed 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 87 of the EP (CEE) Reg [*Amended in October 2016*]; and
- (d) such advertisement can only be displayed at the spots with the relevant written permission or authorisation. [*Amended in October 2016*]

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

### **Conditions for Free Postage**

8.64 A candidate who is declared to have been validly nominated in the notice of valid nominations published in the Gazette in accordance with regulations made under the EACO is permitted to post free of postage up to 2 letters to each EC member [s 45 of the CEEO]. However, before the publication of the notice of valid nominations in the Gazette, a candidate wishing to exercise his/her right to free postage must furnish the Postmaster General with a security (full postage of the items posted) for the payment of postage in the event that his/her name is not subsequently shown in the notice of valid nominations. [Reg 6(2)(a) of the Post Office Regulations (Cap 98A).] *[Amended in November 2011 and October 2016]*

8.65 The purpose of the free postage is to enable the candidate to mail EAs to EC members to promote or advertise himself/herself in relation to the election. The free postage arrangement, which is the privilege of validly nominated candidate(s), should not be abused in any way. In particular, it cannot and should not be used for any other purpose or any other election or for promoting or advertising any other person. **As a general requirement, a candidate should publish EAs in accordance with all applicable laws and these guidelines and, in this regard, EAs sent by a candidate through free postage should not contain any unlawful content.** *[Amended in October 2016]*

8.66 Specifically, the letter must:

- (a) be posted and delivered in Hong Kong;

- (b) contain materials relating only to the candidature of the candidate at the election;
- (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.

[S 80 of the EP (CEE) Reg.]

**IMPORTANT:**

**Under s 80(3)(a) of the EP (CEE) Reg, the candidate sending postage-free mail items to EC members in bulk is liable for payment of postage for all items in that bulk if any item in the bulk does not meet requirement (a), (b), (c) or (d) above.**

*[Amended in November 2011]*

**Postal Requirements Stipulated by Hongkong Post**

**Make-up**

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

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

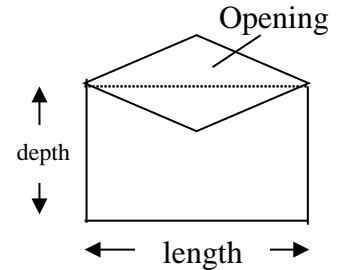
8.69 When a wrapper is used, it must extend over the full length of the item which it encloses. Envelopes must not be fastened with staples or with paper fasteners with sharp edges or points, but they may be closed by means of an adhesive flap or tape.

8.70 Envelopes, folders and lettergrammes having an opening large enough to entrap smaller letters are prohibited. **Unsealed mail item** contained in envelopes with ordinary tuck-in flaps may be used up to the following size limits [s 6.3 of the Post Office Guide]:

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

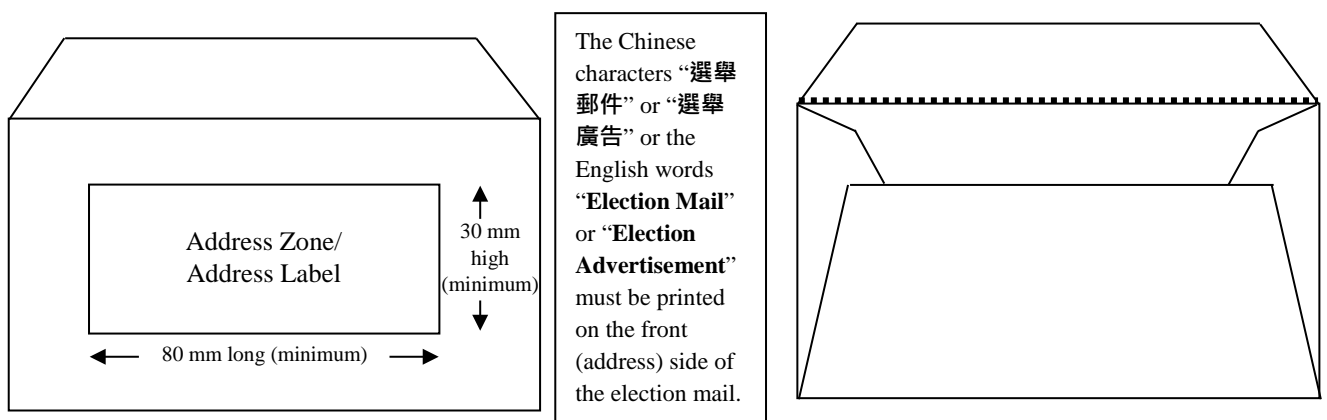
Not over 100 mm in depth - opening not over  
140 mm in length

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



8.71 Folders (e.g. A4 size) with openings should be closed by means of adhesive flap or tape to avoid entrapping smaller letters. All open edges must not be longer than 90 mm in width. Otherwise, adhesive tapes should be applied to the midpoints of the open edges to reduce the width. For details, please refer to the illustration in **Appendix E**. *[Amended in November 2011]*

8.72 **The Chinese characters “選舉郵件” or “選舉廣告” or English words “Election Mail” or “Election Advertisement” must be printed on the front (address) side of the election item, or the address side of the folder (unenveloped mail). The layout of the election items is as follows:**



*[Amended in November 2011 and October 2016]*

## **Addressing**

8.73 To avoid delay or misdelivery, the full postal address should be typed or legibly written on the front of the envelope in 4 rows as follows:

Name of addressee

Floor and flat number and name of building

Street number, name of street

Name of district

8.74 Addressing slips may be used for the mailing of EAs provided that they are legible and **securely pasted** onto the election items. *[Amended in November 2011]*

### **IMPORTANT:**

For the purpose of posting of election mails, candidates may make use of two sets of mailing labels of electors and/or a “Candidate Mailing Label System” (“CMLS”) DVD-ROM provided by the REO. No mailing labels will be provided for electors who have provided their e-mail addresses to receive EAs. *[Added in October 2016]*

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

address zone and address label should be in white background colour while the characters of the postal address should be in black. [Please refer to para. 8.72 for better illustration.] *[Amended in November 2011]*

8.76 No postage-free EA bearing an address outside Hong Kong will be accepted. Specifically, **only 1 address of elector(s) should be shown on the postage-free election mail.** *[Amended in November 2011]*

### **Posting Arrangements**

8.77 In order to allow adequate time for Hongkong Post to process the election mail during the election period, candidates are advised to make their postage-free EA postings **before the posting deadline as designated by Hongkong Post.** Candidates and their agents are therefore **reminded** that **postings made after the posting deadline will likely fail to reach to the addressees before the polling day.** *[Amended in November 2011 and October 2016]*

8.78 **Candidates should apply to Hongkong Post for written approval of their EA specimens for free postage. They should carefully study the requirements governing free postage for EAs before deciding on the contents of their EAs and seek advice from Hongkong Post relating to postal requirements and the REO on other aspects as appropriate if in doubt. Candidates should make every effort to submit their EA specimens to Hongkong Post for written approval as early as possible before mass production of their EAs so as to allow sufficient time for revising the contents of their EA specimens, if necessary.** *[Added in November 2011]*

8.79 Candidates should present 3 unsealed specimens of their EAs, together with a Notice of Posting of Election Mail in duplicate (the notice will be provided by the REO to the candidates upon their submission of nominations) to the manager(s) at the designated offices of Hongkong Post for

written approval of their EA specimens. At least **2 clear working days** (excluding Saturday, Sunday and public holiday) must be allowed for the respective manager(s) of the designated post office to process each set of specimens and postings should only be made after receipt of official approval. EA specimens submitted will be proceeded as soon as practicable, but there is no guarantee that the EA specimens will necessarily be approved in 2 working days immediately after their submission. *[Amended in January 2007, November 2011 and October 2016]*

8.80 Candidates should post their postage-free mail at the respective post offices/delivery offices designated by Hongkong Post for the election concerned. When making postings, the candidates should furnish a copy of the election mail for the attention of the designated manager(s) for record purpose. *[Amended in January 2007, November 2011 and October 2016]*

8.81 The postings should be made up in bundles of 50 or 100 each for easy counting. All election mails must be stacked on the same side and arranged in accordance with the same order as the address labels/address lists (e.g. by building name or block number) provided by the REO. *[Amended in November 2011 and October 2016]*

8.82 With each posting, the candidate or his/her election agent must present a signed declaration (the declaration form will be given to a candidate by the REO upon his/her submission of nomination) **in duplicate** (the original to be kept by Hongkong Post and the duplicate copy duly signed by Hongkong Post and kept by the candidate or his/her election agent as acknowledgement of the posting):

- (a) stating the quantity of mail items in the posting and the name of the candidate;
- (b) declaring that the posting is his/her postage-free mail;



- (c) declaring that each packet contains materials relating only to the candidature of the candidate at the election concerned; is identical to the unsealed specimens submitted by the candidate or his/her election agent for inspection and approval; and
- (d) declaring that not more than 2 postage-free mails will be sent to any of the EC members.

It is important to note that under s 80(3)(b) of the EP (CEE) Reg, a candidate sending postage-free mail items to EC members in bulk is liable for payment of postage for all the items in that bulk if the declaration made by him/her or his/her election agent is false in any particular. *[Amended in November 2011 and October 2016]*

8.83 If a candidate makes posting in more than 1 batch, the same declaration form must be presented at the same designated post office/delivery office on each occasion. *[Amended in November 2011]*

8.84 If the name, logo or pictorial representation of a person or an organisation, as the case may be, is included in the election mail, and is published in such a way as to imply or to be likely to cause electors to believe that the candidate has the support of the person or organisation concerned, the candidate should ensure that **prior written consent** has been obtained from the person or organisation concerned. [Please refer to Chapter 18 for the detailed requirements.] *[Added in October 2016]*

8.85 Government reserves the right to charge a candidate postage where any of the requirements under s 80(3) of the EP (CEE) Reg is not met or the free postage arrangements are abused in any way. The charge counts towards the candidate's election expenses and must be included in his/her election return to be sent to the CEO. The EAC may also issue public statements in such manner

as it deems fit to censure any abuse of the free postage arrangements.  
*[Amended in November 2011 and in October 2016]*

**8.86        The postal requirements stated in the above guidelines (paras. 8.67 to 8.84) are quoted for general reference only. Candidates should comply with the latest requirements issued by Hongkong Post at the time of the election concerned. *[Added in November 2011]***

**Enquiries**

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

Assistant Manager (Retail Business Support)

Room 1M05  
General Post Office  
2 Connaught Place  
Central  
Hong Kong

Telephone : 2921 2190 / 2921 2307

Fax        : 2501 5930

*[Amended in November 2011 and October 2016]*

**PART XI : ELECTION ADVERTISEMENTS FOR REGISTERED ELECTORS IN THE CUSTODY OF CSD AND OTHER LAW ENFORCEMENT AGENCIES**

8.88 Candidates may send EAs to registered electors in the custody of the CSD where the electors have provided the addresses of the penal institutions concerned as their correspondence addresses for the receipt of EAs. For security reasons, candidates should adhere to the guidelines laid down by the CSD at **Appendix S** when sending EAs to these electors. *[Added in January 2010 and amended in October 2016]*

8.89 Candidates may note that persons who are in prison or held in custody by the law enforcement agencies who are electors may access election-related information through the mass media in accordance with the existing policies of the law enforcement agencies on access to the mass media. *[Added in January 2010]*

## CHAPTER 9

### ELECTIONEERING ACTIVITIES AT PREMISES OR BUILDINGS WHERE ELECTORS RESIDE, WORK OR FREQUENT

#### PART I : GENERAL

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

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

These electioneering activities may include visits to, personal contact with people, using amplifying devices to advertise in the common parts of the building, display or distribution of EAs and holding of election meetings at, the places mentioned above. **Appendix F** gives some kind of reference as to what activity is to be regarded as an electioneering activity. This chapter explains the general guidelines to be observed by candidates in conducting electioneering activities, the rights of all concerned and appeals to the electors, the management bodies of the organisations to which the electors belong and the management bodies of the buildings which the electors frequent to **provide fair and equal treatment** to all candidates so as to ensure that the election is conducted fairly.  
*[Amended in January 2007 and November 2011]*

9.2 Candidates are reminded that different organisations/buildings 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, candidates should consult the relevant authorities or management in advance and, if required, obtain prior permission from them for the conduct of electioneering activities in the places within their jurisdiction. *[Added in January 2007 and amended in October 2016]*

9.3 The general guidelines to be observed for conducting electioneering activities at the living and working places of electors, premises of organisations to which electors belong and buildings which electors frequent are set out in Part 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 G**. *[Added in January 2007]*

9.4 For the purpose of ensuring fair treatment and equal opportunity of access for 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 January 2007]*

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

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

9.5 Candidates should note that electors have the right to allow or deny access by anyone, including the candidates, to their own living or working

places. In other words, electors are free to invite, or accept the request from, a particular candidate(s), but not the others, to visit them at their living or working places. *[Amended in November 2011]*

9.6 However, access to a private office may require the approval of the management of the office building or the companies which employ the electors, and such management when making a decision should have due regard to the fair and equal treatment principle mentioned in Part III below. In conducting electioneering activities at the common parts of the living or working places of electors, candidates should observe the general guidelines set out in paras. 9.9 to 9.16 below. *[Amended in January 2007]*

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

9.8 Due to security reasons, arrangements will not be made to facilitate in-person canvassing activities in a prison or the premises of a law enforcement agency. A visitor, who visits a prison or the premises of a law enforcement agency for a business or official purpose, is not allowed to canvass for votes. This is to ensure that such a visitor will not have an advantage over other persons who cannot make the visit. A person, who canvasses for votes during the aforesaid visit, commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months [s 67A of the EP (CEE) Reg]. *[Added in January 2010]*

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

9.9 After a candidate has been notified of the decision relating to electioneering activities, he/she should ensure that he/she and his/her supporters

comply with the decision and should not avail himself/herself of or obtain any unfair advantage over any other candidate(s). *[Amended in January 2007 and November 2011]*

9.10 If a decision to disallow electioneering in an organisation or a building has been made, the candidate or his/her supporters should conduct no electioneering activity in such places. If the candidate concerned acts against the decision of the organisation or building in whatever manner, then he/she commits trespass and the organisation or building management can simply stop him/her from 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 (which may publish a **reprimand** or **censure** against the candidate concerned) or its Complaints Committee. *[Amended in January 2007 and November 2011]*

9.11 A candidate and his/her 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.

9.12 **Privacy of the electors should be respected.** The guidance note on personal data privacy in respect of electioneering activities at **Appendix H**, prepared by the Office of the Privacy Commissioner for Personal Data ("OPCPD"), serves as a general reference on compliance with the requirements of the PD(P)O in relation to electioneering activities that may involve the

collection and use of personal data of an individual. According to the aforesaid guidance note, the act of canvassing for votes is not in contravention of the PD(P)O provided that collection and handling of personal data is in compliance with the data protection principles in schedule 1 to the PD(P)O. The aforesaid guidance note also reminds candidates, inter alia, that:

- (a) individuals should be informed of the purpose of collection of their personal data when collecting the data directly from them for electioneering;
- (b) personal data should not be collected by deceptive means or by misrepresentation (e.g. collecting personal data in the pretext of opinion poll or assisting citizens to apply for government welfare);
- (c) before using personal data from sources other than the extract from the FR of EC Members provided by the REO for electioneering purpose, express consent from the data subjects should be obtained unless the original purpose of collection of the data is directly related to the electioneering purpose; and
- (d) if election agents or other contractors are engaged to process personal data of electors on behalf of the candidates for electioneering purpose, necessary means (contractual or otherwise) must be adopted to prevent the personal data transferred to the election agents or other contractors from:
  - (i) being kept longer than is necessary for the electioneering purpose;
  - and (ii) unauthorised or accidental access, processing, erasure, loss or use.

In addition, in order to facilitate better understanding of the privacy concerns of the electors and compliance with the requirements of the PD(P)O, the OPCPD has provided 4 complaint cases at **Appendix I** for illustration purpose.



**Candidates and their election agents are strongly advised to strictly follow the guidance provided by the OPCPD in the aforesaid note when conducting electioneering activities.**

*[Amended in October 2016]*

9.13 Candidates are supplied by the REO with the final register of EC Members which contains the name and residential address of the electors and their email addresses (where the electors concerned have provided to REO for the purpose of receiving EAs from candidates), but **not their telephone numbers**. As a general rule, candidates should respect the privacy of the electors when using their contact information for canvassing. In particular, for mass distribution of EAs over email, candidates are reminded to use the “bcc” function of email or other proven means to ensure that the email addresses of individual electors would not be inadvertently disclosed to other recipients. Candidates should note that some members of the public do not like or detest being called over the telephone, the entrance intercom system and some do not like their names being called out aloud. Many electors also consider canvassing messages sent to them through **electronic devices** annoying. Their disapproval may be reflected in the electors’ voting preference. It is therefore unwise to call or send messages through electronic devices to electors who find such approaches objectionable or to act in any other way that may antagonise them. As a matter of good practice, candidates and their supporters should maintain a list of electors that they know finding such electioneering telephone calls or messages or visits objectionable and avoid approaching these electors through these means again. On the other hand, electors who receive objectionable telephone calls or messages can just disconnect them. If the caller or sender does not desist from calling or sending messages and causes a nuisance, the elector should report the matter as soon as possible to the **Police** who may take action against the caller or sender. *[Amended in January 2007, November 2011 and October 2016]*

9.14 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. They should be mindful that some people working shift hours need to take rest during the daytime and the noise generated from the use of loudspeakers for electioneering activities may affect their daily life. 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 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 electors will obviously be reflected in their voting preference. [See also Chapter 12.] *[Amended in January 2007 and October 2016]*

9.15 Canvassing through the use of the **entrance intercom system** in a building is prohibited unless it is expressly allowed by the building management. *[Added in November 2011]*

### **Identification of Canvassers**

9.16 For security reasons and for prevention of abuse, the EAC advises that each candidate should provide some forms of identification to his/her 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/her canvasser who should produce his/her identification document together with his/her 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 Electors Belong and Buildings which Electors Frequent**

9.17 The premises of the organisations to which the electors belong and the buildings which electors frequent usually do not belong to a particular elector or group of electors. They are usually under the control of the management bodies of the organisations or the buildings concerned. *[Amended in January 2007]*

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

9.19 The **common parts** of a building (those parts to which exclusive rights of use or occupation do not belong to a particular owner or tenant) are usually under the control and management of the owners of the various units in the building. Where there is an owners' corporation of the building incorporated under the former Multi-storey Buildings (Owners Incorporation) Ordinance or the present Building Management Ordinance (Cap 344), the control and management of the common parts are exercised by the owners' corporation representing all the owners of the building. *[Amended in October 2016]*

9.20 For all types of building organisations be it an owners' corporation, owners' committee, MAC, 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.**

**IMPORTANT :**

**The office bearers of building organisations must not abuse their positions in the organisations to give unfair treatment to any candidate in the conduct of electioneering or canvassing activities in the buildings concerned. This is particularly the case when the office bearers themselves or their close relatives are candidates in the election. Furthermore, it would be the responsibility of the building organisations to ensure that the fair and equal treatment principle is strictly complied with in all circumstances and no candidates will be given unfair advantage in the election. [Added in October 2016]**

9.21 The organisation concerned should make a decision that applies equally and fairly to all candidates 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.

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

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

### **Notification of Decision**

9.23 The management bodies of organisations and buildings are urged to notify the RO in writing as soon as possible of their decision on electioneering by candidates, so as to equip the RO with the correct information to be provided to the candidates who may make inquiries with him/her. A **form** of the notification to the RO can be obtained from the REO. Enquiries may be made with the RO. Nevertheless, candidates are advised to note that some buildings may not be able to make a decision on electioneering by candidates before the end of nomination period and therefore have not given the notification to the RO as required. When candidates come across these buildings, they should respect the interim decision of these buildings not to allow electioneering. *[Amended in November 2011 and October 2016]*

### **Display of Election Advertisements**

9.24 The management bodies of the organisations or buildings concerned should avoid handling applications by candidates for display of EA 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/her. To ensure fairness, management bodies are advised to: *[Amended in November 2011]*

- (a) ascertain all the available spots at the premises for candidates to display posters and banners;

- (b) decide on the maximum size of posters and banners to be allowed;
- (c) after the end of the nomination period of candidature, find out from the RO how many candidates are contesting in the election;
- (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; and
- (e) when one of the candidates applies for display of EAs, allow him/her to draw lots to obtain a portion of the spots still available at the time of his/her application.

*[Amended in January 2007]*

9.25 Any person who puts 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 he/she is a candidate or intends to stand as a candidate in the election. This is to prevent a prospective candidate from making use of such device to promote himself/herself. The management body is also advised to exercise its own judgment on 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**

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

**PART V : SANCTION**

9.27 If the EAC receives a complaint of unfair or unequal treatment of candidates by any organisation or building or a person acting or purporting to act on behalf of such organisation or building, and is satisfied that the complaint is justified, it may make a **reprimand** or **censure** in a public statement which will include the names of the candidates 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.

9.28 Candidates should also refrain from accepting any unfair advantage over other candidates 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 are not treated as election meetings [see Part IV of Chapter 11]. During the election period, a candidate may attend any other meetings as part of his/her 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 particular candidates, they will not be regarded as election meetings. *[Amended in January 2007]*

10.2 Expenses incurred before, during or after the election on account of an election meeting organised for any of the purposes stated above are **election expenses** [s 2 of the ECICO]. 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/her behalf. In that event, it will be for the candidate to assess the expenses which have been incurred for the said purposes. [See Chapter 16.] The person who uses the meeting for promoting the candidate may also be liable for prosecution for his/her failure in obtaining the candidate's prior authorisation to appoint him/her as the candidate's election expense agent for incurring election expenses on behalf of the candidate [ s 23(1) of the ECICO].

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



election meeting.

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

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

10.6 Candidates are reminded that individual government departments and management authorities may have their own guidelines to allow or disallow the conduct of election meetings on the premises under their control. To ensure the smooth conduct of election meetings in public or private places, **candidates should consult the relevant authorities concerned in advance and if required, obtain prior permission from each of them for the conduct of election meetings on the premises within their jurisdiction.** *[Added in January 2007 and amended in October 2016]*

10.7 The requirements of the Hong Kong Police Force for the organisation of election meetings in public places and the guidelines of the Housing Department/Hong Kong Housing Society for premises under their jurisdiction are set out in paras. 10.8 to 10.20 below. *[Added in January 2007 and amended in October 2016]*

## **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 immediately 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)(“POO”)]. “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 the POO].

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

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

- (f) the sound amplifying 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 the POO.]

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/her 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 registered or provisionally registered or exempted under the Education Ordinance (Cap 279), college registered under the Post Secondary Colleges Ordinance (Cap 320), or educational establishment established by any Ordinance 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 the POO]

Where in doubt, a candidate should seek advice from the Police. *[Amended in October 2016]*

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/she 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/she shall give notice of the prohibition to the person who gave the notification or to any person named in that notice not later than 48 hours prior to the time of commencement of the meeting or by publication in writing in such manner, or by posting a notice of the prohibition in such place, as the Commissioner of Police may think fit. [S 9 of the POO.] 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 (2) and (3) of the POO]. *[Amended in January 2007 and October 2016]*

10.12 At every public meeting:

- (a) there shall be present throughout the meeting either the organiser, or if he/she is not present, a person nominated by him/her to act in his/her 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 the POO.]

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

### **Public Processions**

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

- (a) it consists of not more than 30 persons; or
- (b) it is held at a place other than a public highway, public thoroughfare or public park ; or
- (c) it is of a nature or description specified by the Commissioner of Police by notice in the Gazette.

[S 13(2) of the POO.] *[Amended in October 2016]*

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 or by any person on his/her behalf, 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 immediately 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:

- (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. [S 13A(1) and (4) of the POO.] *[Amended in October 2016]*

10.16 The Commissioner of Police may object to a public procession being held if he/she reasonably considers that the objection is necessary in the interests of national security or public safety, public order or the protection of the rights and freedoms of others. If the Commissioner of Police objects to the public procession being held, he/she shall as soon as reasonably practicable and within the time limit specified under the POO:

- (a) notify in writing the person who gave notice under s 13A of the POO or a person named for the purposes of s 13A(4)(a)(i) of the POO of his/her objection and reasons; or
- (b) publish a written notice of objection and reasons in the manner he/she thinks fit; or
- (c) post a written notice of objection and reasons in the place he/she thinks fit.

[Ss 14 and 15(2) of the POO.] *[Amended in October 2016]*

10.17 The Commissioner of Police shall not issue a notice of objection for a public procession:

- (a) if notice of a procession is given in accordance with s 13A(1)(b) of the POO, later than 48 hours before the notified commencement time of the procession;
- (b) if shorter notice of 72 hours or more is accepted by the Commissioner of Police under s 13A(2) of the POO, later than 24 hours before the notified commencement time of the procession;  
or
- (c) if shorter notice of less than 72 hours is accepted by the Commissioner of Police under s 13A(2) of the POO, later than the notified commencement time of the procession.

[S 14 of the POO.] *[Amended in January 2007 and October 2016]*

10.18 At every public procession:

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

[S 15(1) of the POO.]

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

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

10.20 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 : ELECTIONEERING EXHIBITIONS**

#### **General**

10.21 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, if required, obtain prior permission from the housing manager, owner, occupier, owners' corporation, building management or the MAC concerned, etc. Relevant guidelines in the other parts in this chapter should also be observed, in addition to compliance with regulations and conditions imposed by other relevant authorities. *[Amended in January 2007]*



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

10.22 Where approval has been given by a housing manager for such an exhibition in housing estates managed by the Housing Department and the Hong Kong Housing Society, the display of EAs at the venue of the exhibition will normally be subject to the conditions that they are displayed in connection with the activity in question and for a temporary duration of less than a day. The guidelines in Chapter 8 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 RO for record and for public inspection. Please also see **Appendix G** for reference. *[Amended in January 2007 and November 2011]*

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

10.23 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) (“SOO”)]. 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 **Appendix K** for general information.

## **CHAPTER 11**

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

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

11.1 This chapter deals with election broadcasting through electronic means (which covers all programmes including those on current affairs and news reporting of the radio and television stations licensed under the Broadcasting Ordinance (Cap 562) and the Telecommunications Ordinance (Cap 106)), media reporting on election-related matters and the holding of any election forum. *[Amended in October 2016]*

#### **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/she has submitted a nomination form [s 2 of the ECICO].

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

11.2 Operators of television broadcasting services licensed under the Broadcasting Ordinance are not allowed under the law to broadcast advertisements of a political nature. Operators of radio broadcasting services licensed under the Telecommunications Ordinance are not allowed under the Code of Practice issued by the Communications Authority to broadcast

advertisements of a political nature except with the prior approval of the Communications Authority. *[Amended in November 2011 and October 2016]*

11.3 Broadcasters licensed under the Broadcasting Ordinance and the Telecommunications Ordinance are required to handle any programmes relating to the election and candidates in accordance with the **fair and equal treatment principle** and the guidelines set out in this chapter and to ensure that no favourable or unfavourable treatment will be given to any of the candidates. *[Added in October 2016]*

11.4 For programmes of which the entire or part of the theme is on the election (e.g. for introducing the candidates or reporting/analysing the election platforms and activities of the candidates), the **fair and equal treatment principle** applies. In accordance with the fair and equal treatment principle, broadcasters should ensure that each of the candidates will be introduced and reported in the programme and no favourable or unfavourable treatment will be given to any of the candidates. *[Added in October 2016]*

11.5 For current affairs or other programmes on television and radio which are not election-related, candidates may take part as guests in these programmes insofar as their participation is pertinent to the subject matters of the programmes. Under the fair and equal treatment principle, broadcasters should be careful to avoid giving unfair publicity to any candidates, and should be prepared to justify their choices of guests having regard to all the circumstances of the case, including the subject matter of the programmes, the candidates' background and expertise, availability of other guests having similar background and expertise, etc. *[Amended in November 2011 and October 2016]*

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

11.7 To comply with the fair and equal treatment principle, when inviting a candidate to attend a programme of which the entire or part of the theme is on the election, broadcasters should invite all candidates and include in the invitation a notice to the invitee that a similar invitation has been or will be made to other candidates, so as to give the invitees an equal opportunity to appear. The EAC also appeals to all candidates to attend these programmes as far as possible in order to enable electors and the public to be apprised of their election platforms. Some candidates may choose not to attend due to personal or other reasons. Under such circumstances, the relevant broadcaster may continue with the production of the programme as planned without contravening the fair and equal treatment principle. The fair and equal treatment principle applies to production of the entire programme and, in particular, requires the broadcaster to give equal time to each of the candidates in that part of the programme to present his/her election platform. **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.** To avoid any possible confusion, broadcasters should provide the audience of the programmes with clear information on the total number and names of candidates. Furthermore, to ensure equal treatment to all candidates concerned, broadcasters should in particular take heed of the observations made by the Court in an election petition relating to the 2010 LegCo By-election as set out in **Appendix L** and, where appropriate, follow the arrangement set out therein when producing multi-episode programmes which are election-related. *[Amended in November 2011 and October 2016]*

11.8 If there is evidence to substantiate that the relevant broadcaster has provided/allowed favourable or unfavourable treatment to some candidates in producing the programme of which the entire or part of the theme is on the election, such case will be regarded as a breach of the fair and equal treatment principle. *[Added in November 2011]*

11.9 The aforesaid principles do not apply to programmes which are entirely news reporting and are not related to the candidates' participation in the election. Nonetheless, the broadcaster is obliged to ensure fair treatment for all candidates and that no candidate is offered an unfair opportunity of publicity in all circumstances as required under paras. 11.4 and 11.5. *[Added in November 2011 and amended in October 2016]*

11.10 Broadcasters' attention is drawn to the provisions of the Generic Code of Practice on Television Programme Standards, Radio Code of Practice on Programme Standards and Radio Code of Practice on Ancillary Visual Service Standards issued by the Communications Authority which govern the accuracy, impartiality and fairness of news and current affairs programmes. *[Added in October 2016]*

11.11 The EAC appeals to broadcasters to treat all candidates fairly and equally when making comments on or reference to the candidates in any of their programmes. Comments made for the purpose of promoting or prejudicing a candidate or candidates are treated as EAs, if reference could be made from the materials to identify the candidate(s) being promoted or prejudiced [see also paras. 8.3 to 8.4 of Chapter 8]. Moreover, if such comments are determined as EAs, the EAC will refer the matter to the Communications Authority for appropriate action. Where there is fair and equal treatment to all candidates, 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, as election is a solemn matter, to prevent any person from having a perception that favourable or unfavourable treatment is given to any candidate(s), broadcasters should ensure that in the expression of such ideas, no candidate will be offered unfair publicity or advantage. *[Amended in November 2011 and October 2016]*

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

11.12 A presenter, including a guest presenter, or a regular contributor should not appear in any programme in his/her normal programme role after he/she has publicly declared his/her intention to stand for the election or during the election period if he/she becomes a candidate. This is to avoid unfair publicity for him/her at the critical time. A presenter or a regular contributor may, of course, appear as a candidate in election forums referred to in Part IV below. *[Amended in November 2011]*

11.13 A person who has contracted to appear as a presenter, regular contributor, actor, musician, singer or any other form of entertainer in any performance scheduled to be shown before his/her 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/her utmost endeavours to request the person(s) responsible not to broadcast his/her appearance in any media after his/her declaration of intention to run for the election or during the election period if he/she becomes a candidate. The EAC appeals to the aforesaid responsible person(s) to accede to such a request as far as practicable in order to avoid giving unfair publicity to the person concerned. *[Amended in November 2011]*

### **Candidates Appearing in Commercial Advertisements**

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

11.15 If, after the relevant advertisement has been made, the person then decides to run in the election, and it comes to his/her attention that the relevant advertisement will appear on television/radio or in cinema after his/her declaration of intention to stand for the election or after the nomination period has commenced if he/she becomes a candidate during that period, he/she should make his/her utmost endeavours to request the person(s) responsible not to broadcast the relevant advertisement after his/her declaration of intention to stand for the election or during the election period. The EAC appeals to the aforesaid responsible person(s) to accede to such a request as far as practicable in order to avoid giving unfair publicity to the person concerned. *[Amended in November 2011]*

### **PART III : ADVERTISING THROUGH THE PRINT MEDIA**

11.16 A candidate may advertise in the print media to promote his/her candidature. Where such an advertisement is placed in the print media and takes the form of a news report or any other form which does not clearly show that it is an EA, the words “**Election Advertisement**” or “**選舉廣告**” must be stated in the advertisement, to avoid misunderstanding by readers that it is not an EA [see para. 8.52 of Chapter 8]. The expenses so incurred must be accounted for in the election return. EAs printed in a registered local newspaper would be exempted from the requirement of bearing printing details [see also para. 8.51 of Chapter 8 for details]. The EAC appeals to all publishers to provide **equal opportunity** to all candidates for placing advertisement in the print media. *[Amended in November 2011 and October 2016]*

11.17 The print media should ensure that, during the election period, any news reporting or reference made in its publications will not give unfair publicity to any particular candidate(s), or lead to a public perception that such

reporting or reference is made for the publicity of a particular candidate. Therefore, publishers have the responsibility to handle carefully any news reporting or reference made in relation to the election or candidate(s), and ensure that no favourable or unfavourable treatment is given to any of the candidate(s) in accordance with the **fair and equal treatment principle**. Nor should a candidate obtain from a publisher any unfair opportunity for publicity regarding election campaigning. Any publications (e.g. special newspaper editions or leaflets), whether for free or otherwise, which serve to promote or prejudice the election of a particular candidate/candidates may be construed as EAs for the candidate(s) concerned and are subject to the requirements for EAs and election expenses as stipulated in Chapters 8 and 16. A publisher may also contravene the relevant legislation if the requirements for publishing and distributing EAs are not complied with prior to distributing such free publication. Candidates and publishers should consult their legal advisors if they have doubt as to whether a free publication should be treated as an EA and counted towards election expenses. *[Amended in November 2011 and October 2016]*

11.18 A regular columnist should not contribute articles to the print media after he/she has publicly declared his/her intention to stand for the election or during the election period if he/she becomes a candidate. This is to avoid unfair publicity for his/her at the critical time. A person who has contracted to serve as a columnist should make his/her utmost endeavours to request the person(s) responsible not to publish his/her commentaries in any media after his/her declaration of intention to run for the election or during the election period if he/she becomes a candidate. The EAC appeals to the aforesaid responsible person(s) to accede to such a request as far as practicable in order to avoid giving unfair publicity to the person concerned. A regular columnist may, of course, appear as candidate in election forums referred to in Part IV below. *[Amended in November 2011]*



11.19 As election is a solemn matter, the EAC appeals to members of the print media to provide **fair and equal treatment** to all candidates in the reporting of them or their electioneering activities. How fair and equal treatment is to be applied in practice is set out in **Appendix M**. In addition, when reporting candidates in different pages or issues of a publication, members of the print media should provide readers with clear information on the total number and names of candidates in the reports. If there is evidence to substantiate that the relevant print media has provided/allowed favourable or unfavourable treatment to a particular candidate in the publication, such case will be regarded as a breach of the fair and equal treatment principle and the publication is very likely to have the effect of promoting or prejudicing the election of the candidate concerned and thus becomes an EA of the candidate. The relevant acts might therefore be in breach of the statutory requirements on EAs and election expenses [see also Chapter 8 and Chapter 16] and both the print media and candidate concerned may as a result be subject to criminal liability. *[Amended in October 2016]*

#### **PART IV : ELECTION FORUMS**

11.20 During the election period, broadcasters may organise election forums in their programmes. Broadcasters should ensure that the fair and equal treatment principle is applied to all candidates. If a candidate is invited to take part in the election forum, then all candidates should also be invited to be present at such forum so as to give the candidates an equal opportunity to attend the forum and present their election platforms. The fair and equal treatment principle applies to the production and conduct of the entire election forum and, in particular, requires the broadcaster to give each candidate in the relevant part of the election forum equal time to present his/her election platform. Presenter(s) should treat each candidate in a courteous and fair manner at any time throughout the programme to avoid the impression that any

particular candidate(s) is/are being treated favourably or unfavourably.  
*[Amended in November 2011 and October 2016]*

11.21 Other 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 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.  
*[Amended in November 2011]*

11.22 The EAC appeals to all candidates to use their best endeavours to take part in election forums in order to enable electors and the public to be apprised of their platforms. Some candidates may choose not to attend due to personal or other reasons. Under such circumstances, the relevant forum organiser may continue to organise such activity as planned without contravening the fair and equal treatment principle. *[Amended in November 2011]*

## **PART V : SANCTION**

11.23 If the EAC comes to know of unfair or unequal treatment of candidates by any broadcaster, publisher or forum organiser, it may make a **reprimand** or **censure** in a public statement which will include the names of the candidates favourably and unfavourably treated and the broadcaster, publisher or forum organiser concerned. The EAC may also notify the relevant authorities for appropriate action to be taken. Moreover, the programme, news reporting or article concerned is very likely to have the effect of promoting or prejudicing the election of a particular candidate and thus becomes an EA of the candidate(s). The relevant acts might therefore be in

breach of the statutory requirements on EAs and election expenses [see also Chapter 8 and Chapter 16] and both the media and candidate(s) concerned may as a result be subject to criminal liability. The EAC will refer any cases involving possible breach of the legislation to the relevant law enforcement agencies for follow-up actions. Therefore, the EAC appeals to broadcasters, publishers, forum organisers and candidates to strictly comply with the guidelines set out in this chapter and avoid any conduct which will cause public concern about the fairness of the election. *[Amended in October 2016]*

11.24 The candidates as mentioned in paras. 11.12 to 11.15 and 11.18 above should make their best endeavours as advised thereof to avoid taking unfair publicity. If the EAC receives a complaint about a candidate taking the aforesaid unfair publicity and it is subsequently found that the candidate has failed to make such an endeavour, the EAC may make a **reprimand** or **censure** in a public statement against the candidate. *[Added in November 2011]*

## **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 POO, the SOO, the Noise Control Ordinance (Cap 400) (“NCO”) and the Road Traffic Ordinance (Cap 374) (“RTO”).

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

#### **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 SOO. 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.]

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 NCO, 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 at either domestic premises or public places at any time of the day is an offence, and this includes use of loudspeakers attached to vehicles. Candidates should be mindful that some people working shift hours need to take rest during the daytime and the noise generated from the use of loudspeakers for electioneering activities may affect their daily life. 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 the candidate. 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 sound level and try to keep the volume at a reasonable level.  
*[Amended in October 2016]*

12.5 Should any complaint be received by the Police concerning the volume of loudspeakers, 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 RTO. 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 RTO. 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 (Cap 374A) of the RTO, and should not affect the safe operation of the vehicle. For the display of EAs on public light buses and taxis, their owners/operators shall obtain prior written approval from the Transport Department (“TD”) and ensure that the display of EAs is in compliance with the conditions as stipulated by the TD in an approval letter, including in particular the following conditions:

- (a)
  - (i) for taxi, no EA may be displayed on all windows;
  - (ii) for public light bus, no EA may be displayed:
    - (1) on all windows except on the interior surface of:
      - the window on the left of the first row of single-seat; and
      - the window on the right of the second row of double-seat.EA(s) to be displayed in each of the abovesaid windows shall not exceed a total size measuring 210 mm by 297 mm (equivalent to A4 size);
    - (2) at areas between the windows and the exterior roof panel; and
    - (3) on the exterior roof panel (except sticker-type EAs);
- (b) no luminous or reflecting material may be used for EAs; and
- (c) no EA may obstruct any statutory lighting/label/markings required to be shown on the vehicle body as specified by the Commissioner for Transport or stipulated in the RTO and its subsidiary legislation.

According to the TD's performance pledge which is applicable to only public light buses and taxis, it normally takes no more than 7 working days to process an application for the display of an EA on a public light bus or taxi. The TD has issued general approval to all franchised bus companies for advertising on the body and window of buses subject to conditions imposed by the TD. The bus companies should comply with the conditions set out in the TD approval letters when they handle all kinds of advertisements. In this connection, there are no special guidelines on the display of EAs on buses. For the other modes of public transport, the operators concerned have their internal rules to govern the display of advertisements. In this regard, candidates should check with the operators for the relevant procedures and comply with the conditions imposed. *[Amended in January 2007, November 2011 and October 2016]*

12.8 Candidates and their supporters are reminded that they should observe the statutory requirements of the Road Traffic (Safety Equipment) Regulations (Cap 374F) and Road Traffic (Traffic Control) Regulations (Cap 374G) under the RTO, including those relating to seating requirement, wearing of seat belts and permission to carry passengers in a vehicle. Standing up in moving vehicles is **illegal** for both the drivers and standees except on trams, single-decked public service buses and the lower deck of double-decked buses. Passengers can also stand up on a vehicle used as a float if approved by the Commissioner for Transport. The registered owner of the vehicle concerned should apply to the Licensing Office of the TD for the exemption of the vehicles from carriage of standing passengers. *[Amended in January 2007, November 2011 and October 2016]*

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 that the use of loudspeakers will not be permitted within the NCZ outside the polling station, nor will it be permitted in the vicinity where the sound emitted can be heard within the NCZ [s 24(2) of the EP (CEE) Reg]. [See also Chapter 14.]

### **PART III : SANCTION**

12.11 If the EAC comes to know that any candidate is in breach of the guidelines in this chapter, apart from notifying the relevant authorities for actions to be taken, it may make a **reprimand** or **censure** in a public statement which will include the name of the candidate concerned. The censure may be in addition to the criminal liability for offences inside the NCZ, the candidates concerned may be liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months [ss 24 and 82 of the EP (CEE) Reg]. Candidates should also remind their supporters to observe these guidelines when they are campaigning on behalf of the candidates. *[Amended in January 2007]*



## **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/her position to exert undue influence on youths of school age under his/her charge to recruit them for electioneering activities. If the EAC comes to know that a person has abused his/her position by involving youths of school age under his/her charge in electioneering activities, it may make a reprimand or censure against the person. For use of force or duress on a person's voting preference, see s 13 of the ECICO.

#### **PART II : SCHOOL PUPILS**

13.3 While it is for the promotion of civic education that school pupils are encouraged to take an interest in community affairs, including elections, it is considered undesirable to involve them in electioneering activities at too young an age. Unattended young children may cause control problems and, particularly where in large numbers or in overcrowded situations, may create a

danger to themselves and others. Therefore, pre-primary or primary school pupils should not take part in electioneering activities.

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

13.5 The EAC adopts the advisory circular issued by the Secretary for Education to all schools for general guidance, emphasising the following points:  
*[Amended in November 2011]*

- (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 of 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 above are by law 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. Regardless whether the topic to be covered by such a talk involves an election, the presence of a candidate delivering the talk and 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. Such activities should, therefore, be regarded as the relevant candidate's 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 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 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 person is in breach of the guidelines in this chapter, it may make a **reprimand** or **censure** in a public statement which will include the name of the candidate, the school or person concerned, and may also refer the case to the Education Bureau. Candidates should therefore apprise the school or person concerned who offers them assistance of these guidelines. *[Amended in November 2011]*

## CHAPTER 14

### PROHIBITION AGAINST CANVASSING ACTIVITIES OUTSIDE POLLING STATION

#### PART I : GENERAL

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

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

#### PART II : DETERMINATION OF NO CANVASSING ZONE AND NO STAYING ZONE

14.3 The RO must determine an area outside the polling station to be a NCZ. In so doing, he/she will take into account the characteristics and special conditions of the polling station. He/She 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 23(1) of the EP (CEE) Reg]. *[Amended in January 2007 and November 2011]*

14.4 The RO must, at least 7 days before polling day, give a notice of the determination of the NCZ and NSZ to the candidates [s 23(2) of the EP (CEE) Reg].

14.5 The notice will be given in writing, and delivered by hand, by post, by electronic mail or by facsimile transmission, to the candidates or to the election agents [ss 12(5), 23(2) and 72(1)(f) of the EP (CEE) Reg]. *[Amended in November 2011 and October 2016]*

14.6 Where the circumstances so warrant, the RO, or the PRO may vary the NCZ or NSZ. Notice of the variation must be given as soon as practicable after the variation in the same manner as a notice referred to in para. 14.5 above. [S 23(4) of the EP (CEE) Reg] The notice may however be given orally if sending it in the manner as referred to in para. 14.5 above is not practicable or is not suitable in the circumstances [ss 23(4)(a) and 72(2) of the EP (CEE) Reg]. *[Amended in January 2007, November 2011 and October 2016]*

14.7 A notice of the determination or the variation, together with indication of the boundaries of the NCZ or the NSZ, must be displayed on polling day at or near the polling station, in order to make the determination or variation effective [s 23(4)(b) and (5) of the EP (CEE) Reg].

14.8 The RO may authorise his/her ARO or the PRO to exercise the power to vary the determination and to perform the associated duties on the polling day [s 41(4) of the CEEO and ss 23(5A) and 76 of the EP (CEE) Reg].

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

14.9 The PRO will keep order at the NCZ and NSZ.

14.10 On the polling day, no person shall:

- (a) engage in canvassing for votes (including suggesting not to vote for any candidate, or not to vote in support of the only validly nominated candidate, as appropriate) in a NCZ. A list of common canvassing activities which are forbidden in a NCZ is at **Appendix F**;
- (b) use a sound amplifying system or device for any purpose in the NCZ without lawful authority, except for the performance of duties by officers of the CSD on the polling day at the dedicated polling stations situated in prisons; *[Amended in November 2011]*
- (c) use a sound amplifying system or device, or conduct any activity for canvassing for votes (including suggesting not to vote for any candidate, or not to vote in support of the only validly nominated candidate, as appropriate), so that the sound of the activity can be heard in the NCZ;
- (d) display in the NCZ any propaganda material relating to any candidate or the election of the CE, except for static display of EAs mounted at designated spots approved by the RO; or
- (e) stay or loiter in the NSZ without the express permission of the PRO.

[S 24(2), (3) and (3A) of the EP (CEE) Reg.] *[Amended in January 2007 and October 2016]*

14.11 In a NCZ or a NSZ on the polling day, no person shall:

- (a) fail to comply with a lawful direction given by the RO or the PRO;

- (b) cause an obstruction to any person who is in the zone and on his/her way to vote; or
- (c) otherwise misconduct himself/herself.

[S 24(4) of the EP (CEE) Reg.]

14.12 No canvassing activities will be allowed within a NCZ except for static displays of EAs that are approved by the RO. Where there are premises situated within the NCZ, the RO should issue a notice in advance to all the candidates asking them to remove all of their EAs, if any, posted up at the premises within the NCZ which can be seen by the electors on their way to the polling station on the polling day. If the candidates fail to remove the EAs as requested by the RO, the RO may issue a warning to them to remove the offending EAs immediately. If the candidates fail to do so, the EAC may issue a censure or reprimand. *[Amended in November 2011 and October 2016]*

14.13 A person shall not obtain or attempt to obtain (in any manner) information as to which candidate an elector is about to vote for or has voted for at a contested election, or whether an elector is about to vote or has voted in support of the candidate at an uncontested election 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. [S 70 of the EP (CEE) Reg.] *[Amended in January 2007]*

14.14 If a person contravenes paras. 14.10 and 14.11 above, the RO or the PRO may:

- (a) require the person to produce his/her identity card for inspection; and



- (b) order the person to leave the NCZ or NSZ immediately.

[S 24(5) of the EP (CEE) Reg.]

If the person fails to leave when ordered to do so, he/she may be removed from the relevant zone by a police officer, an officer of the CSD or any law enforcement agency, or by a person authorised in writing by the RO or the PRO. The person so removed may not re-enter the NCZ or NSZ again on the polling day without the express permission of the RO or the PRO [s 24(7) and (8) of the EP (CEE) Reg]. *[Amended in January 2010]*

14.15 Nevertheless, the RO or the PRO shall not exercise their powers to order an elector to leave or remove an elector from the NCZ or NSZ so as to prevent him/her from voting [ss 24(9) and 27(12) of the EP (CEE) Reg]. *[Amended in November 2011]*

#### **PART IV : PENALTY**

14.16 A person who contravenes paras. 14.10, 14.11 and 14.14 above commits an offence under s 82(1) of the EP (CEE) Reg and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months. Any attempt to obtain information as described in para. 14.13 above without the necessary permission will be an offence under s 82(2) of the EP (CEE) Reg and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months. *[Amended in November 2011]*

## CHAPTER 15

### EXIT POLL

#### PART I : GENERAL

15.1 This chapter sets out the guidelines for the conduct, publication and broadcast of exit polls to avoid unfair interference with the election process by unduly influencing electors. The aim is to ensure that elections are conducted honestly and fairly and, at the same time, to strike a good balance between the need to maintain order outside polling stations and upholding the freedom of expression, freedom of the press and academic freedom. *[Amended in November 2011]*

15.2 **The EAC appeals to the media and organisations concerned for self-regulation, goodwill and voluntary cooperation in the conduct of exit polls, and the publication and broadcast of the result of exit polls so that electors' behaviour will not be unduly affected.** *[Amended in November 2011]*

#### PART II : SECRECY OF THE VOTE

15.3 **The ballot is secret.** It is an elector's right to keep his/her vote secret. An elector does not have to disclose his/her choice of candidate at a contested election or whether he/she has voted in support of the candidate at an uncontested election if he/she does not want to. **It is a criminal offence for a person, without lawful authority, to require, or purport to require, an elector in a contested election to disclose the name of, or any particular**

**relating to, the candidate for whom the elector has voted; or an elector in an uncontested election to disclose whether the elector has cast a “SUPPORT” or “NOT SUPPORT” vote for the candidate** [s 78 of the EP (CEE) Reg]. **Those who conduct exit polls must respect the electors’ right and wish not to be disturbed.** The interviewers should inform the electors being interviewed that their participation in the exit poll is voluntary prior to the conduct of exit poll. *[Amended in January 2007 and November 2011]*

15.4 Any announcement or disclosure of results of exit polls or predictions, particularly in relation to any individual candidate, during the polling hours may affect electors’ behaviour and have an impact on election results. **The EAC, therefore, reminds the media and organisations concerned that they should not announce the results of exit polls or make specific remarks or predictions on the performance of individual candidate before the close of poll. Furthermore, interviewers of approved exit poll should not speak to or communicate with candidates or their agents when conducting the poll outside polling stations.** *[Amended in November 2011 and October 2016]*

### **PART III : CONDUCT OF EXIT POLLS**

15.5 Any person or organisation may apply to the REO to conduct exit polls. However, to forestall public perception of unfairness, approval would normally not be granted in one or more of the following circumstances:

- (a) the applicant has publicly expressed support for any candidate(s) running in the election;
- (b) any of the candidates running in the election is a member of the applicant organisation;

- (c) the person(s) responsible for the exit poll(s) or interviewers nominated for the poll(s) are currently members of the organisation(s) to which any of the candidates running in the election belong, or which have publicly expressed support for any candidate(s) running in the election.

*[Added in October 2016]*

15.6 For security reasons, no exit poll may be conducted for dedicated polling stations. For the purpose of better control of the conduct of exit poll, persons or organisations intending to conduct exit polls must provide the following to the REO at **the latest 10 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/her telephone number(s) for contact, especially during the polling hours; and
- (c) a list showing the number of persons who will be deployed for the conduct of exit poll at the polling station on the polling day together with the identity document number and name of each of all the persons who will be so deployed.

*[Amended in January 2010, November 2011 and October 2016]*

15.7 On the receipt of the application, the REO will consider the application and issue approval to the person or organisation concerned as appropriate. Before the grant of approval, the person or organisation allowed to conduct exit poll will be required to sign a **declaration** to abide by its terms

and the guidelines governing the conduct of exit poll. If a person or an organisation fails to comply with the terms of the declaration and the guidelines set out in this chapter, the approval to conduct exit poll on the polling day or during the polling hours may be revoked. The EAC may also make a reprimand or censure in a public statement which will include the name of the person or organisation who/which fails to comply with the terms of the declaration and the guidelines. A notice showing the persons or organisations allowed to conduct exit poll together with their contact telephone numbers will be released to the public prior to the polling day for the reference of the public and candidates. Such a notice will also be displayed at the polling station. *[Amended in November 2011 and October 2016]*

15.8 Interviews are not allowed inside polling stations. Interviewers should note that canvassing activity is prohibited under criminal sanction within the NCZ. Interviewers must therefore be extremely careful in conducting exit poll so as not to give rise to any suspicion that they are canvassing electors inside the NCZ. Interviewers, like any other person, are not allowed to stay or loiter in the area designated as the NSZ (within the NCZ but immediately outside the entrance/exit of the polling station). [S 24(2) of the EP (CEE) Reg.] Interviewers are also not allowed to accost electors in the NSZ. All these measures are for the purpose of securing safe and smooth passage of electors into and out of polling station. 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 January 2007]*

#### **PART IV : IDENTIFICATION OF INTERVIEWERS**

15.9 There had been occasions where exit poll interviewers were mistaken for government officials or polling staff. Interviewers are therefore

required to display prominently an identification device showing the identity of the organisation/person conducting exit poll so that electors will not be misled into thinking that they are appointed by the Government. In addition, the interviewers are required to make known to the electors that any response is entirely voluntary. Arrangements should be made for electors to be aware of the name of the organisation/person conducting the exit poll at the start of the interview and the fact that the exit poll is not commissioned by the Government. *[Amended in November 2011 and October 2016]*

15.10 After receipt of the information referred to in para. 15.6 above, the REO will notify the organisation or person concerned to collect a number of identification devices bearing the name of the organisation/person that is required to be displayed prominently by each of the persons included in the list in para. 15.6(c) above when conducting an exit poll. Any person not displaying prominently such a device will not be allowed to conduct an exit poll outside any polling station. *[Amended in November 2011]*

## **PART V : SANCTION**

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

## CHAPTER 16

### ELECTION EXPENSES AND ELECTION DONATIONS

#### PART I : WHAT CONSTITUTES ELECTION EXPENSES

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

16.2 **Election expenses**, in relation to a candidate at an election, mean expenses incurred or to be incurred **before, during or after an election**, by or on behalf of a candidate for the purpose of promoting the election of the candidate, 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” includes a person **who has publicly declared an intention to stand for election** at any time before the close of the nominations for the election, regardless of whether he/she has submitted his/her nomination form, or after submission of the nomination form, he/she has withdrawn his/her nomination or his/her nomination is ruled invalid by the RO [s 2 of the ECICO]. *[Amended in January 2007 and October 2016]*

16.3 When considering what expenses would amount to “election expenses” under the law in different circumstances, it is considered both necessary and useful to take heed of the observations made by the CFA in a case relating to the 2008 LegCo General Election, as summarised in **Appendix O**. *[Added in October 2016]*

16.4 A candidate may receive **election donations** for the purpose of meeting the costs of his/her election expenses. Election donation, in relation

to a candidate at an election, means any of the following donations:  
*[Amended in November 2011]*

- (a) any money given to or in respect of the candidate for the purpose of meeting or contributing towards meeting the election expenses; or
- (b) any goods given to or in respect of the candidate for the purpose of promoting his/her 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 the candidate for the purpose of promoting his/her 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.]

16.5 It is a question of fact in each case whether expenses incurred will or will not be counted as election expenses. For as long as an expense is incurred for the purpose either of:

- (a) promoting the election of a candidate; or
- (b) 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.  
*[Amended in November 2011]*

16.6 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. If an expense is incurred for more than one purpose, there is a need for apportionment of expenses between election-related purposes and any other purposes. The candidate should include relevant particulars in his/her election return. As a general principle, time and usage are relevant factors for consideration. The candidate may seek professional advice on apportionment of expenses as necessary. Any fees incurred for such professional advice will not be regarded as his/her election expenses.  
*[Amended in October 2016]*

16.7 Use of staff and other resources which are available to a candidate in his/her official capacity or at work for the purpose of promoting his/her candidature in the election should be counted as election expenses. A list of common expenditure items which may be counted towards election expenses is at **Appendix P**. The list is only illustrative and should not be considered as having precedence over the legislation. Candidates should consult their legal advisers if they have doubt as to whether an expenditure item should count as an election expense. Any legal fees incurred as a result will not themselves be regarded as election expenses. *[Amended in January 2007 and October 2016]*

16.8 A candidate should not use any public resource for the purpose of promoting his/her election or prejudicing the election of another candidate or other candidates at the election. However, any security, transportation, secretarial services and living quarters to which he/she is entitled to use for his/her private purposes by virtue of his/her post or job are not treated as

public resources in this context. Please see **Appendix Q** on the detailed responses given by the EAC in 2001 to an enquiry from a candidate for the 2002 CE Election about the use of public resources by an incumbent CE seeking re-election. Under Article 46 of the Basic Law, the CE may serve for not more than two consecutive terms. Therefore, an incumbent CE may seek re-election for a second term. In such case, the use of resources provided by the Government for his/her private use in electioneering may in certain circumstances become unavoidable. In this regard, if the use of such resources by an incumbent CE in electioneering is unavoidable and occasional in nature, it will not constitute a breach of the guidelines but the relevant part of the costs involved has to be accounted for as his/her election expenses. *[Amended in January 2007 and October 2016]*

## **PART II : WHO MAY INCUR ELECTION EXPENSES AND THEIR LIMIT**

### **Maximum Amount of Election Expenses**

16.9 The maximum amount of election expenses for the election (i.e. \$15,700,000) is prescribed by the Maximum Amount of Election Expenses (Chief Executive Election) Regulation made by the CE in Council pursuant to s 45 of the ECICO. This expense limit controls the extent of election campaigns and serves to prevent candidates with ample financial resources from having an unfair advantage. *[Amended in November 2011 and October 2016]*

16.10 A candidate must not incur election expenses in excess of the maximum amount prescribed [s 24(1) of the ECICO].

### **Persons Appointed to Incur Election Expenses**

16.11 Only a candidate or a person who has been duly appointed by a candidate as the candidate's election expense agent may incur election expenses [s 23(1) of the ECICO]. The appointment should follow the procedures specified in Part VI of Chapter 7.

16.12 As a candidate has to declare that he/she stands at the election in an individual capacity, he/she must ensure that the campaign activities for which he/she has authorised expense are consistent with the declaration and will not lead the electors or the public to believe that he/she is representing his/her party, if any. A candidate's freedom to accept support from any organisation is subject to this condition.

16.13 Before incurring expenses in carrying out any **negative campaigning (i.e. canvassing against other candidates)** for or for the benefit of a candidate, a person will need the appointment by the candidate to be the latter's election expense agent of the candidate. Such expenses will be counted towards election expenses of the candidate. If the negative campaign includes EAs, all the requirements of the ECICO and of the EP (CEE) Reg must also be complied with.

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

16.15 A candidate will be responsible for the overall amount of his/her election expenses. In the event the total amount incurred by him/her and/or on his/her behalf exceeds the limit prescribed, he/she will be liable for contravening the law, unless he/she can prove that the excess was incurred without his/her consent, or beyond his/her authorisation, and not due to any

negligence on his/her 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(4) of the ECICO. [Ss 23 and 24 of the ECICO.] *[Amended in November 2011]*

### **PART III : ELECTION DONATIONS**

#### **General Provisions**

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

16.17 Election 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].

16.18 Election 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. Election donations in kind include goods and services obtained free of charge or at a discount. All spent or used election 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. *[Amended in October 2016]*

16.19 Any unspent or unused election donations must be given to charitable institution(s) or trust(s) of a public character chosen by the candidate(s). Any amount of election donations that exceeds the upper limit

of election expenses must also be given to such charitable institution(s) or trust(s). It must be done before the election return is lodged in accordance with s 37 of the ECICO. [S 19 of the ECICO.] *[Amended in November 2011]*

16.20 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 election donation. The only exception is voluntary services obtained that are not treated as election donations (but any goods given incidental to the provision of a voluntary service will however be counted as an election donation). These points are elaborated in paras. 16.23 to 16.25 below.

16.21 On receiving an election 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) as well as the particulars of the donation. A standard form of receipt is obtainable from the REO and will be provided to a candidate when he/she submits the nomination form. While it is not uncommon that some donors would like to be anonymous, if a donation, in cash or in kind, is more than \$1,000 in value, then only where the donor's name and address (as supplied by the donor) are shown as required by the standard form of donation receipt can it be used for election-related purpose. 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 meeting election expenses and must be given to a charitable institution or trust of a public character chosen by the candidate [s 19(1) and (2) of the ECICO]. *[Amended in October 2016]*

16.22 Any person or organisation acting as an agent to solicit, receive or collect election donations for a candidate or some candidates should also

comply with all the requirements under the ECICO as if the election donations are received by the candidate(s) direct. To avoid possible confusion to donors/members of the public, the agent is advised to note the points and adopt the good practice suggested in **Appendix R**. *[Added in October 2016]*

### **Election Donations in Kind**

16.23 Election 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 an election donation and must be declared and included as such and correspondingly as an election expense in the election 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 an election donation and election expense in the election return. For premises provided free of charge to a candidate for his/her election campaign, a reasonable amount should be assessed as the deemed rental for the premises, declared and included as an election donation and election expense in the election return. *[Amended in October 2016]*

16.24 For services or goods obtained free of charge, a candidate must include in the election 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/her 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.

16.25 **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/her own time for the purpose of promoting the election of the candidate, or of prejudicing the election of another candidate or other candidates [s 2 of the ECICO]. Otherwise, the service provided should be treated as an election donation and counted towards election expenses at a fair estimated value. *[Amended in January 2007]*

#### **PART IV : RETURN AND DECLARATION OF ELECTION EXPENSES AND ELECTION DONATIONS**

16.26 A candidate must keep an accurate account of all election expenses incurred and election donations (whether in cash or in kind) received, and submit to **the CEO an election return in a specified form before the expiry of the period of 30 days after the date on which:**

- (a) the result of the election is published in the Gazette; or**
- (b) the proceedings for the election are declared to have been terminated;**

or within such extended period as may be allowed by the CFI under the relevant law [s 37(1), (1A) and (1N) of the ECICO]. *[Amended in January 2007 and October 2016]*

16.27 The election return must cover all the election expenses incurred by the candidate or his/her election expenses agent(s), services or goods obtained free of charge or at a discount and all outstanding claims. It must be submitted with supporting invoices and receipts issued by recipients of the payments for all payments each of \$100 and above. The copies of receipts

issued by the candidate for election donations of more than \$1,000 in value and those issued by charitable institutions or trusts of a public character for the collection of any unspent election donations, anonymous donations of more than \$1,000 in value or election donations which are in excess of the limit of election expenses must also be attached. A declaration verifying the contents of the election return must also be submitted together with the election return. [S 37 of the ECICO.] *[Amended in November 2011 and October 2016]*

16.28 At the time when a candidate submits his/her nomination form, he/she will be given:

- (a) the specified form for making election return mentioned in para. 16.26 above, together with a standard form of receipt for election donations mentioned in para. 16.21 above;
- (b) the standard form for advance return of election donations (see paras. 16.35 to 16.37 below); and *[Amended in January 2010, November 2011 and October 2016]*
- (c) a guide and a video showing how the election return can be completed.

A candidate should read the explanatory notes attached to the election return carefully before completing it, and make reference to the guide and video whenever necessary. *[Amended in October 2016]*

### **Statutory Relief Mechanism for Errors and False Statements**

16.29 If a candidate is unable or fails to send to the CEO the election return before the end of the permitted period due to his/her own illness or absence from Hong Kong, or the death, illness, absence from Hong Kong or misconduct of any agent or employee of the candidate, or by reason of



inadvertence or accidental miscalculation by the candidate or any other person, or any reasonable cause, and not due to the candidate's bad faith, he/she can make an application to the CFI for an order to allow him/her to send in the election return within a further period as specified by the CFI [s 40(1) and (2) of the ECICO]. The legal costs so incurred will not be regarded as his/her election expenses. *[Amended in November 2011 and October 2016]*

16.30 If a candidate makes an error or a false statement in the election return due to misconduct of any agent or employee of the candidate, or by reason of inadvertence or accidental miscalculation by the candidate or any other person, or any reasonable cause, and not due to the candidate's bad faith, he/she may apply to the CFI for an order to enable him/her to correct any error or false statement in the election return or in any document accompanying the election return [s 40(3) and (4) of the ECICO]. The legal costs so incurred will not be regarded as his/her election expenses. *[Added in November 2011 and amended in October 2016]*

16.31 Notwithstanding the provision set out in para. 16.30 above, if a candidate makes any error and/or false statement in the election return, the nature of which is either a failure to set out in the election return any election expense of the candidate at the election or any election donation received by or on behalf of the candidate in connection with the election, or incorrectness in the amount of any election expense or any election donation, **and** the aggregate value of the error(s) and/or false statement(s) does **not** exceed \$5,000, he/she may, subject to the conditions set out in para. 16.32 below, seek to have the error and/or false statement rectified in accordance with a simplified relief arrangement for minor errors or false statements as provided under s 37A of the ECICO. Under the arrangement, the candidate may write to notify the CEO of his/her request for lodging a revised election return to rectify the error and/or false statement and provide the necessary details for consideration of the request. If the CEO is satisfied that it is appropriate to allow the candidate to lodge a revised election return under the simplified relief arrangement, the

CEO would issue a notice to the candidate. Upon receipt of the notice, the candidate may, within the specified period, lodge with the CEO a revised election return which will be a copy of the original election return earlier submitted to the CEO marked with the necessary revision to have the error(s) or false statement(s) in question corrected. An error or false statement made in an election return also includes an error or false statement in any document accompanying the election return; or a failure to send any document required by s 37(2)(b) of the ECICO in relation to the election return [s 37A(12) of the ECICO]. *[Added in November 2011 and amended in October 2016]*

16.32 A copy of the revised election return lodged by a candidate is of no effect unless it is:

- (a) lodged within 30 days after the date on which the candidate receives a notice from the CEO relating to the error(s) and/or false statement(s) in the election return;
- (b) accompanied by all relevant documents as required under s 37(2)(b) of the ECICO (e.g. invoice and receipt) and, if applicable, an explanation; and
- (c) accompanied by a declaration to be made by the candidate in a specified form verifying the contents of the revised election return.

[S 37A(6) of the ECICO.]

A copy of the revised election return made under the relief arrangement cannot be withdrawn or further amended after it has been lodged with the CEO. If the candidate fails to correct the error(s) or false statement(s) within the specified period, the election return will be subject to the normal checking and investigation under the ECICO. *[Added in November 2011 and amended in October 2016]*

16.33 The relief arrangement will not be applicable if, after including the cumulative amount of errors or false statements, the aggregate amount of election expenses incurred at or in connection with the election, exceeds the maximum amount of election expenses prescribed for a candidate, which is an illegal conduct under s 24 of the ECICO. If the ICAC has received complaints or information indicating that a candidate may have made a statement that he/she knows or ought to know is materially false or misleading which amounts to corrupt conduct under s 20 of the ECICO, the ICAC will conduct investigation into the case despite the relief arrangement set out above. The rectifications of the election return under the relief arrangement will not exempt the candidate from being investigated or subsequently prosecuted under the ECICO in such circumstances. Moreover, this relief arrangement will not relieve the candidate from liability under other offence provisions in the ECICO if the election return concerned has contravened any such provisions. [S 37A of the ECICO.] *[Added in November 2011]*

16.34 When the candidate finds himself/herself in any of the situations set out in paras. 16.29 and 16.30 above, other than the situations where correction of errors or false statements is allowed under the relief arrangement in para. 16.31, it would be wise of him/her to make the application to the CFI and inform the REO as soon as possible. The legal costs so incurred will not be regarded as his/her election expenses. It is a corrupt conduct if a candidate who, in an election return lodged under s 37 of the ECICO, or a copy of an election return lodged under s 37A of the ECICO, makes a statement that he/she knows or ought to know is materially false or misleading [s 20 of the ECICO]. *[Amended in November 2011]*

## **PART V : ADVANCE RETURN OF ELECTION DONATIONS**

16.35 Any candidate who is an incumbent public servant under the POBO, e.g. a serving member of the LegCo or a DC, etc., may give advance

disclosure to the CEO of any election donations received. This may enable such an incumbent member to avoid any inadvertent contravention of the provisions of the POBO relating to the acceptance of “advantages”. The election donations so disclosed must also be incorporated in the election return to be submitted to the CEO before the expiry of the period, or extended period provided for in s 37 of the ECICO for lodging an election return [see para. 16.26 above] [s 37(1) and (1A) of the ECICO]. The general provisions regarding election donations in Part III must be observed. *[Amended in October 2016]*

16.36 Any **advance return of election donations** must be made on the standard form mentioned in para. 16.28 above. *[Amended in January 2010 and November 2011]*

16.37 Depending on the time and the number of election donations received, a candidate may submit any number of advance returns of election donations to the CEO. *[Amended in January 2010 and November 2011]*

## **PART VI : ENFORCEMENT AND PENALTY**

### **Enforcement**

16.38 The election returns will be made available at the REO for public inspection up to the 30<sup>th</sup> day before the first anniversary of the date of the deadline for lodging the relevant election return (disregarding any order made by the CFI under s 40 of the ECICO allowing a candidate to lodge an election return within a further period as specified by the CFI) [please see para. 16.26 above]. Copies of the election 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]. *[Amended in October 2016]*

16.39 Any complaint or report of breach of these guidelines may be made to the RO, the REO or 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.

16.40 The REO will check all election returns. Irregularities detected will be reported to the relevant authorities for investigation.

### **Penalties**

16.41 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/she incurs election expenses in excess of the amount authorised. Such an illegal conduct is liable to a fine of \$200,000 and to imprisonment for 3 years [ss 22, 23 and 24 of the ECICO].

16.42 A candidate who uses any election donation for any purpose other than for meeting his/her election expenses, or fails to dispose of unspent or excessive election donations in accordance with s 19 of the ECICO commits a corrupt conduct and will be liable to a fine of \$500,000 and to imprisonment for 7 years [ss 6, 18 and 19 of the ECICO].

16.43 A candidate who fails to submit the election return by the prescribed date or who fails to provide an accurate account of all election expenses incurred and all election donations received with the required supporting invoices and receipts issued by recipients of the payments commits an offence and will be liable to a fine of \$200,000 and to imprisonment for 3 years [s 38(1) of the ECICO]. *[Amended in November 2011 and October 2016]*

16.44 A candidate who knowingly makes a materially false or misleading statement in his/her election return lodged under s 37 of the ECICO or a copy of an election return lodged under s 37A of the ECICO, commits a corrupt conduct and will be liable to a fine of \$500,000 and to imprisonment for 7 years [ss 6 and 20 of the ECICO]. *[Amended in January 2010, November 2011 and October 2016]*

16.45 A candidate, who, having been elected to the office of the CE, acts in the office without filing the election return before the end of the permitted period commits an offence, and will be liable to a fine of \$5,000 for each day on which a candidate acts in the office of the CE without having complied with s 37 of the ECICO [s 39(1) and (2) of the ECICO]. *[Amended in October 2016]*

16.46 A person convicted of a **corrupt or illegal conduct** within the meaning of the ECICO will, in addition to the penalties as set out in paras. 16.41 to 16.45 above, be disqualified:

- (a) from being nominated as a candidate for the election of, or from being elected as, the CE, a member of the LegCo or DC, or a RR, if the election is held within 5 years after the date of conviction [ss 14 and 20 of the CEEO, s 39 of the Legislative Council Ordinance (Cap 542) (“LCO”), s 21 of the District Councils Ordinance (Cap 547) (“DCO”) and s 23 of the Rural Representative Election Ordinance (Cap 576) (“RREO”)]; and
- (b) from being nominated as a candidate at EC Subsector Elections and from being elected as a member of the EC if the election is held within 3 years after the date of conviction, or from being nominated as an EC member by the religious subsector for 3 years from the date of conviction [ss 9 and 18 of the Schedule to the CEEO].

*[Amended in January 2007, January 2010, November 2011 and October 2016]*

## CHAPTER 17

### CORRUPT AND ILLEGAL CONDUCT

#### PART I : GENERAL

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

17.2 Provisions relating to corrupt and illegal conduct can be found in the ECICO. To help candidates and their agents to get acquainted with the major provisions of the Ordinance, the ICAC had prepared a “Clean Elections Information Booklet” for distribution to candidates. The content of the Information Booklet has also been uploaded onto the website of the ICAC ([www.icac.org.hk/elections](http://www.icac.org.hk/elections)).

17.3 A person who engages in:

- (a) a **corrupt conduct** will be liable to a fine of \$500,000 and to imprisonment for 7 years and to pay to the court the amount or value of any valuable consideration he/she or his/her agents received in connection with the conduct or such part of the amount or value as specified by the court [s 6(1) and (3) of the ECICO] [*Amended in October 2016*]; and
- (b) an **illegal conduct** will be liable to a fine of \$200,000 and to imprisonment for 3 years [s 22(1) of the ECICO].

In addition to these penalties, a convicted person will be disqualified from being nominated as a candidate in future elections. For details, please see para. 17.30 below. *[Amended in January 2010]*

17.4 The ECICO applies to all conduct concerning an election, whether the conduct is engaged in within Hong Kong or elsewhere. [S 5 of the ECICO.] *[Added in October 2016]*

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

### **Offences Relating to Candidature**

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

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



- (d) solicits or accepts an advantage from another person as an inducement or reward to affect the candidature of a third person or get the third person not to use his/her best endeavours to promote his/her election.

[S 7(1) of the ECICO.]

17.6 Similarly, a person engages in corrupt conduct if he/she uses or threatens to use 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]. *[Amended in November 2011]*

17.7 It will also be a corrupt conduct if a person defaces or destroys a completed or partly completed nomination paper with intent to prevent or obstruct another person from standing for election [s 10 of the ECICO]. *[Amended in November 2011]*

### **PART III : ILLEGAL CONDUCT RELATING TO ELECTIONEERING**

#### **False Statement that a Person is or is not a Candidate**

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

### **False or Misleading Statement about a Candidate**

17.9 A person must not publish any materially false or misleading statement of fact about a particular candidate or particular candidates for the purpose of promoting or prejudicing the election of the candidate or candidates. Similarly, a candidate must not publish any materially false or misleading statement of fact about himself/herself or another candidate or other candidates for the purpose of promoting the election of himself/herself or prejudicing the election of another candidate or other candidates. Any such publication will amount to an illegal conduct. [S 26 of the ECICO.] 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 to promote or prejudice the election of the candidate, e.g. a person who makes a materially false or misleading statement of fact about a candidate, thereby calling into question the integrity and honesty of that candidate, may contravene the above provision. Any person who wishes to publish a statement about a candidate or candidates should make every effort to ensure its accuracy before its publication. *[Amended in November 2011 and October 2016]*

### **Claim of Support**

[Please also see Chapter 18.]

17.10 A candidate engages in illegal conduct if he/she fails to 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/her EAs as an indication of support from that person or organisation unless he/she has neither requested or directed nor authorised any person to request or direct the inclusion of the aforesaid name, logo or pictorial representation in his/her EAs. Also, should any content of an EA (where either the candidate has obtained the prior written consent mentioned above or the candidate has neither requested or directed nor authorised any person to

request or direct the inclusion of the name, logo or pictorial representation in his/her EAs) be provided by a person or an organisation, the candidate engages in illegal conduct if he/she modifies, or authorises any person to modify, the name, logo, or pictorial representation or the content unless **before** the modification, the person or organisation concerned **consented in writing** to the name, logo, pictorial representation or content as modified. Oral consent is **not** sufficient [s 27(1), (1A) and (1B) of the ECICO]. The EAC provides a sample consent form for this purpose. A candidate is required to post a copy of consent form relevant to the EA concerned onto the Candidate's Platform or Central Platform or deposit a copy of the consent form with the RO in the manner as set out in para. 8.44 of Chapter 8 [s 87(2) and (3) of the EP(CEE) Reg]. It is important to note that it is still an offence even if such an EA contains a statement to the effect that it does not imply support from the person or organisation concerned [s 27(4) of the ECICO]. It is also an offence for a person to give information which he/she knows or ought to know is materially false or misleading to a candidate or candidates for promoting or prejudicing the election of the candidate or candidates [s 27(6) of the ECICO]. *[Amended in January 2007 and October 2016]*

17.11 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 of the revocation to the candidate concerned. In such case, the candidate is required to notify the RO in writing of any revocation of consent or post a copy of revocation onto the Candidate's Platform or the Central Platform in the manner as set out in para. 8.44. The candidate concerned should cease to publish immediately any EA which contains the support of the person or organisation who has made the revocation. *[Amended in October 2016]*

17.12 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/her election agent, an elector and the person or body to whom or which the false information is related.

#### **PART IV : CORRUPT CONDUCT RELATING TO ELECTIONEERING AND VOTING**

##### **Bribery**

17.13 Any act to affect a person's voting preference by offering or soliciting or accepting an advantage is prohibited [s 11 of the ECICO]. Voting preference covers, in a contested election, voting for a particular candidate, not voting at the election, or not voting for a particular candidate or particular candidates; and in an uncontested election, casting a "support" or a "not support" vote for the only validly nominated candidate, or not voting at the election. *[Amended in January 2007 and November 2011]*

##### **Treating**

17.14 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].

17.15 The serving of non-alcoholic drinks only at an election meeting, without more, 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.]

17.16 If a person or an organisation hosts a banquet for a non-election-related purpose but, during the occasion, calls on the guests to vote for a particular candidate and if the candidate is present, the candidate concerned should immediately stop any promotion of his/her election and disown or dissociate with whatever has been said or done to promote his/her candidature. Otherwise, the occasion will be regarded as an election meeting held to promote his/her candidature and expenses incurred will have to be counted towards his/her election expenses. At the same time, the host who uses the meeting for promoting the candidate may also be liable for prosecution for his/her failure in obtaining the candidate's prior authorisation to appoint him/her as the candidate's election expense agent for incurring election expense on behalf of the candidate. [See para. 10.2 and s 23 of the ECICO.] *[Amended in November 2011 and October 2016]*

17.17 If a candidate or another person offers food, drink or entertainment to affect a person's voting preference, it is an offence under s12 of the ECICO. *[Amended in November 2011 and October 2016]*

### **Force and Duress**

17.18 The use of or the threat to use force or duress against a person to induce him/her to vote or not to vote at an election, or to vote or not to vote for a particular candidate or particular candidates or to get a third person to do so is a corrupt conduct [s 13 of the ECICO]. *[Amended in November 2011]*

17.19 Persons in position to exert pressure and influence on others should be careful not to breach the provisions under the ECICO, e.g. employers over employees, school principals or teachers over students, religious advisers over believers and doctors over patients, etc. *[Amended in November 2011]*

## Voting Offences

17.20 It is a corrupt conduct for any person:

- (a) to vote at an election knowing that he/she 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 more than once in the same round of voting at an election 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(1) and (2) of the ECICO.]

Candidates must note that all their electioneering and canvassing activities must be conducted within the statutory confines of the ECICO. While candidates may engage in activities to promote themselves or to assist or facilitate electors to vote in an election, they must be extremely careful to ensure that these activities are not in breach of the provisions of the ECICO all the time. *[Amended in October 2016]*

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

17.21 Candidates should be careful when handling election expenses and election 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.

## **PART VI : POWER OF COURT TO EXCUSE INNOCENT ACTS**

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

17.23 A candidate who is unable or has failed to send to the CEO the election return before the end of the permitted period due to his/her own illness or absence from Hong Kong or the death, illness, absence from Hong Kong, or misconduct of any agent or employee of the candidate or by reason of inadvertence or accidental miscalculation by the candidate or any other person, or any reasonable cause, and not due to the candidate's bad faith, can make an application to the CFI for an order to allow him/her to send in the election return within a further period as specified by the CFI [s 40(1) and (2) of the ECICO]. *[Amended in November 2011 and October 2016]*

17.24 If a candidate makes an error or a false statement in the election return due to misconduct of any agent or employee of the candidate or by reason of inadvertence or accidental miscalculation by the candidate or any other person, or any reasonable cause, and not due to the candidate's bad faith, he/she may apply to the CFI for an order to enable him/her to correct any error or false statement in the election return or in any document accompanying the election return [s 40(3) and (4) of the ECICO]. *[Added in November 2011]*

17.25 When the candidate finds himself/herself in any of the situations, set out in paras. 17.23 and 17.24 above, other than the situations where correction of errors or false statements is allowed under the relief arrangement in para. 16.31 of Chapter 16, it would be wise of him/her to make the application to the CFI and inform the REO as soon as possible. *[Amended in November 2011]*

## **PART VII : NON-COMPLIANCE WITH THE LAW AND SANCTION**

17.26 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.

17.27 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.



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

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

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

- (a) from being nominated as a candidate for the election of, or from being elected as, the CE, a member of the LegCo or DC or a RR, if the election is held within 5 years after 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 RREO]; and
- (b) from being nominated as a candidate at EC Subsector Elections and from being elected as a member of the EC if the election is held within 3 years after the date of conviction, or from being nominated as an EC member by the religious subsector for 3 years from the date of conviction [ss 9 and 18 of the Schedule to the CEEO].

*[Amended in January 2007, January 2010, November 2011 and October 2016]*

17.31 It is worth noting that the Courts of Hong Kong consider 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 January 2007]*

## CHAPTER 18

### NAMEDROPPING

#### Claim of Support

18.1 A candidate engages in illegal conduct if he/she fails to 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/her EAs as an indication of support from that person or organisation unless he/she has neither requested or directed nor authorised any person to request or direct the inclusion of the aforesaid name, logo or pictorial representation in his/her EAs. Also, should any content of an EA (where either the candidate has obtained the prior written consent mentioned above or the candidate has neither requested or directed nor authorised any person to request or direct the inclusion of the name, logo or pictorial representation in his/her EAs) be provided by a person or an organisation, the candidate engages in illegal conduct if he/she modifies, or authorises any person to modify, the name, logo, or pictorial representation or the content unless **before** the modification, the person or organisation concerned **consented in writing** to the name, logo, pictorial representation or content as modified. [S 27(1), (1A) and (1B) of the ECICO.] *[Amended in October 2016]*

[Please also see paras. 17.10 to 17.12 of Chapter 17.]

18.2 Oral or retrospective consent is **not** sufficient. The EAC provides a sample consent form for this purpose. The written consent is a requirement under the ECICO. It protects the candidates from unnecessary complaints and disputes which may arise if only oral consent is obtained. It also protects the electors from being misinformed as to whether a candidate has

the support of a person or an organisation. Prior written consent is required if the inclusion of the name, logo or pictorial representation of a person or an organisation, as the case may be, implies support of the candidate concerned. What amounts to “support” will depend on the circumstances of each case. The question to consider is whether any reasonable person who has seen the pictorial representation would have the perception that the persons appearing in the EA support the candidate. *[Amended in October 2016]*

18.3 It is important to note that it is still an offence even if such an EA contains a statement to the effect that it does not imply support from the person or organisation concerned [s 27(4) of the ECICO]. It is also an offence for a person to give information which he/she knows or ought to know is materially false or misleading information to a candidate or candidates for the purpose of promoting or prejudicing the election of the candidate or candidates [s 27(6) of the ECICO]. *[Amended in November 2011]*

18.4 For the avoidance of doubt, it is advisable for the written consent to set out clearly whether consent is given:

- (a) by a supporter in his/her personal capacity - in which case no mention should be made of any office title which he/she may have, in the candidate’s EAs and campaign activities;
- (b) by a supporter with the mention of his/her office title (bearing no reference to the name of the organisation concerned) - in which case the consent should indicate whether the supporter consents to the mention of his/her office title(s) and the description of such a title(s). Where such office title(s) is/are to be mentioned in an EA, the supporter and the candidate should take particular care to ensure that the information should not be used in such a way to misrepresent the support of the organisation(s) concerned. For example, where the office title

of “the school principal” (for example, “Chan Tai Man, the Principal”) or “chairman of an owners’ corporation” (for example, “Chan Tai Man, Chairman of Owners’ Corporation”) is to be included in an EA, and if the EA is to be posted in the school or the building in which he/she is serving, it would be desirable for the candidate to seek the relevant organisation’s prior written approval;

- (c) by a supporter with the mention of his/her office title and the name of the organisation concerned - in which case the candidate should ensure that the supporter has obtained the prior written approval of the organisation, in accordance with the organisation’s internal rules and procedures or any established convention (e.g. approved by the governing body of the organisation or by a resolution of that organisation passed at a general meeting), for using the name of the organisation together with his/her office title(s) by the candidate. In case of doubt, the candidate or his/her supporter should consult the organisation concerned on its internal rules and procedures. The candidate should be careful not to give the impression that it represents the support of the whole organisation; and
- (d) by an organisation - in which case the consent should indicate that approval has been given 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]. The consent must be signed by an authorised person such as its director, chairman or chief executive, etc.

*[Amended in January 2007, November 2011 and October 2016]*

18.5 Consent can be given to 2 or more candidates contesting in the election although that may cause confusion. A 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 of the revocation to the candidate concerned. The candidate is required to notify the RO in writing of any revocation of consent or post a copy of the revocation onto the Candidate's Platform or the Central Platform in the manner as set out in para. 8.44 of Chapter 8. *[Amended in October 2016]*

18.6 Once consent has been revoked, the candidate concerned should be careful to cease immediately using any EA which contains the support of the person or organisation who has made the revocation. The costs incurred for the production of EAs bearing such support should still be regarded as the candidate's election expenses and be declared in the election return. *[Amended in October 2016]*

18.7 It is not uncommon for candidates to put photographs with the appearance of other persons (which may include other candidates in the election) in their EAs to show their past activities. However, it may be possible for electors to believe that those persons appearing in the photograph support a particular candidate when they receive such EAs. To avoid misunderstanding, for instance, if an EA carries a photograph of the candidate attending an activity with other attendees, a caption specifying the particular nature of the event could be added underneath the photograph in such a way that will not imply, or likely to cause electors to believe, that the candidate has the support of those persons appearing in the photograph. If in the circumstances the photograph is likely to cause electors to believe that the candidate has the support of those persons appearing in the photograph, prior written consent of support should be obtained by the candidate. *[Amended in November 2011]*

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

18.9 As advised by the OPCPD, an image of an identified person<sup>8</sup> will constitute his/her personal data and its use for a purpose other than the original purpose of collection or a directly related purpose, without the consent of the person concerned, will be an infringement of his/her personal data. Therefore, candidates when using the aforesaid image should also observe the relevant data protection principle as set out in the guidance notes on personal data privacy in respect of electioneering activities at **Appendix H**. *[Added in November 2011 and amended in October 2016]*

### **Form of Consent**

18.10 A sample form on seeking “**Consent of Support**” prepared by the EAC will be available at the offices of the REO and RO and can be downloaded from the REO website after the gazettal of a notice specifying a period and place for submitting nomination forms. It will also be provided to a candidate upon his/her submission of a nomination form for the election. *[Amended in October 2016]*

18.11 There are occasions (as allegations and complaints were received) requiring confirmation of the compliance of the law by a candidate. Therefore, a candidate is required to post a copy of the written consent relevant to the EA concerned onto the Candidate’s Platform or Central Platform or deposit a copy of the written consent with the RO in the manner as set out in para. 8.44 of Chapter 8 [s 87(2) and (3) of the EP (CEE) Reg]. A candidate is

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<sup>8</sup> “An identified person” shall refer to a person appearing in a photograph whose identity is known to members of the public either because his/her name is mentioned in the photo caption or he/she can easily be identified by virtue of his/her job, profession or business, etc.

also **required to post** onto the Candidate's Platform or Central Platform a written notice of revocation **or notify** the RO of such revocation in the manner as set out in para. 8.44 of Chapter 8. Such written consent and notices of revocation received by the RO will be made available for public inspection (with the identity document numbers, if any therein, of the persons involved obliterated) at the office of the RO. *[Amended in October 2016]*

### **Penalty**

18.12           It is an illegal conduct under the ECICO for a person to make false claim of support. For details of penalty and sanction, please refer to para. 17.3(b) and Part VII of Chapter 17. *[Amended in October 2016]*

**CHAPTER 19****PARTICIPATION IN ELECTION-RELATED ACTIVITIES BY  
CIVIL SERVANTS AND OFFICIALS UNDER  
THE POLITICAL APPOINTMENT SYSTEM AND  
ATTENDANCE OF PUBLIC FUNCTIONS  
BY BOTH CIVIL SERVANTS AND CANDIDATES****PART I : GENERAL**

19.1 This chapter sets out the general guidelines on the participation in election-related activities of a CE election by civil servants and officials under the Political Appointment System and the attendance at public functions by civil servants which are also attended by candidates. *[Amended in November 2011]*

**IMPORTANT :**

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

**PART II : PARTICIPATION IN ELECTIONEERING ACTIVITIES BY  
CIVIL SERVANTS**

19.2 Civil servants who wish to participate in electioneering activities in a CE election should observe the regulations, rules and guidelines issued by the



Civil Service Bureau. Civil servants, other than directorate officers, Administrative Officers, Information Officers and Police Officers and those officers acting in the above grades or ranks with a view to substantive appointment thereto, (i.e. other than acting for temporary relief purpose), may act as agents or assist in electioneering activities **provided that** they are not already appointed as RO, AROs, PROs, 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. To avoid any unfairness or appearance of unfairness or conflict of interest, civil servants who have extensive contacts with the public are strongly advised not to accept appointment by a candidate in the election to be his/her agent and/or participate in electioneering activities in the election. Civil servants who participate in electioneering activities, including the seeking of election donations, for any candidates should not use or give the impression of using any public resources in such activities. *[Amended in November 2011 and October 2016]*

19.3 The guidelines set out in para. 19.2 above are equally applicable to the non-civil service contract staff of the Government. *[Added in October 2016]*

### **PART III : ATTENDANCE OF PUBLIC FUNCTIONS BY CIVIL SERVANTS**

#### **On the Occasion of Being Invited**

19.4 Civil servants 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 an election 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 civil servant should satisfy himself/herself that:

- (a) by attending the function, he/she is performing an official duty normally required of the post he/she is currently holding; and
- (b) to his/her 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 civil servants not to have photographs taken with candidates at the function since such photographs, if published, may be seen as their lending support to the candidate. A civil servant may do so, however, if the photograph taking:

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

19.8 The guidelines set out from paras. 19.4 to 19.7 above are equally applicable to the non-civil service contract staff of the Government. *[Added in October 2016]*

#### **PART IV : ATTENDANCE OF PUBLIC FUNCTIONS BY CANDIDATES**

19.9 Similarly, the EAC appeals to all candidates who attend public functions not to have photographs taken with the civil servants, 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/her to perform his/her 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 election.

#### **PART V : OFFICIALS UNDER THE POLITICAL APPOINTMENT SYSTEM**

19.10 The term “civil servants” used in the earlier parts of this chapter does not include officials under the Political Appointment System. Officials under the Political Appointment System are political appointees and they may belong to or be affiliated with political organisations. Politically appointed officials have to comply with a “Code for Officials under the Political

Appointment System”. *[Amended in November 2011]*

19.11 Politically appointed officials may, subject to the guidelines below, participate in election-related activities. *[Amended in November 2011]*

19.12 Politically appointed officials are disqualified from being nominated as a candidate at an election of the CE, of the LegCo or of a DC. [For details related to the CE election, please see para. 3.4 in Chapter 3.] *[Amended in November 2011]*

19.13 As far as the CE elections are concerned, politically appointed officials should not use any public resources for any election-related activities. A politically appointed official should ensure that when taking part in such activities, great care should be taken that there is no actual or potential conflict of interest with the business of the Government or his/her own official duties. *[Amended in November 2011]*

## CHAPTER 20

### COMPLAINTS PROCEDURE

#### PART I : GENERAL

20.1 This chapter deals with the procedure for making complaints relating to any **breach or non-compliance of the Guidelines and the provisions of the EP (CEE) Reg or the spirit of them** which are for ensuring that elections are conducted in an honest, fair and open manner.

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, impartial and apolitical body established by the EACO to deal with all matters concerning the conduct of elections including handling election-related complaints. The EAC may, if necessary, set up a **Complaints Committee** consisting of its 3 members and 1 or more judges of the District Court or High Court for the purpose of dealing with complaints. *[Amended in November 2011]*

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 Guidelines or the provisions of the EP (CEE) Reg or

relating to election matters can be made to one of the following bodies or persons: *[Amended in November 2011]*

- (a) the RO 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. Therefore, complaints should be lodged **not later than 45 days** after the date of the relevant election. *[Amended in October 2016]*

20.7 No specified or specific form is required for making a complaint. A complaint can be made either orally or in writing. A person who wishes to make an oral complaint can call the EAC Complaints Hotline. *[Amended in October 2016]*

20.8 In each case, the complainant is required to identify himself/herself and provide his/her correspondence 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.** *[Amended in October 2016]*

#### **PART IV : COMPLAINTS INSIDE THE POLLING STATION**

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

- (a) he/she should direct his/her 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/her complaint is directed at the PRO, the Deputy PRO or an Assistant PRO, he/she should as soon as possible report the matter to the 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 EAC Complaints Hotline to report his/her complaint by giving a gist thereof. He/She should then try to obtain as much evidence as possible in order to substantiate his/her complaint. As he/she is not allowed to talk to or communicate with any elector inside the polling station, he/she may need to go outside the polling station to obtain necessary evidence; and

- (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 the polling station (together with telephone numbers of the RO and the EAC Complaints Hotline) will be available for inspection inside the polling station.

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

## **PART V : THE PROCESSING OF COMPLAINT**

20.11 The RO, a PRO and the CEO are obliged under s 79 of the EP (CEE) Reg to report irregularities to the EAC or its Complaints Committee. By these guidelines, they are also required to report all complaints received by them to the EAC or its Complaints Committee. Except where a complaint is of minor nature or the RO has been delegated with the authority to deal with it, any complaint received by the RO or the REO will be forwarded to the EAC or its Complaints Committee with comments and all the relevant information relating to the complaint. When the EAC or its Complaints Committee receives a complaint, it may seek additional information and comments from the 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/her complaint or statement. If the further information required is not provided by the complainant or if he/she refuses to be interviewed or to make the statutory declaration, the EAC or its Complaints Committee, the RO or the REO may or may not take further action on the complaint.

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

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

- (a) take remedial measures against the matter complained of, such as the removal of EAs displayed in breach of the guidelines in that regard;
- (b) issue to the relevant person a warning on the matter under complaint after making a reasonable effort to contact the person and giving him/her 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/her 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. It is common that a large number of complaints are received during the election period. As each complaint will be examined in detail, the investigation of all complaints may take some time to complete. *[Amended in October 2016]*

## **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, A PRESIDING OFFICER AND THE CHIEF ELECTORAL OFFICER**

20.17 The RO, a PRO and the CEO 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. *[Amended in November 2011]*

## **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 and will be liable to a fine of \$20,000 and to 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/she commits an offence and will be liable to a fine and to imprisonment for 2 years [s 36 of the Crimes Ordinance (Cap 200)].



# **APPENDICES**

**Chief Executive Election**  
**Action Checklist for Candidates**

**A. Major Steps to be Observed**

Before and during  
Nomination Period

1. Obtain the following from the Returning Officer (“RO”) or the Registration and Electoral Office (“REO”):
  - (a) Nomination Form, including :
    - (i) a declaration to the effect that the candidate stands for the election in an individual capacity and will uphold Basic Law and pledge allegiance to the HKSAR; and
    - (ii) a declaration as to the candidate’s nationality and as to whether he/she has a right of abode in any foreign country;
  - (b) Confirmation Form<sup>9</sup>;
  - (c) The form of “Intention to Display Election Advertisements at Designated Spots”; and
  - (d) Grid paper and Guide on Completion of Grid Paper (for inclusion in the Introduction to Candidates).

During Nomination Period

2. Except where the RO authorises otherwise, personally deliver the following to the RO before the end of the Nomination Period the duly completed Nomination Form, including:
  - (a) a declaration to the effect that the candidate stands for the election in an individual capacity and will uphold Basic Law and pledge allegiance to the HKSAR; and
  - (b) a declaration as to the candidate’s nationality and as to whether he/she has a right of abode in any foreign country.

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<sup>9</sup> The Confirmation Form is for the candidate to confirm that he/she clearly understands the contents of the Basic Law and the legal requirements and responsibilities involved in signing the relevant declaration in the nomination form.

3. Lodge with the RO the Confirmation Form.
4. Apply to Hongkong Post for written approval of their election advertisement (“EA”) specimens for free postage. Candidates should:
  - (a) carefully study the requirements governing free postage for EAs before deciding on the contents of their EAs and seek advice from Hongkong Post relating to postal requirements and the REO on other relevant aspects; and
  - (b) make every effort to submit their EA specimens to Hongkong Post for written approval as early as possible to allow sufficient time for revising the contents of their EA specimens, if necessary.
5. Obtain the following from the RO:
  - (a) a CD-ROM containing the relevant legislation and copy of the candidate forms/documents;
  - (b) relevant extracts from the Final Register of Electors (both two sets of mailing labels and soft copies as contained in a Candidate Mailing Label System (“CMLS”) DVD-ROM) on signing an Undertaking on the Use of Election Committee Members’ Information;  
  
(Note: To protect the environment, mailing labels of electors who have provided their email addresses for receiving EAs will not be provided by the REO.)
  - (c) forms –
    - (i) Return and Declaration of Election Expenses and Election Donations (hereafter referred to as “election return”)
    - (ii) Standard Receipt for Election Donations
    - (iii) Authorisation to Incur Election Expenses
    - (iv) Notice of Withdrawal of Candidature

- (v) Notice of Appointment of Election Agent
- (vi) Notice of Appointment of Polling Agents for a Polling Station not Situated in a Prison
- (vii) Notice of Appointment of Polling Agent for a Dedicated Polling Station Situated in a Prison (other than a Maximum Security Prison) and Application for Consent to the Presence of Election Agent/Polling Agent in a Dedicated Polling Station Situated in a Prison (other than a Maximum Security Prison)
- (viii) Notice of Appointment of Counting Agents
- (ix) Notice of Revocation of Authorisation/Appointment of Agent
- (x) Information Sheet in relation to Election Advertisements
- (xi) Application for Creating an Account of the Central Platform and Undertaking in respect of the Terms and Conditions in Using the Central Platform for Candidates
- (xii) Notification of the Electronic Address of the Candidate's Platform
- (xiii) Notification of Corrected Information in relation to Election Advertisements
- (xiv) Consent of Support
- (xv) Permission for Display of Election Advertisements or Conduct of Electioneering Activities at Private Premises
- (xvi) Declaration of Secrecy
- (xvii) Advance Return and Declaration of Election Donations



- (xviii) Notice of Posting of Election Mail  
(Attachment: Summary on Free Postage for Election Mail)
  - (xix) Declaration for Posting of Election Mail
  - (xx) Notification of Decision on Electioneering Activities
  - (xxi) Notification of the Intention to Hold a Public Meeting/Procession
  - (xxii) Statutory Declaration<sup>10</sup>
  - (xxiii) Undertaking<sup>11</sup>;
- (d) Undertaking on the Use of Election Committee Members' Information (Attachment: Supplementary Note on Undertaking on the Use of Election Committee Members' Information);
  - (e) Note for Submission of a Text Version of Introduction to Candidates for Persons with Visual Impairment; and
  - (f) Note for Production of Accessible Electronic Election Advertisements for Persons with Visual Impairment.
6. 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
7. (a) Ensure that all printed EAs, except for the category exempted, contain the name and address of the printer, date of printing and the number of copies printed.

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<sup>10</sup> The 'Statutory Declaration' form is for the winning candidate to declare that he/she is not a member of any political party within 7 working days after the declaration of result of the election as required by the Chief Executive Election Ordinance (Cap 569).

<sup>11</sup> The 'Undertaking' form is for the winning candidate to state that, during his/her term of office as the Chief Executive, he/she will not become a member of any political party or do any act that will subject himself to the discipline of any political party within 7 working days after the declaration of result of the election as required by the Chief Executive Election Ordinance (Cap 569).

- (b) Ensure that all prior written Consent of Support or Permission/Authorisation have been obtained before the publication of EAs and lodged with the RO (or CEO if RO has not yet been appointed), if applicable.
- (c) (i) If the candidates choose to post the electronic copy of EA and relevant information/documents onto the Candidate's Platform for public inspection, candidates should provide the CEO with the **electronic address** of the platform **at least 3 working days** (i.e. any day other than a general holiday or Saturday) **before publication of the first EA.**
- (ii) If the candidates choose to post the electronic copy of EA and relevant information/documents onto the Central Platform for public inspection, candidates should submit to the CEO the Application for Creating an Account of the Central Platform and Undertaking in respect of the Terms and Conditions in Using the Central Platform for Candidates.

Candidates will receive the username and passwords from CEO **within 3 working days** upon receipt of the duly completed application and undertaking.

- (d) Make available a copy of each type of EAs and relevant information/documents for public inspection **within 1 working day after publication** by:
- (i) posting an electronic copy each of all his/her EAs and the relevant information/documents onto the Central Platform in accordance with the procedures set out in **Appendix D**;
- (ii) posting an electronic copy each of all his/her EAs and the relevant information/documents onto the Candidate's Platform and provide the CEO with the **electronic address** of the platform **at least 3 working days before publication of the first EA (For details, please see Appendix D)**;

- (iii) if it is technically impracticable to comply with (i) or (ii) above for EAs published through an open platform on the internet (such as when messages are sent through social networking or communication websites on the Internet like Twitter, Facebook, blogs, etc. and the exchanges are of an interactive and spontaneous nature), posting a hyperlink of such open platform and the information/documents relevant to the EAs onto the Candidate's Platform or the Central Platform in accordance with the procedures set out in **Appendix D**;
- (iv) providing 2 hard copies each of the EAs (or 2 identical full colour photographs/printouts/photocopies of each EA which cannot be practically or conveniently produced in specie) and 1 hard copy each of the relevant information/documents to the RO; or
- (v) providing 2 identical copies of a CD-ROM or DVD-ROM each containing the EAs and 1 hard copy each of the relevant information/documents to the RO.

Candidates may make submission as required from time to time.

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|  | 8. Submit to the CEO an Advance Return and Declaration of Election Donations when an election donation is received.  |
| Any time before handing in Nomination Form till the end of election period     | 9. Lodge with the RO (or CEO if RO has not yet been appointed) Authorisation to Incur Election Expenses.   |
| Any time after handing in Nomination Form                                      | 10. Lodge with the RO a Notice of Appointment of Election Agent.   |
| Any time after handing in Nomination Form, but before end of Nomination Period | 11. (a) If a candidate wishes to have his/her photograph and election platform printed in the Introduction to Candidates, he/she should: <ul style="list-style-type: none"> <li>(i) lodge with the RO a duly completed grid paper affixed with a colour photograph of the candidate which must be in specified size and should be taken within the last 6 months; and</li> </ul> |

- (ii) provide 2 additional copies of his/her photograph identical to the one affixed to the grid paper with his/her name label affixed on the back.

(If a candidate does not submit the grid paper, the Introduction to Candidates will only show his/her name and candidate number. The statement, “Relevant Information has not been provided by the candidate”, will also be printed in the space provided for the election platform.)

- (b) Lodge with the RO the form “Intention to Display Election Advertisements at Designated Spots”.

Any time after handing in Nomination Form, but not later than 7 days before polling day

- 12. Lodge with the CEO Notices of Appointment of Polling Agents for a Polling Station not Situated in a Prison.
- 13. Lodge with the RO Notices of Appointment of Counting Agents.
- 14. Lodge with the CEO the Notice of Appointment of Polling Agent for a Dedicated Polling Station Situated in a Prison (Other than a Maximum Security Prison) and Application for Consent to the Presence of Election Agent/Polling Agent in a Dedicated Polling Station Situated in a Prison (Other than a Maximum Security Prison).

(Note: (a) No consent will be given to the presence of an election agent at a dedicated polling station situated in a prison (other than a maximum security prison) if a polling agent has been appointed for that polling station. On the other hand, if consent has been given by the Commissioner of Correctional Services to the presence of an election agent at a dedicated polling station situated in a prison, no polling agent may be appointed for that polling station.

- (b) No polling agent may be appointed nor may election agent be present at a dedicated polling station situated in a maximum security prison.)

- Around 3 days after end of Nomination Period
15. Attend the briefing for the candidate(s) and collect from the RO the following:
- (a) location maps and layout plans of the polling station and counting station; and
  - (b) name badges for the candidate(s) and his/her/their agents.
16. (a) At an uncontested election, the candidate will be provided with a list of the designated spots for display of EAs allocated to him/her.
- (b) At a contested election, attend meetings held by the RO to determine the candidate numbers by drawing of lots and to allocate designated spots for display of EAs.
17. Receive from the RO copy of the permission/authorisation for display of EAs at designated spots allocated to the candidate.
- Around 7 days after end of Nomination Period
18. Send by e-mail to [e-intro\\_to\\_can@reo.gov.hk](mailto:e-intro_to_can@reo.gov.hk) by the deadline specified by the REO the completed e-form of the text version of the Introduction to Candidates (available on website) for REO's uploading to the election dedicated website.
- (If a candidate does not submit the file by the said deadline, only his/her name and candidate number and the words "Relevant information has not been provided by the candidate" will be shown in the appropriate area of the form.)
- As soon as practicable after RO determines the candidate as validly nominated or not
19. Receive from the RO the notice on the validity of the candidate's nomination (which will also be sent to every other validly nominated candidate, if any).
- As soon as practicable after RO receives a Notice of Appointment of Election Agent from another candidate
20. Receive from the RO information about the election agent appointed by another candidate, if any.

- Around 14 days after end of Nomination Period 21. Check the ballot paper printing proof and verify the particulars relating to the candidate to be printed on the ballot paper. If a candidate or his/her election agent cannot perform the checking in person, the candidate may authorise a representative in writing to check the particulars concerned on the ballot paper printing proof on his/her behalf.
- (If a candidate or his/her election agent/authorised representative does not perform the checking at the date and venue specified by the REO, the printing proof of the ballot paper will be printed without further notice.)
- Not later than 7 days before polling day 22. Receive from the RO information regarding the delineation of no canvassing zones and no staying zones for the polling stations (including dedicated polling stations).
- During the week before the polling day 23. Lodge with the CEO the Notice of Appointment of a Polling Agent for a Dedicated Polling Station situated in a Prison (other than a Maximum Security Prison) ONLY if –
- (a) an elector imprisoned or held in custody who is entitled to vote at the aforesaid dedicated polling station situated in a prison is admitted or transferred to the prison during that week; and
- (b) the application is lodged without undue delay after the admission or transfer.
- At least 2 clear working days before posting postage-free election mail 24. Give notice of the date of the free posting of election mail by using the Notice of Posting of Election Mail (in duplicate), and present 3 unsealed election mail specimens to the designated Manager of Hongkong Post for inspection and approval.
- Make postage-free election mail before the posting deadline as designated by Hongkong Post 25. Post postage-free election mail and present to Hongkong Post a Declaration for Posting of Election Mail (in duplicate). Furnish a copy of the election mail for the attention of the designated manager of Hongkong Post for record purpose.
- (Note: Election mail sent after the deadline may fail to reach the electors before the polling day.)

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| Not later than 1 clear working day before the count (except the count for the 4 <sup>th</sup> and subsequent rounds of voting at a contested election) | 26. Receive information from the RO on when and where the counting of votes is to take place.   |
| Before entering polling/counting station   | 27. Complete the Declarations of Secrecy (to be made by the candidate(s), his/her/their election agents, polling agents and counting agents).   |
| Any time before polling day  | 28. Lodge with the RO or CEO, as the case may be, Notices of Revocation of Appointment of Agent, if any.  |
| On polling day   | 29. Attend the poll and the count if so wishes, bringing along the Declaration of Secrecy.  |
|  | 30. Candidate(s) or his/her/their election agents personally deliver Notices of Appointment of Polling Agents for a Polling Station not Situated in a Prison and Notices of Revocation of Appointment of Agent to the Presiding Officer other than a Presiding Officer of a dedicated polling station situated in a prison, if not yet lodged pursuant to paras. 12 and 28. |
|  | 31. Candidates or their election agents personally deliver Notices of Revocation of Appointment of Agent to the CEO to revoke the appointment of polling agent for a dedicated polling station situated in a prison, if not yet lodged pursuant to para. 28.  |
|  | 32. Candidate(s) or his/her/their election agents personally deliver Notices of Appointment of Counting Agents and Notices of Revocation of Appointment of Agent to the RO, if not yet lodged pursuant to paras. 13 and 28.   |
| Within 2 working days after the polling day  | 33. Post the corrected information of the EAs concerned onto the Candidate's Platform or Central Platform alongside the original information and input the date of correction; or deposit with the RO a Notification of Corrected Information in relation to Election Advertisements.   |
| Within 7 working days after publication of election result   | 34. <b>For the candidate who is declared as elected:</b><br><br>(a) make a statutory declaration that he/she is not a member of any political party; and  |

- (b) lodge with the RO a written undertaking to the effect that he/she will not become a member of any political party or do any act that has the effect of subjecting himself/herself to the discipline of any political party during his/her term of office as the Chief Executive.
- Within 10 days after polling day 35. Remove all EAs displayed on Government land/property.
- Within 2 weeks after polling day 36. Destroy or return to REO the CMLS DVD-ROM and unused mailing labels, if any. If a candidate has downloaded the electors' information from the CMLS for processing, he/she must also delete the information (use of data erasing software is recommended to completely erase the information).
- Before the expiry of the period of 30 days after the date on which –  
(a) the result of the election is published in the Gazette; or  
(b) the proceedings for the election are declared to have been terminated. 37. Lodge with the CEO an election return [see para. 4(c)(i)] signed by the candidate with invoices and receipts issued by recipients of the payments for all payments each of election expense of \$100 or above and duplicate donation receipts.
- Till the end of the period ending with the 30<sup>th</sup> day before the first anniversary of the date of the deadline for lodging the relevant election return (disregarding any order made by the Court of First Instance (“CFI”) under s 40 of the ECICO) 38. Maintain the Candidate’s Platform for public inspection of EAs and relevant information/documents.

**Note:**

Most of the forms mentioned in this checklist can be downloaded from the REO website at <http://www.reo.gov.hk>



**B. Handling and Declaring Election Expenses*****Records Keeping******Before and After Nomination***

1. Record all election expenses spent and all election donations received.
2. Keep the original invoices and receipts issued by recipients of the payment for expenses of \$100 or above.
3. Issue receipt for any non-anonymous donation of more than \$1,000 and keep a copy of the receipt (The candidate may use the Standard Receipt for Election Donations provided by the REO).
4. (a) Keep records of the attachments posted onto the Candidate's Platform and maintain this platform till the end of the period ending with the 30<sup>th</sup> day before the first anniversary of the date of the deadline for lodging the relevant election return (disregarding any order made by the CFI under section 40 of the ECICO); or
  - (b) Keep records of the attachments posted onto the Central Platform; or
  - (c) Keep copies of all relevant information/documents and EAs lodged with the RO.

***Appointment of Election Agents/Election Expense Agents***

5. Each candidate can only appoint 1 election agent by completing a Notice of Appointment of Election Agent. An election agent has the authority to do everything a candidate is authorised to do under the EP (CEE) Reg for the purposes of the election, except the matters set out in section 12(3)(a) to (i) of the EP (CEE) Reg.
6. Each candidate can appoint 1 or more persons as election expense agent to incur election expenses on his/her behalf, by completing the Authorisation to Incur Election Expenses. A candidate **may** also appoint his/her election agent as an election expense agent. These agents may incur election expenses only after the candidate has authorised them to do so.

***Lodging Authorisation and Information Sheet of Election Advertisements with the appropriate authority and Posting Election Advertisements on Central Platform or Candidate's Platform***

7. Lodge with the RO the Notice of Appointment of Election Agent at any time after handing in Nomination Form.
8. Lodge with the RO (or CEO if the RO has not yet been appointed) the Authorisation to Incur Election Expenses. The authorisation is not effective until it has been received by the RO or CEO (if the RO has not yet been appointed).
9. Make available a copy of each type of EAs and relevant information/documents for public inspection **within 1 working day** after publication by:
  - (a) posting an electronic copy each of all his/her EAs and the relevant information/documents onto the Central Platform in accordance with the procedures set out in **Appendix D**;
  - (b) posting an electronic copy each of all his/her EAs and the relevant information/documents onto the Candidate's Platform and provide the CEO with the **electronic address** of the platform **at least 3 working days before publication of the first EA (For details, please see Appendix D)**;
  - (c) if it is technically impracticable to comply with (a) or (b) above for EAs published through an open platform on the internet (such as when messages are sent through social networking or communication websites on the Internet like Twitter, Facebook, blogs, etc. and the exchanges are of an interactive and spontaneous nature), posting a hyperlink of such open platform and the information/documents relevant to the EAs on the Candidate's Platform or the Central Platform in accordance with the procedures set out in **Appendix D**;
  - (d) providing 2 hard copies each of the EAs (or 2 identical full colour photographs/ printouts/ photocopies of each EA which cannot be practically or conveniently produced in specie) and 1 hard copy each of the relevant information/documents to the RO; or

- (e) providing 2 identical copies of a CD-ROM or DVD-ROM each containing the EAs and 1 hard copy each of the relevant information/documents to the RO.

**Submission of Election Return** 10. A candidate must lodge his/her completed election return with the CEO before the expiry of the period of 30 days after the date on which –

- (a) the result of the election is published in the Gazette; or
- (b) the proceedings for the election are declared to have been terminated;

**or within such extended period as may be allowed by the CFI under the relevant law.**

- 11. The completed election return and a declaration verifying its contents must be submitted together with all supporting documents as required by section 37 of the ECICO.
- 12. The completed election return should include all election expenses incurred by the candidate or by the candidate's election expense agents, and also the removal cost for his/her EAs by Government Departments, if he/she has not removed all his/her EAs, and the election donations (including services and goods) received. All EAs submitted on the Information Sheet in relation to Election Advertisements, the Central Platform and the Candidate's Platform should be included in the completed election return. ***A candidate is required to submit their election returns even if no election expenses have been incurred.***
- 13. A candidate must make the declaration/supplementary declaration(s) verifying the content of the election return before a Commissioner for Oaths, a Justice of the Peace or a solicitor holding a practising certificate.
- 14. If a candidate is unable or has failed to lodge the election return by the deadline, he/she can apply to the CFI for an order allowing him/her to lodge the election return within such extended period as may be allowed by the CFI.

15. If a candidate wishes to change any information in his/her submitted election return before the deadline, he/she may lodge with the CEO before the deadline a supplementary declaration stating the information to be changed.
16. If a candidate wishes to correct any error or false statement in his/her election return (including any document accompanying his/her election return) after the deadline, he/she must apply to the CFI for an order enabling him/her to do so. Notwithstanding this, if the aggregate value of any error or false statement found in the election return does not exceed the prescribed relief arrangement limit (i.e. HK\$5,000), the candidate may rectify the error or false statement in the election return in accordance with a simplified relief arrangement for minor errors or false statements as provided under s 37A of the ECICO within a specified period upon receipt of a notice from the CEO relating to the error and/or false statement (see paras. 16.29 to 16.34 of the Guidelines).

**(This "Action Checklist for Candidates" is for general reference only. Candidate is advised to refer to the Action Checklist included in candidate folder of the election.)**

*[Amended in January 2007, January 2010, November 2011 and October 2016]*

**The 4 Sectors of the Election Committee  
and Subsectors of Sectors**

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FIRST SECTOR

<u>Item</u>	<u>Subsector</u>	<u>Number of members</u>
1.	Catering	17
2.	Commercial (first)	18
3.	Commercial (second)	18
4.	Employers' Federation of Hong Kong	16
5.	Finance	18
6.	Financial services	18
7.	Hong Kong Chinese Enterprises Association	16
8.	Hotel	17
9.	Import and export	18
10.	Industrial (first)	18
11.	Industrial (second)	18
12.	Insurance	18
13.	Real estate and construction	18
14.	Textiles and garment	18
15.	Tourism	18
16.	Transport	18
17.	Wholesale and retail	18
		<hr/> 300

SECOND SECTOR

<u>Item</u>	<u>Subsector</u>	<u>Number of members</u>
1.	Accountancy	30
2.	Architectural, surveying, planning and landscape	30
3.	Chinese medicine	30
4.	Education	30
5.	Engineering	30
6.	Health services	30
7.	Higher education	30
8.	Information technology	30
9.	Legal	30
10.	Medical	30
		<hr/> 300

THIRD SECTOR

<u>Item</u>	<u>Subsector</u>	<u>Number of members</u>
1.	Agriculture and fisheries	60
2.	Labour	60
3.	Religious	60
4.	Social welfare	60
5.	Sports, performing arts, culture and publication	60
		<hr/> 300

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 ("LegCo")	Members of the LegCo	70
3.	Chinese People's Political Consultative Conference ("CPPCC")	Hong Kong members of the National Committee of the CPPCC	51
4.	Heung Yee Kuk ("HYK")	Chairman and Vice-Chairmen of the HYK and the Ex-Officio, Special and Co-opted Councillors of the Full Council of the HYK	26
5.	Hong Kong and Kowloon District Councils ("DCs")	Elected members of the Hong Kong and Kowloon DCs	57
6.	New Territories District Councils ("DCs")	Elected members of the New Territories DCs	60
			300

*[Amended in November 2011 and October 2016]*

### **Legal Provisions against Pressuring Electors Not to Nominate a Particular Candidate**

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In response to media enquiries on legal provisions against pressuring electors not to nominate a particular candidate, the Electoral Affairs Commission (“EAC”) gave the following reply on 31 May 2005:

Intimidation is an offence under section 24 of the Crimes Ordinance (Cap. 200). A person found guilty of the offence is liable on summary conviction to a fine of \$2,000 and two years’ imprisonment and on conviction upon indictment to five years’ imprisonment.

Bribery has always been an offence at common law liable to imprisonment or a fine.

The EAC, the Independent Commission Against Corruption and related authorities will handle all complaints received during the election process in accordance with the law.

The EAC will continue to ensure that the 2005 Chief Executive Election and all other future elections will be conducted in a fair, open and honest manner.

*Dated 31 May 2005*



**Submission Method, Formats and Standard on Posting  
Electronic Copy of Election Advertisement and Relevant  
Information/Documents onto an Open Platform for Public Inspection  
(with Annexes I and II on the guidelines and basic layout  
design requirements for Candidate's Platform)**

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1. To comply with the public inspection requirement governing election advertisements (“EAs”) under the electronic submission method as stipulated in s 87(2) of EP (CEE) Reg, a candidate must post the following EA particulars as applicable, **within one working day**<sup>12</sup> after the publication of an EA, onto an **open platform** either maintained by the Chief Electoral Officer (“CEO”) (“Central Platform”) or himself/herself/a person authorised by him/her (“Candidate’s Platform”) for public inspection:

- (a) an electronic copy of an EA;
- (b) a hyperlink of the open platform<sup>13</sup> which publishes an EA (where it is technically impracticable to make available an electronic copy of the EA [such as when messages are sent through social networking or communication websites on the Internet like Twitter, Facebook, blogs, etc. and the exchanges are of an interactive and spontaneous nature]);
- (c) the relevant printing/publication information pertaining to such EA including:
  - the name and address of the producer/printer;
  - the date of production/printing;
  - the size/dimension;
  - the manner of publication;
  - the date of publication;
  - the number of copies published; and
  - the number of copies produced/printedas applicable;
- (d) an electronic copy each of the relevant permission/authorisation for the publication of such EA, as applicable (except those provided by the Returning Officer in connection with the

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<sup>12</sup> A “working day” means any day other than a general holiday or Saturday.

<sup>13</sup> Open platform 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.

allocation of designated spots); and

- (e) an electronic copy each of the documents providing consent of support.

### **Central Platform**

2. If a candidate chooses to post the EA particulars onto the Central Platform, he/she must comply with the requirements set out in the ensuing paragraphs.

### **Submission Method**

3. A candidate is required to apply to the CEO in a specified form for creation of an account to access the Central Platform before he/she can post EA particulars onto the platform for public inspection. Only one account will be created for each candidate.

4. The CEO will inform the candidate concerned upon creation of the account and will provide a username and password (which can subsequently be changed by the relevant candidate) to the candidate concerned **within 3 working days** upon receiving an application. The candidate then can access the platform by using the registered username and password.

5. Uploading of EA particulars onto the platform at any one time by a candidate will be treated and referred to as one single submission. Subject to the file size limit stipulated in para. 7 below, there is no limit on the number of EA or other documents to be included in a submission. If subsequent correction to any EA particulars in a submission is required, the candidate is required to post the corrected EA particulars, including the corrected printing/publication information (“corrected information”) of the EA, onto the platform by selecting the EA particulars concerned. If accepted, both the original and the corrected EA particulars would be displayed alongside for public inspection. Any such corrective information should be posted onto the platform **not later than 2 working days after the polling day**.

6. An acknowledgement of receipt in the form of a summary report of the EA particulars successfully uploaded would be automatically generated for reference by the candidate after each submission. In addition, an e-mail and a Short Message Service (“SMS”) to acknowledge receipt of the EA particulars successfully uploaded would also be sent to the e-mail address and mobile phone number provided on the application form for creating an account.

**File Size**

7. The size of each file **must not exceed 50 MB**. Otherwise, the submission will be rejected.
8. Files included in a submission may be compressed using a file format of either Zip (.zip) or GNU zip (.gz).
9. A file exceeding the above size limit will not be accepted. In such circumstances, the candidate may upload the EA particulars in separate files.

**Format**

10. Files included in a submission must be given, served or presented in the following file formats –

**General Document**

- (a) Rich Text Format (RTF) or Microsoft Word Format (DOC/DOCX);
- (b) Hypertext Mark Up Language (HTML) Format;
- (c) Adobe Portable Document Format (PDF);
- (d) Plain Text (TXT)

**Graphics/Images**

- (e) Graphics Interchange Format (GIF);
- (f) Joint Photographic Experts Group (JPEG);
- (g) Tag Image File Format (TIFF);
- (h) Portable Network Graphics (PNG)

**Audio**

- (i) Waveform Audio Format (WAV);
- (j) MPEG-1 Audio Layer 3 (MP3);

**Video**

- (k) Audio Video Interleave (AVI);
- (l) Moving Picture Experts Group (MPEG).

Candidates are encouraged to make arrangement such that the files, including text and video, etc., uploaded onto the Central Platform should be accessible to persons with disabilities as far as possible.

### **Computer Instructions**

11. The files uploaded must not contain any computer viruses or any computer instructions including, but not limited to, macros, scripts and fields which depend on the execution environment and the execution of which will cause changes to the files themselves or the information system displaying the files.

### **Candidate's Platform**

12. If a candidate chooses to maintain a platform of his/her own for the posting of EA particulars for public inspection, he/she must provide the electronic address of the platform to the CEO **at least 3 working days before publication of the first EA**. To avoid causing confusion to members of the public, the platform should be dedicated to the sole purpose of posting EA particulars for public inspection. The EA particulars posted on the platform should be virus-free and should be organised in a descending order of the date of submission. The required printing/publication information should also be posted alongside the relevant EAs to which the information relates. To maintain consistency in design and, also, to facilitate public inspection, the CEO will provide guidelines and specify the basic layout design requirements for such platform for candidates to follow (see **Annex (I) and Annex (II)**). The guidelines and basic layout design requirements can also be downloaded from the Electoral Affairs Commission ("EAC") website.

13. If the candidate wishes to correct any EA particulars already posted onto the platform, he/she should post the corrected EA particulars, together with date of correction alongside with the original EA particulars for public inspection (see **Annex (II)**). Any such corrected information should be posted onto the platform **not later than 2 working days after the polling day**.

14. The candidate should not remove any EA particulars already uploaded onto the platform at will except in circumstances where such removal has been directed by the CEO, EAC or the Court, as applicable, in respect of any content/information which is unlawful or not related to any EAs published by the candidate. In the event that an EA has to be removed as directed by the CEO, EAC or the Court, the candidate should post a note to inform the public about the removal of the EA and the reason for such removal. Other documents/information related to the removed EA should still be displayed at the platform for public inspection (see **Annex (II)**).

15. When posting EA particulars onto the Candidate's Platform, candidates should also follow the requirements regarding file format and computer instructions as detailed in paras. 10 to 11 above.

16. The CEO will arrange to publicise the electronic address of the platform to facilitate public inspection of the EA particulars.

### **Important Points to Note**

17. EA particulars must conform to the requirements as set out above. For any electronic files containing images, they should be of sufficient resolution to ensure that the content is both legible and readable to readers.

18. A candidate is solely responsible for (and that the CEO has no responsibility to him/her or any third party for) the content/information of the EA particulars uploaded and posted onto the Central Platform, including any hyperlinks to external websites. The CEO reserves the right to remove any of the EA particulars posted on the Central Platform containing such content/information which is unlawful, not related to any EAs published by the candidate or which has been contaminated with computer virus after the submission. In case if the removal is due to computer virus contamination, the candidate will be informed to upload the relevant EA particulars onto the Central Platform again.

19. Candidates should observe all prevailing legal requirements on personal data privacy when uploading information onto the aforesaid platforms for public inspection. In particular, for the documents containing/conveying the required permission/authorisation and/or consent of support pertaining to an EA, candidates are reminded to obliterate the identity document number(s), if any therein, of the person(s) providing such permission/authorisation and/or consent of support before uploading them onto the platforms.

*[Added in October 2016]*

**Points to Note for Building Candidate's Platform****General**

- The name of the election should be shown on the candidate's platform, e.g. 20XX Chief Executive Election.
- The name(s) of the candidate(s) concerned should be shown on the candidate's platform.
- The candidate number should be shown on the candidate's platform once available.
- The EA particulars (including electronic copy of the EA, hyperlink, consent, permission or authorisation documents, etc.) should be displayed and arranged in descending order according to the date of publication.
- The required information to be shown for each EA can be found in **Annex II**.
- The corrected EA particulars should be posted alongside or beneath the original version.
- The candidate should not remove any EA particulars already uploaded onto the candidate's platform at will except in circumstances where such removal has been directed by the CEO, EAC or the Court, as applicable, in respect of any content/information which is unlawful or not related to any EAs published by the candidate. In the event that an EA has to be removed as directed by the CEO, EAC or the Court, the candidate should post a note onto the platform to indicate any removed EA and the reason for such removal. Other documents/information related to the removed EA should still be displayed at the platform for public inspection.
- The file format and computer instruction should follow the details shown at **Appendix D** of the Guidelines on Election-related Activities in respect of the Chief Executive Election.
- Sensitive personal data should not be posted onto the candidate's platform. For example, Hong Kong Identity Card Number shown on the consent form (if any therein) should be covered before uploading onto the candidate's platform.
- An e-mail contact and/or telephone number should preferably be provided on the Platform for handling public enquiry and providing technical assistance as required.

**Security**

- To guard against intruder attacks, the candidate's platform should be protected by firewall and/or Intrusion Protection System.
- All files posted in the candidate's platform should be properly scanned by anti-virus software before posting.
- To protect against data loss, please conduct regular backup.
- The hyper-links to external websites should also be checked regularly in order to ensure that they are up-to-date.
- For more information and resources on the information security on the web, please refer to [www.infosec.gov.hk](http://www.infosec.gov.hk).

**Accessibility**

- The candidate's platform should be accessible by browsers and operating systems commonly used in personal computers.
- For any electronic files containing images, they should be of sufficient resolution to ensure that the content is both legible and readable to readers.
- The platform should be available in English and Chinese and the text content thereon should be readable and understandable. Furthermore, suitable instructions should be provided to assist readers to navigate through the platform.
- The candidate's platform should be accessible to persons with disabilities as far as possible.

*[Added in October 2016]*

## 候選人平台建議版面設計 Proposed Layout Design of Candidate's Platform

選舉 Election: 20XX 行政長官選舉 20XX Chief Executive Election

候選人號碼 Candidate No.: 1

候選人姓名 Candidate Name: 陳大文 Chan Tai Man

選舉廣告詳情 (依發布日期降序排列) Election Advertisement Particulars (in descending order according to 'Date of Publication')

項目 Item	選舉廣告類別 Election Advertisement Type	製作/ 印刷日期 Date of Production/ Printing (dd-mm-yyyy)	製作/ 印刷的文 本數目 Number of Copies Produced/ Printed	發布日期 Date of Publication (dd-mm-yyyy)	發布的文本 數目 Number of Copies Published	選舉廣告 檔案/連結 Election Advertisement File/Link	准許/授權 Permission/ Authorisation	尺寸/ 面積 Size/ Dimension	發布方式 Manner of Publication	製作人/印刷 人的姓名 Name of Producer/ Printer	製作人/ 印刷人的 地址 Address of Producer/ Printer	修正日期 Date of Correction (dd-mm-yyyy)	選舉廣告 檔案/連結 移除日期 Date of Removal of Election Advertisement File/Link (dd-mm-yyyy) [Reason 原因]
1	小冊子 Pamphlets	12-10-2016	100	14-10-2016	100	File1.jpg	-	A4	街頭派發 Distributed on street	AA 印刷 公司 AA Printing Company	地址 Address	-	-
2	橫額 Banners	11-10-2016	20	13-10-2016	20	File2.jpg	Authorisation. jpg	1 米 x 2.5 米 1m x 2.5m	懸掛於 路邊鐵欄 Hung on roadside railing	BB 製作 公司 BB Producer	地址 Address	-	-
註 Note	-	-	-	-	-	File2 (Revised).jpg	-	-	-	-	-	14-10-2016	-
3	海報 Posters	10-10-2016	150	12-10-2016	150	<a href="http://www.XXX.com.hk/poster.jpg">http://www.XXX.com.hk/poster.jpg</a>	Permission. jpg	A3	大廈大堂 張貼 Posted at lobby of a building	CC 印刷 公司 CC Printing Company	地址 Address	-	-

註：只顯示曾被修正的資料。 Note: Only corrected particular(s) will be shown.

### 同意書 Consent

項目 Item	檔案 File	備註 Remark
1	Consent1.jpg	
2	Consent2.jpg	同意書已於 17-10-2016 撤銷 Consent revoked on 17-10-2016

[Added in October 2016]



# Methods of Folding of Election Mail 郵寄選舉郵件應採用的摺疊方法<sup>(1)</sup>

Figure 1 : Folder of A4 (296mm) size  
圖示一：對摺的A4（296毫米）尺寸紙張

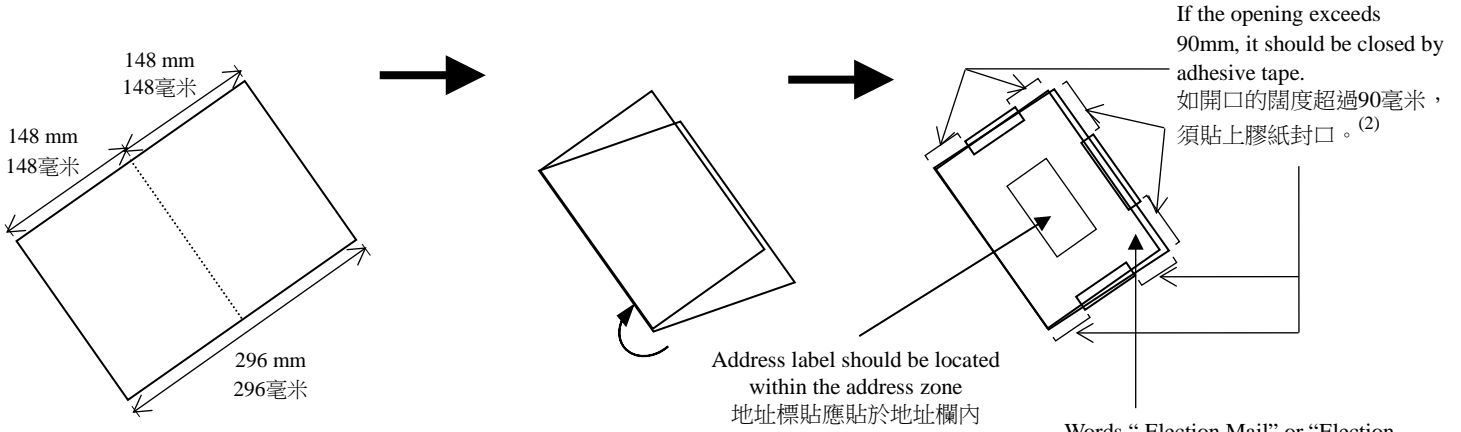


Figure 2 : Folder of A4 (296mm) size with 2 folds  
圖示二：兩摺的A4（296毫米）尺寸紙張

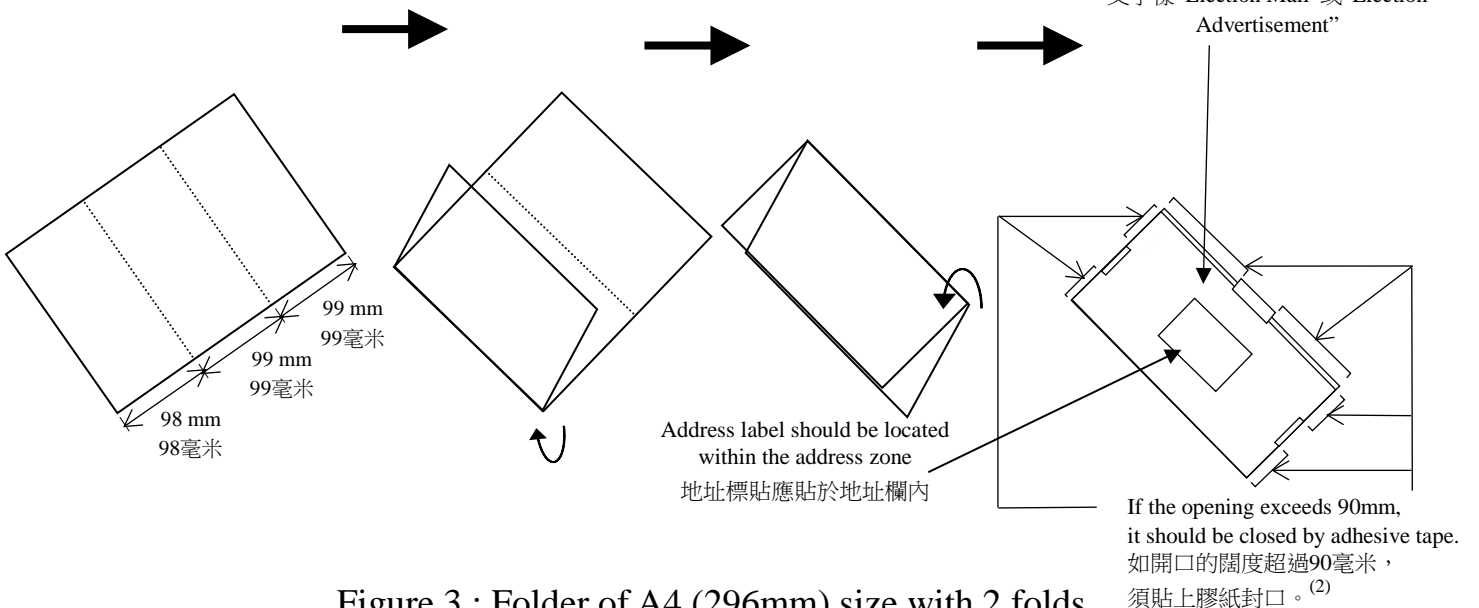
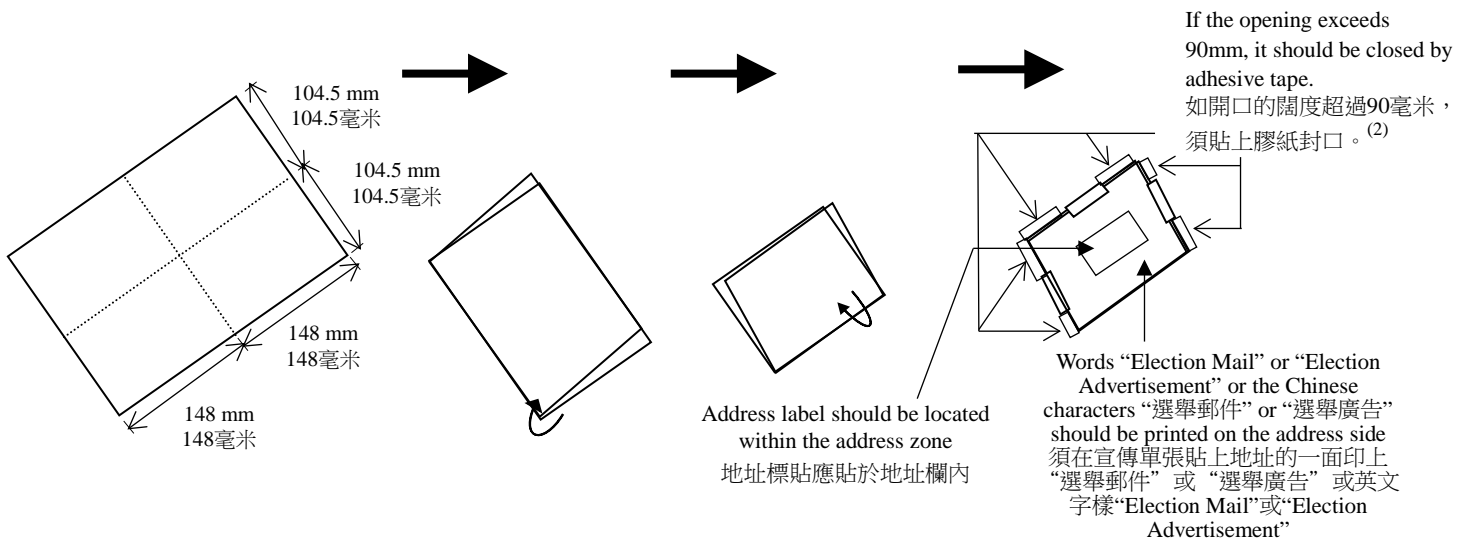


Figure 3 : Folder of A4 (296mm) size with 2 folds  
圖示三：兩摺的A4（296毫米）尺寸紙張



# Methods of Folding of Election Mail

## 郵寄選舉郵件應採用的摺疊方法<sup>(1)</sup>

Figure 4A&4B : Folder of A4 (296mm) size sealed with address label  
圖示四A及四B：以地址標貼封口的A4（296毫米）尺寸紙張

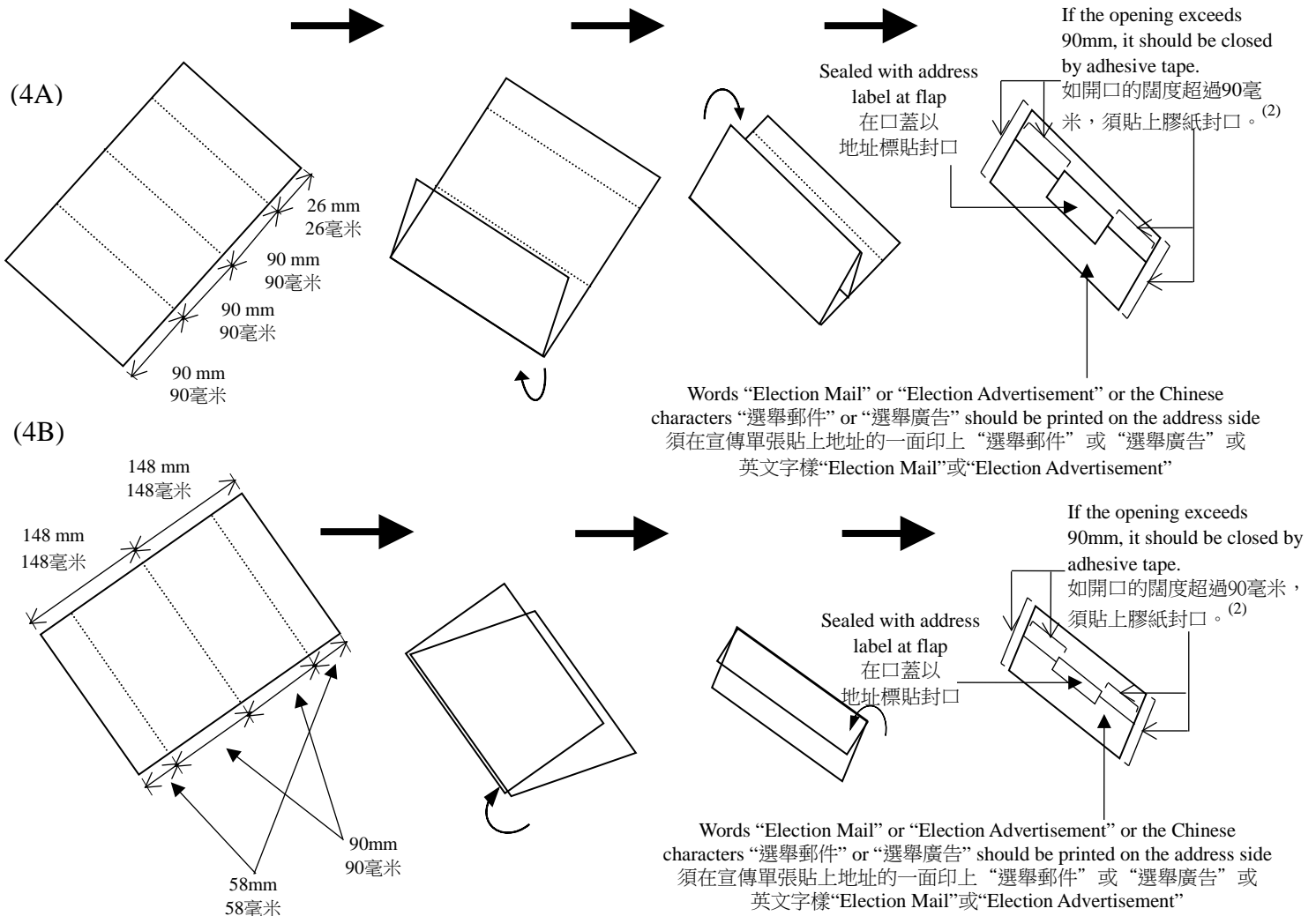
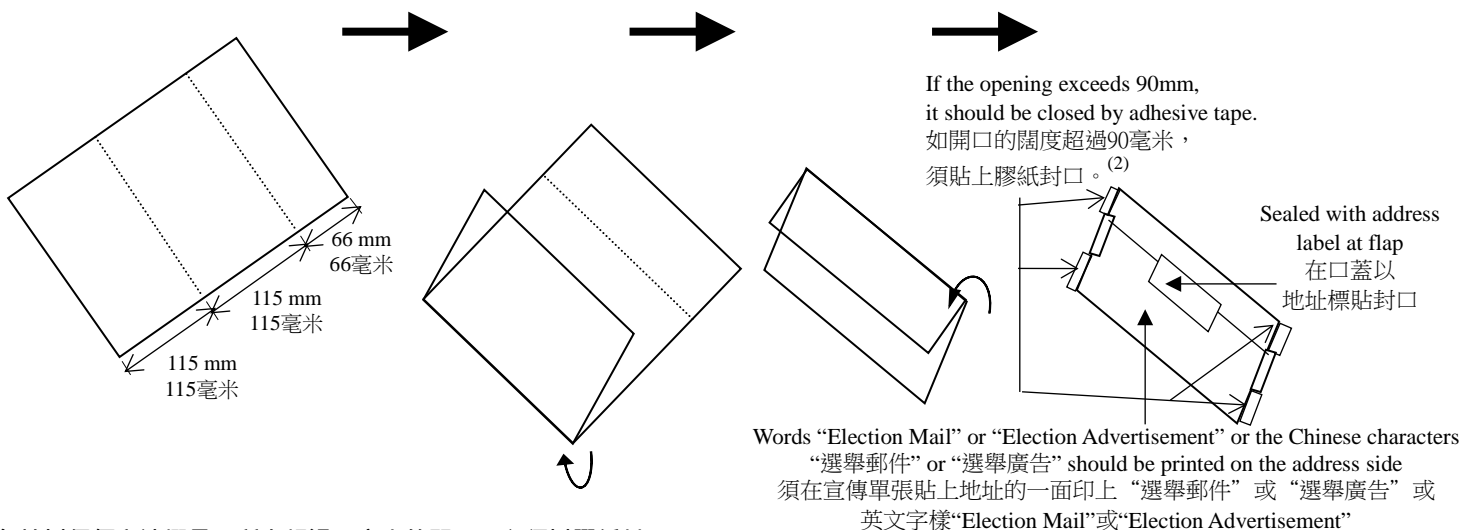


Figure 5 : Folder of A4 (296mm) size sealed with address label  
圖示五：以地址標貼封口的A4（296毫米）尺寸紙張



(1) 無論以任何方法摺疊，所有超過90毫米的開口，必須以膠紙封口。

For any methods of folding, all openings exceeding 90 mm should be closed by adhesive tape.

(2) 無論郵件的開口是否已經封口，所有開口部分不得超過90毫米，否則須以膠紙封口。

Regardless of whether the opening is closed or not, all openings shall not exceed 90 mm. Otherwise, they must be sealed with adhesive tape.

**Canvassing Activities which are Forbidden  
Within a No Canvassing Zone**

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(Note : 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. )

- (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) Displaying any propaganda material relating to any candidate or the election of the CE, except for static display of EAs mounted at designated spots approved by the Returning Officer.
- (4) Distribution of election advertisements.
- (5) Canvassing for votes by:-
  - (a) talking to electors;
  - (b) shouting slogans or the name or number of a candidate or any appeal message;
  - (c) singing or chanting; or
  - (d) making signals or signs to electors.
- (6) Broadcast of audio or video recording to appeal to or induce electors to vote.
- (7) Using loud-hailers or loudspeakers (whether carried by a person or mounted on a vehicle or installed in any other manner) to broadcast any message which appeals to or induce electors to vote.
- (8) Shaking hands with electors.

*[Amended in January 2007, November 2011 and October 2016]*

**Conduct of Electioneering Activities and Election Meetings in  
Premises under the Management of the Housing Department and  
the Hong Kong Housing Society**

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Candidates must obtain **prior approval** from the Housing Manager before conducting any electioneering activities or election meetings inside a housing estate, in addition to compliance with regulations and conditions imposed by other relevant authorities. An **application** for approval **should be made at least 2 clear working days (excluding Saturday, Sunday or public holiday) before the date of the meeting**, and the applicant will be notified as soon as practicable after a decision is arrived at. To avoid conflict that may arise from allowing 2 or more candidates and their supporters to hold election meetings in a housing estate at the same venue and time, the Housing Department and the Hong Kong Housing Society will process the applications as soon as practicable and will adopt the following arrangements:

- (a) if only 1 application for holding an election meeting at a particular venue and at a particular time is received, that application will be approved;
- (b) if 2 or more applications for the same venue and the same period are received by the Housing Department or the Hong Kong Housing Society 2 clear working days before the activity takes place, the applicants will be advised to negotiate among themselves to reach a compromise on condition that no canvassing from 2 or more groups will be held at the same place and at the same time to avoid any dispute or clash. If no compromise can be reached, allocation of venue or time will be made by the drawing of lots at a time to be decided by the relevant estate Housing Manager;

- (c) for the purpose of (a) and (b) above, an application for several periods will be dealt with as separate applications for each of the periods; and
  
- (d) the Housing Manager should send a copy of the letter of approval to the Returning Officer for record and for public inspection.

*[Added in January 2007]*



# Guidance Note

## Guidance on Electioneering Activities

### **Introduction**

This guidance note serves as a general reference on compliance with the requirements under the Personal Data (Privacy) Ordinance (the “**Ordinance**”) in relation to electioneering activities that may involve the collection and use of personal data of individuals. Very often, candidates and/or their election agents make electioneering approaches by telephone to prospective voters/voters. Candidates may also choose to lobby potential voters by other approaches such as fax messages, SMS/MMS or emails. In some cases, the relevant 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 register of electors.

### **Relevant Data Protection Principles**

The act of canvassing for votes is not in contravention of the Ordinance provided that handling of personal data is in compliance with the data protection principles in Schedule 1 to the Ordinance. Of particular relevance are the requirements under data protection principles 1, 2, 3 and 4 (“**DPP1**”, “**DPP2**”, “**DPP3**” and “**DPP4**”) set out in Schedule 1 to the Ordinance:

**DPP1(1)** requires that personal data shall not be collected unless the data is collected for a lawful purpose directly related to a function or activity of the data user; and the data collected is necessary, adequate but not excessive in relation to that purpose;

**DPP1(2)** requires that personal data shall be collected by means that are lawful and fair in the circumstances of the case;

**DPP1(3)** requires that on or before collecting personal data directly from a data subject, the data user shall take all reasonably practicable steps to ensure that the data subject has been informed of whether it is obligatory or voluntary for him to supply the data and the consequences for him if he fails to supply the data. The data subject shall be explicitly informed of the purpose of data collection and the classes of transferees to whom the data may be transferred as well as the name/job title and address of the individual to whom the request of access to and correction of the data subject’s personal data may be made;

**DPP2(2)** requires that all practicable steps must be taken to ensure that personal data is not kept longer than is necessary for the fulfillment of the purpose (including any directly related purpose) for which the data is or is to be used;

**DPP2(3)** requires that if a data user engages a data processor<sup>(1)</sup> (whether within or outside Hong Kong) to process personal data on its behalf, the data user must adopt contractual or other means to prevent any personal data transferred to the data processor from being kept longer than is necessary for processing of the data;

**DPP3** provides that personal data shall not, without the prescribed consent of the data subject, be used for a new purpose, i.e. any purpose other than the purpose for which the data was to be used at the time of the collection of the data or a directly related purpose;

(1) “Data processor” means a person who processes personal data on behalf of another person and does not process the data for any of the person’s own purposes.

**DPP4(1)** requires that all reasonably practicable steps shall be taken to ensure that personal data is protected against unauthorised or accidental access, processing, erasure, loss, or use; and

**DPP4(2)** requires that if a data user engages a data processor (whether within or outside Hong Kong) to process personal data on the data user's behalf, the data user must adopt contractual or other means to prevent unauthorised or accidental access, processing, erasure, loss or use of the data transferred to the data processor for processing.

### **Guidance for Candidates**

1. Candidates who seek to collect and use personal data in electioneering should be mindful of the provisions in DPP1, DPP2, DPP3 and DPP4.
2. Candidates should assume direct responsibility for briefing and supervising members of their campaign staff to ensure their compliance with the requirements of the DPPs.
3. When collecting personal data directly from an individual or indirectly from a third party (e.g. a trade union or professional body) for the purpose of electioneering, only adequate but not excessive personal data necessary for an electioneering purpose shall be collected (e.g. Hong Kong Identity Card number should not be collected).
4. Candidates who solicit personal data directly from an individual for electioneering should ensure that the individual is informed of the purpose of collection of the data.
5. Candidates should not collect personal data for electioneering by deceptive means or by mis-representing the purpose of the collection (e.g. collecting personal data in the pretext of opinion poll or assisting citizens to apply for government welfare).
6. With respect to the use of personal data gathered from the published register of electors, due care should be taken to ensure that it is used only for purposes relating to an election as prescribed by the relevant election legislations.
7. Should candidates want to use personal data from sources other than the register of electors for an electioneering purpose, express consent from the data subject must be obtained beforehand, unless the original purpose of collection of the data is directly related to the electioneering purpose.
8. With respect to the use of personal data gathered by a third party (e.g. a trade union or professional body) as a means of accessing members of those bodies for an electioneering purpose, the proper course of action would be for these bodies to determine whether this is a permitted purpose for which the personal data was collected, and such electioneering communication should preferably be handled by these bodies. As a matter of good practice, prior notification to members of such use of their data is recommended.
9. When candidates or their election agents contact individual voters for an electioneering purpose, they should inform the voters how they obtained the voters' personal data when being asked.
10. As a matter of good practice, when canvassing for votes from individuals directly by the candidates, their agents or indirectly through a third party (e.g. trade union or professional body), the individuals should be provided with an option to decline receipt of any subsequent electioneering communication in relation to the election from the candidates concerned so that they would not receive any unwanted electioneering communication from those candidates.

11. As a matter of good practice, candidates should maintain a list of individuals who, to their knowledge, find electioneering communication such as phone calls, mails, fax messages, emails or visits objectionable and avoid approaching them to canvass for votes.
12. When conducting electioneering activities, candidates and their election agents should safeguard the personal data in the list of voters held by them against accidental or unauthorised access by unrelated parties.
13. Candidates should not retain any personal data collected for an electioneering purpose after completion of all the electioneering activities.
14. When election agents are appointed or engaged by the candidates to process the personal data of voters on their behalf for electioneering purpose, the candidates must use contractual or other means to prevent the personal data transferred to the election agents from: (i) being kept longer than is necessary for the electioneering purpose; and (ii) unauthorised or accidental access, processing, erasure, loss or use. Reference can be made to the Information Leaflet on *Outsourcing the Processing of Personal Data to Data Processors*<sup>(2)</sup> issued by the Office of the Privacy Commissioner for Personal Data, Hong Kong.

**Office of the Privacy Commissioner for Personal Data,  
Hong Kong**

Enquiry Hotline: (852) 2877 7026  
 Fax: (852) 2827 2827  
 Address: 12/F, Sunlight Tower,  
 248 Queen's Road East, Wanchai,  
 Hong Kong  
 Website: www.pcpd.org.hk  
 Email: enquiry@pcpd.org.hk

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**Disclaimer**

The information provided in this guidance note is for general reference only. It does not provide an exhaustive guide to the application of the Personal Data (Privacy) Ordinance (the "Ordinance"). For a complete and definitive statement of the law, direct reference should be made to the Ordinance itself. The Privacy Commissioner for Personal Data (the "Commissioner") makes no express or implied warranties of accuracy or fitness for a particular purpose or use with respect to the above information. The above suggestions will not affect the functions and power conferred to the Commissioner under the Ordinance.

© Office of the Privacy Commissioner for Personal Data, Hong Kong  
 First published in June 2000  
 April 2004 (First Revision)  
 February 2007 (Second Revision)  
 April 2010 (Third Revision)  
 October 2011 (Fourth Revision)  
 August 2015 (Fifth Revision)

<sup>(2)</sup> Available at [www.pcpd.org.hk/english/resources\\_centre/publications/information\\_leaflet/files/dataprocessors\\_e.pdf](http://www.pcpd.org.hk/english/resources_centre/publications/information_leaflet/files/dataprocessors_e.pdf)



**Complaint Cases Provided by  
Office of the Privacy Commissioner for Personal Data (“OPCPD”)**

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In order to facilitate better understanding of the privacy concerns of the electors and compliance with the requirements of the Personal Data (Privacy) Ordinance (Cap 486), the OPCPD has provided the following 4 complaint cases for illustration purpose:

**Case 1**

This complaint relates to the collection and use of personal data. A complainant provided his name and telephone number to an incumbent member seeking his assistance in relation to disability allowance. Subsequently, the member used the complainant’s personal data without his consent for election publicity purposes. The member claimed that at the time when the complainant’s personal data was collected, the complainant had been verbally informed that his personal data would be used for communication purposes.

*In response to the complaint, the member agreed to provide a written personal information collection statement to individuals stating explicitly that the personal data collected would be used for electioneering purpose.*

**Case 2**

The complaint relates to the use of personal data. A complainant sought assistance from a political party in relation to the management of the building in which he resides and for this purpose supplied his personal data. Subsequently, the political party used the complainant’s personal data in canvassing him to vote for a candidate in an election.

*The OPCPD relayed the complainant’s concern to the political party. The party should obtain an express and voluntary consent from the complainant before using his personal data for electioneering purpose.*

**Case 3**

The complaint relates to the security of personal data. An incumbent member sent an email to a list of recipients canvassing vote for a candidate in an election without hiding the names and email addresses of the recipients (by, for example, use of “bcc”). The complainant, being one of the recipients of that email, complained that his name and email address were disclosed to all other recipients of that email.

*The OPCPD relayed the complainant’s concern to the member, with the advice that he should safeguard the security of the personal data of the electors when transmitting messages via electronic means.*

**Case 4**

The complaint relates to the use of personal data. A complainant enrolled in a course organised by a political party. After the completion of the course, the complainant was asked to fill in a questionnaire and provided her personal data for “communication purpose”. Subsequently, the political party used the complainant’s personal data in canvassing her to vote for a candidate in an election.

*The OPCPD relayed the complainant’s concern to the political party. In response, the party revised the personal information collection statement in the questionnaire by stating explicitly that personal data collected would be used for “electioneering purpose” and deleted the complainant’s personal data. The OPCPD accepted the remedial actions taken but warned the political party that enforcement notice may be issued if similar circumstances occur again.*

*[Added in October 2016]*

## **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 Chief Executive Election' 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/her 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 Chief Executive Election', organisers of election forums should be aware of the potential for possible instances of harassment of candidates.

5. In order to ensure that order, fairness and impartiality are maintained and to avoid any embarrassment, where a forum is to be held at private premises, prior precautions should be made with the owner, occupier, owners' corporation, building management or the mutual aid committee

concerned, to ensure the safety of all participants and the orderly proceeding of the forum. Where necessary, security guards should be employed at the forum venue.

### **Electioneering at Living or Working Places**

6. Chapter 9 of the ‘Guidelines on Election-related Activities in respect of the Chief Executive Election’ relates to the conduct of electioneering activities at the living or working places of electors, etc.

7. If a decision is made by the owners or owners’ corporations to allow electioneering by candidates, the decision can also set out the hours of access and other conditions. These conditions can also minimise the potential for confrontation and the harassment of candidates.

8. Related to this, candidates should be sensitive to the feelings of tenants, occupiers and owners in planning and carrying out electioneering activities. By doing so, they will ensure that such 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 which have right to control or manage the common parts of the building 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 October 2016]*

**Application for a Permit under S4(17)  
of Summary Offences Ordinance, Cap.228  
for Non-Charitable Purposes**

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This application should reach Division III of Home Affairs Department at 30/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. Non-charitable fund raising activities without permits for fund-raising for non-charitable purposes are subject to prosecution by the Police under S4(17) of Summary Offences Ordinance, Cap.228. For enquiries, please call 2835 1492.

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 (note) : \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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.)

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I declare that to the best of my knowledge and belief, the information supplied by me in this form is true and correct.

Signed : \_\_\_\_\_  
(Applicant)

(Chop of organisation, if applicable) Date : \_\_\_\_\_

\* Delete where applicable

(If there is not enough space in this form for the filling in of the required information, the applicant may provide details on a separate sheet of paper and attach it to the form.)

Note: If the activities concerned involve hawking in public places, please seek advice from the Food and Environmental Hygiene Department (Tel: 2879 5696 or 2309 2085) as to whether a temporary hawker licence is required.

September 2007



## **Statement of Purpose**

### Purpose of Collection

The personal data provided by means of this form will be used by Home Affairs Department for the purpose of :

“to exercise functions on fund-raising activities for non-charitable purposes”

### Classes of Transferees

2. The personal data you provided by means of this form may be disclosed to other Government bureaux, departments and relevant persons and bodies for the purposes mentioned in paragraph 1 above.

### Access to personal data

3. You have a right of access and correction with respect to personal data as provided for in sections 18 and 22 and principle 6 of Schedule 1 of the Personal Data (Privacy) Ordinance. Your right of access includes the right to obtain a copy of your personal data provided by this form.

### Enquiries

4. Enquiries concerning the personal data collected by means of this form, including the making of access and corrections, should be addressed to :

Executive Officer  
Home Affairs Department  
Tel. No. : 2835 1492

**Administrative Guidelines and Licensing Conditions**  
**for the issue of Public Fund-raising Permits**  
**for Non-Charitable Purposes**

Applications for permission under Section 4(17) of the Summary Offences Ordinance (Cap.228) to raise funds by collection of money or sale or exchange for donations of badges, tokens or similar articles 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.

Non-charitable fund raising activities without permits for fund-raising for non-charitable purposes are subject to prosecution by the Police under S4(17) of Summary Offences Ordinance, Cap.228.

A. Administrative Guidelines for Consideration

When considering an application for a public fund-raising permit under section 4(17) of the Summary Offences Ordinance, the Secretary for Home Affairs will normally wish to be satisfied that : -

- (i) the organisation or group on behalf of which the permit is sought, and the organisation or group to benefit from the collection if different, are, where applicable, properly registered under the laws of Hong Kong;
- (ii) if the applicant is an individual, he should be aged 21 or above, and should either be a permanent resident of Hong Kong within the meaning of the Immigration Ordinance, or have been ordinarily resident in Hong Kong for a minimum of seven years;
- (iii) the funds collected will be used for purposes which would contribute directly or indirectly to the development of representative government in Hong Kong;
- (iv) the fund-raising activity will not cause public order and public safety problems, and will not cause nuisance or harassment to the general public;
- (v) the fund-raising activity should not be held on a morning which is a “flag day” approved by the Director of Social Welfare unless it is to be held in a confined public place;
- (vi) the fund-raising activity should not be held at the same time and in the same venue or its vicinity as a charitable fund-raising activity;

- (vii) there will be no more than one non-charitable fund-raising activity in the same venue or its vicinity on the same day except where the activities are organised by the same applicant;
- (viii) there will be a fair distribution of venues, dates and frequency of fund-raising among all potential applicants; and
- (ix) the permittee who had breached the conditions stipulated in the permit last granted would not be considered for a new permit unless explanations/justifications have been provided to the satisfaction of the Secretary for Home Affairs.

Each application will be considered on its own merits having regard to the above administrative guidelines.

#### B. Licensing Conditions

The following conditions will normally be imposed if an application is approved : -

- (i) permission must have been obtained or is likely to be forthcoming from the relevant authorities, including the authority responsible for the management of the venue(s), for the fund-raising activity to be held;
- (ii) the funds collected will not be used to finance any profit-making ventures or activities;
- (iii) the funds collected will be used only in Hong Kong;
- (iv) no person will benefit improperly from the collection;
- (v) the permission given for the fund-raising activity is only valid for the details specified in the permit. If there are any changes to such details, the approval of the Secretary for Home Affairs will be required;
- (vi) the permission given for the fund-raising activity will become null and void if the funds collected are used for purposes other than those specified in the permit;
- (vii) within 90 days after the conclusion of the fund-raising activity, the permittee will cause the money received from the public, less any reasonable expenses incurred, to be applied for the purpose for which the permission is given;
- (viii) if after applying the funds collected as described in (vii) above, there is still a balance left, the permittee will donate the unspent funds to a charitable institution which is exempt from tax under section 88 of the Inland Revenue Ordinance (Cap.112) for charitable purpose;

- (ix) the funds collected will be audited by a qualified accountant arranged by the permittee. A copy of the audited accounts will be submitted to the Secretary for Home Affairs within 90 days after the conclusion of the fund-raising activity. The audited accounts will also be made available to members of the public for inspection upon demand;
- (x) all donations are to be purely voluntary, and that the activity shall not create public order problems or cause nuisance, including excessive noise, or harassment to the general public, and that the manner in which the activity is conducted should not be such as to be likely to produce a reaction generally against public fund-raising activities;
- (xi) during the course of the fund-raising activity, the name of the organisation and a copy of the permit/approval letter should be prominently displayed. Every participant of the activity should also wear a clear and legible badge identifying the name of the participant and the name of the organisation; and
- (xii) children under the age of 14 must not be allowed to take part in the activity. Participation by young persons between the age of 14 - 18 must be entirely voluntary and the prior written consent of parents must be obtained.

The Secretary for Home Affairs may, if a particular application so warrants, impose additional conditions such as those required for the protection of the participants in the fund-raising event, for the preservation of law and order, for crowd control, or for public safety purposes. In specific circumstances, he may waive certain conditions where it appears reasonable for him to do so.

**Observations made by the Court in an Election Petition relating to  
a Television Programme on 2010 Legislative Council By-election**

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1. A candidate of the 2010 Legislative Council By-election made an election petition relating to a multi-episode television programme which introduced the election platforms of all candidates of the By-election. Due to the airtime constraint, only four candidates were introduced in each episode and the time allocated to each candidate was more or less the same.

2. There were five candidates in the constituency in which the aforesaid candidate contested and the candidate number allocated to him was 5. According to the candidate number, the broadcaster of the television programme mentioned above introduced the first four candidates of that constituency in the same episode, while the aforesaid candidate was covered in the next episode. However, there was no mention in the episode on the first four candidates that there was a remaining candidate in that constituency who would be introduced in the next episode. The Court considered that it was possible that such arrangement might cause misunderstanding to the audience who only watched the former episode that there were only four candidates in the constituency concerned.

3. The EAC considers that the broadcaster should let the audience know: (a) the total number and the names of all candidates in each relevant episode; and (b) the episode which will cover or has covered the candidate(s) who is/are not introduced in the current episode. Such an arrangement will ensure that the audience will be fully aware of the total number of candidates even if they watch only one single episode instead of all episodes and that equal treatment will be given to all candidates concerned.

4. Where appropriate, broadcasters are advised to follow the arrangement set out in paragraph 3 above when producing multi-episode programmes which are election-related.

*[Added in November 2011]*

## **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. 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. 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 alike.
5. If there is fair and equal treatment of all candidates 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 information on the make, model and registration mark (or vehicle identification number in the case of a brand new vehicle) of the vehicle to be used as a float.
  
2. The application should be accompanied by 3 copies of a drawing, certified by qualified electrical or mechanical engineers, in minimum A3 size, showing the following details:
  - the float and vehicle outline, side, plan, front and rear view, with all major dimensions (both proposed and original) shown
  - the means of entry/exit to and from the driver's compartment
  - location of mirrors which will enable the driver to view both sides of the float
  - location of exhaust outlets from any internal combustion engines
  - location of any auxiliary power equipment installed
  - means of communication with the passengers on the float
  - location of passengers and support for passengers (seats, handles, etc.) on the float

Applicant's attention is drawn to regulation 53(2) of the Road Traffic (Traffic Control) Regulations (Cap 374G) on requirements for carriage of passengers: No driver of a vehicle on a road shall permit a passenger to travel in the 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 **1 month** in advance of the date of the event to:

Engineer (Vehicle Approval and Planning)  
Vehicle Safety and Standards Division  
Transport Department  
Room 3402, Immigration Tower  
7 Gloucester Road  
Hong Kong  
(Contact telephone : 2829 5550  
Fax : 2802 7533)

4. If the application is approved in principle (subject to the vehicle inspection results), the applicant will be so advised within 14 days upon the receipt of the application, and also informed of further details of the vehicle inspection.
5. In case the design is considered unacceptable, the applicant should resubmit revised drawings within 1 week's time upon notice.

*[Amended in November 2011]*



**Observations made by the Court of Final Appeal  
in a case touching upon Election Expenses  
(FACV No. 2 of 2012)**

---

Expenses are likely to qualify as “election expenses” if they meet the following five criteria:

1. They have been incurred by or on behalf of a candidate (as such a person is defined under s 2(1) of the ECICO).
2. Having identified the activities or matters to which the relevant expenses relate, such activities or matters are referable to a specific election.
3. Such activities or matters go to the conduct or management of the election, in particular to the machinery of the election.
4. The expenses were incurred for the purpose of promoting the election of the relevant candidate or prejudicing the election of another candidate.
5. The activities or matters financed by the expenses have taken place or occurred either during the election period (as defined in s 2(1) of the ECICO) or during the period when the relevant person was a candidate.

There are two further inquiries as well:

1. The date when the relevant expenses were incurred should be ascertained (although this is not a critical question since election expenses may be incurred before, during or after an election period).
2. In relation to the relevant activities or matters of which the expense may be incurred for more than one purpose, it should be considered whether an apportionment exercise appropriate between election expenses and non-election expenses is necessary.

Notes:

1. If there is any inconsistency or ambiguity between the English version and the Chinese version of this Appendix, the English version shall prevail.
2. If you have doubt as to whether an election expense falls within the criteria as mentioned above or whether an expense should be regarded as an election expense, you should consult independent legal advisor, and any legal fees so incurred will not be regarded as election expenses.

*[Added in October 2016]*

**Items of Expenses which may be  
Counted towards Election Expenses**

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(Note : This list is by no means an exhaustive list of items of expenditure which may be counted as election expenses. It only serves to illustrate the common items of such expenses.)

- (1) Fees and allowances, including travelling expenses, paid to agents and assistants engaged in relation to one's election activities.
- (2) Costs incurred for meals and drinks for agents and assistants before and on polling day.
- (3) Costs incurred for design and production of election advertisements such as:
  - (a) banners
  - (b) signboards
  - (c) placards
  - (d) posters
  - (e) handbills
  - (f) publicity pamphlets
  - (g) video and audio recordings
  - (h) electronic messages
  - (i) various forms of literature or publicity material for the promoting the election of a candidate or candidates or prejudicing the election of another candidate or candidates.

[Note: Costs incurred for publicity materials to give thanks to electors for their support after the election will not be counted as election expense.]

- (4) Costs incurred for display and removal of election advertisements including labour charges. If the election advertisements have not been removed by the deadline specified by the EAC, the removal costs for the election advertisements charged by the government departments should also be included.

- (5) Costs incurred by the relevant authorities for removal of election advertisements displayed without authorisation.
- (6) Costs incurred for renting space used in connection with the election campaign.
- (7) Costs of stationery used in connection with the election campaign.
- (8) Operation/miscellaneous costs in connection with the election campaign, e.g. photocopying, hire of telephone line and fax line.  
[Note: Election deposit will not be counted as election expense.]
- (9) Postage for mailing of publicity materials (excluding free mailing service provided by the Government).
- (10) Costs incurred for the hire of transport in connection with the election.
- (11) Costs incurred for publicity by vehicles. (Remarks: If vehicle is lent to the candidate by any person(s) without charging the candidate, the candidate is also required to declare the estimated market value of rental of similar vehicles in his election return apart from reporting the free service or good as election donation.)
- (12) Costs of advertisements in media, 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 materials for election agents and assistants.
- (15) Costs incurred for refurbishing as well as the estimated value of old publicity boards.
- (16) Costs incurred in the publication by a candidate during the election period (i.e. from the commencement of the nomination period to the day on which a declaration is made under s 22 of Cap 569; or the day on which the polling ends) of a document that gives details of work

done by the candidate in the capacity of:

- (a) the Chief Executive;
  - (b) a member of the Legislative Council, a District Council or the Heung Yee Kuk;
  - (c) the Chairman, Vice-chairman or a member of the Executive Committee of a Rural Committee; or
  - (d) a Rural Representative.
- (17) Costs incurred by the organisation of the candidate in promoting his/her election. [Note: Costs of meeting where the platform of the organisation is publicised without specific reference to the candidate will not be counted as election expenses.]
- (18) Costs for obtaining legal advice incurred in respect of the conduct or management of an election (e.g. where a candidate asks his/her lawyer to vet an election publicity pamphlet to make sure that statements contained in it do not amount to libel). [Note: Fees incurred for obtaining (a) legal advice on the general interpretation/application of the electoral laws including whether a particular item of expense can be regarded as “election expenses” and “election donations”, and (b) professional advice on the apportionment of expenses between purposes related to an election and any other purposes, will not be regarded as election expenses.]
- (19) 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 an election donation and correspondingly as an election expense. A reasonable amount should be assessed by reference to the market interest rate.]
- (20) Subsidy of activities organised for promoting one’s candidature is a form of election donation which is counted as election expense (e.g. (a) allowance paid to the workers in the activities organised by an organisation for promoting the candidate and/or (b) the sponsorship made by the organisation for the said activities).

- (21) Although some people may not charge the candidate for the goods supplied or work, labour and services rendered (except voluntary services), a reasonable sum estimated for such charges, over any allowance or discount usually given to customers, is an election expense (which is correspondingly an election donation made by these people).
- (22) Goods given incidental to the provision of voluntary service.
- (23) Costs for charities undertaken for the purpose of promoting one's candidature.
- (24) Costs for any negative publicity launched against one's opponent.

*[Amended in November 2011 and October 2016]*

**Guidelines on Election-related Activities  
in respect of the Chief Executive Election  
Elaboration of Paragraph 16.8 of Chapter 16**

---

A candidate for the 2002 Chief Executive Election through his lawyers has raised questions about the ambit of paragraph 15.6 of the Guidelines on Election-related Activities in respect of the 2002 Chief Executive Election (“the Guidelines”) [i.e. paragraph 16.8 of the present Guidelines], whether the use of incumbent Chief Executive’s office at the Central Government Offices will be considered to be use of public resources and whether the expenses involved will be counted as election expenses.

The Electoral Affairs Commission gave the following answers on 24 December 2001:

The four examples given in paragraph 15.6 of the Guidelines [i.e. paragraph 16.8 of the present Guidelines], namely, security, transportation, secretarial services and living quarters, that are not considered to be public resources, are intended to be illustrative rather than exhaustive.

The Electoral Affairs Commission also understands that it would be impracticable for the incumbent Chief Executive not to deal with matters concerning his election from his office at the Central Government Offices as his election agents and staff might from time to time attend his office and brief him on matters concerning the election. While we accept that such contacts at his office are neither election meetings nor election forums, and we consider that using the office is not a use or misuse of public resources in the context of the Guidelines, we are of the view that a certain proportion of the office rental should be accounted for as election expenses. The method to compile the account in this respect, we suggest, is to assess the rental for the office at which the contacts are made at a reasonable rate, such as how many dollars per square foot per month, and make a record of the time spent in the office for the election-related matters. The election expenses would be the amount of time used for such matters multiplied by the monthly rental and divided by the number of hours for which the office is normally used.

The interpretation of election expenses and their ambit is within the exclusive function of the Independent Commission Against Corruption and the Department of Justice, and our view must be deferred to theirs.

*Dated 24 December 2001*

### **Collection of Election Donations**

Any person or organisation<sup>14</sup> acting as an agent to solicit, receive or collect election donations for a candidate or some candidates is advised to:

1. have the prior consent/authorisation of the candidate(s);
2. set up a dedicated ledger account for receiving and handling the election donations;
3. state the apportionment of the donations between candidates or other parties if more than one candidate or other parties are involved;
4. comply with all the requirements under the ECICO in respect of election donations as if the donations are received by the candidate(s) direct. For example, if the donation is more than \$1,000, a receipt to the donor by the concerned candidate instead of the agent should be issued to the donor;
5. ensure that clear information is provided to donors so that they are fully aware of the purpose/use of their donations; and
6. apply to the Secretary for Home Affairs for permission if the donations are collected through fund-raising activities in a public place for non-charitable purposes.

On the other hand, while candidates would not be prohibited to solicit donations on the behalf of any organisations, they must make sure that the message is clear enough so that members of the public are adequately advised of the purpose and nature of the donation and would in no circumstances be misled to believe that the donation was solicited and used for the election of the candidates themselves.

*[Added in October 2016]*

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<sup>14</sup> All costs incurred by the person or organisation during the process of rendering the relevant service to the candidate(s) in this regard should be counted towards election expenses and the relevant requirements governing authorisation of election expenses agents as set out in Chapter 7 must be complied with. If the person renders his/her service for the candidate free of charge, voluntarily, personally and in his/her own time, the service is regarded as "voluntary service" according to section 2 of the ECICO. The candidate is, therefore, not required to include such service costs in his/her election expenses (this exemption does not apply to the service rendered by an organisation).

**Guidelines for Candidates on  
Sending Election Advertisements to Registered Electors in the  
Custody of the Correctional Services Department**

---

**(Note: The following guidelines serve to illustrate some of the articles which, if possessed by electors in the custody of the Correctional Services Department (“CSD”), may cause security hazards to prison, and will be rejected if they are mailed to them. The list of articles set out below is by no means exhaustive.)**

For security reasons and to maintain good order and discipline of the prison, any electoral advertisements (“EA”) mailed to registered electors in the custody of the CSD will be subject to security checking and will be refused if the EA falls within any of the following categories:-

**Materials**

- (a) made of metal or plastic ;
- (b) laminated;
- (c) sharp object; or
- (d) coated with powder-like material.

**Content/Information**

- (a) on how to manufacture arms, ammunition, weapon, explosive, harmful or deleterious substance, intoxicating liquor, or any dangerous drugs within the meaning of the Dangerous Drugs Ordinance (Cap 134);
- (b) depicts, describes or encourages violence in the prison, or the escape by any inmate/prisoner from the prison;
- (c) is of such a nature as to facilitate gambling in the prison, or is otherwise detrimental to the rehabilitation of any of the electors in the custody of the CSD;
- (d) is of such a nature as to encourage the commission of any offence enumerated in Prison Rules (Cap 234A) or of any criminal offence by any of the electors in the custody of the CSD;



- (e) is of such a nature as to pose a threat to any individual's personal safety or to the security, good order and discipline of the prison; or
- (f) obscene/indecent.

Size & quantity

- (a) bigger than A4 size; or
- (b) exceptionally bulky.

Remarks: In case of queries, please contact Principal Officer (Penal Operations)3 of CSD at 2582 4023.

Correctional Services Department  
January 2015

# **INDEX**

## Index

(The numbers indicate paragraph numbers)

<i>a</i>	
action checklist for candidates.....	1.18, Appendix A
actors, during election period.....	11.12-11.13
admission	
- counting station (see also counting station).....	5.41, 7.48
- polling station (see also polling station).....	5.17-5.18, 7.22-7.23, 7.28-7.30
advance return of election donations (see also <i>donation</i> ).....	16.35-16.37
advisory service to candidates.....	1.19
advertising	
- through the electronic media.....	11.1
- through the internet platform.....	8.4, 8.44-8.47, Appendix A, Appendix D
- through the printing media.....	8.52, 11.16-11.19
agent	
- counting (see <i>counting agent</i> )	
- election (see <i>election agent</i> )	
- election expense (see <i>election expense agent</i> )	
- polling (see <i>polling agent</i> )	
allocation of designated spots .....	8.23-8.24, 8.27-8.31
amplifying device (see also loud-hailer, <i>loudspeaker</i> , <i>sound amplifying device</i> )	
- restrictions.....	5.14, 9.14, 12.2-12.5, 12.10, 14.10
- sanction by Electoral Affairs Commission (“EAC”).....	12.4, 12.11
- time restriction.....	9.14, 12.4
- vehicles.....	12.4, 12.6-12.9
anonymous donations (see also <i>donation</i> ).....	16.21, 16.27
appeal against the decision of the Court of First Instance.....	6.3
appointment	
- counting agent (see also <i>counting agent</i> ).....	7.41
- election agent (see also <i>election agent</i> ).....	7.6-7.7
- election expense agent (see also <i>election expense agent</i> )...	7.15-7.16, 16.11, 16.13
- polling agent (see also <i>polling agent</i> ).....	7.21
assistance to incapacitated elector (see also disability of electors and elector).....	
.....	5.25, 7.36-7.37

<i>b</i>	
badge, emblem, clothing or head-dress (see also <i>propaganda material</i> )	5.14, 5.36, 5.46, 7.33, 7.38, 8.2, 14.10, Appendix F
ballot box	
- delivery	5.39, 5.40, 7.31
- locking and sealing	
- at the close of poll	5.39, 7.31
- before commencement of poll	5.10, 7.31-7.32
- opening	5.40, 7.46
ballot paper	
- counting	5.40,-5.44
- disposal	5.52-5.54
- invalid	5.43, 5.47-5.50
- issuing desks	5.20
- marking	5.28, 5.31,7.31
- chop	4.3, 5.20, 5.29, 7.37
- not to be counted	5.50
- questionable	5.43, 5.48-5.51, 7.46
- spoiled	5.30, 5.47, 7.31
- tendered	5.24, 5.47, 7.31
- unissued	5.11, 7.31
- unused	5.25-5.27, 5.47, 7.31
- validity	5.43, 5.48-5.50
ballot paper account	5.43, 5.44
braille template (see also <i>elector with visual impairment</i> )	7.37
breach/non-compliance of the Guidelines	1.21, 8.58, 9.28, 12.11, 13.10, 16.39, 17.26, 17.29, 20.1, 20.4, 20.14
bribery (see also <i>corrupt conduct</i> )	3.17, 17.5, 17.13
broadcasting (see also <i>election broadcasting</i> )	
- fair and equal treatment	11.3-11.8, 11.11, 11.17, 11.19-11.22
- no unfair advantage	11.6, 11.21
- participation by candidates	11.5, 11.9, 11.14
- political advertising	11.2
- relating to exit poll results	15.2
- restrictions on presenters, regular contributors, actors, musicians, singers or other entertainers who are candidates	11.12-11.13
by-election, subsector (see also <i>election</i> and <i>subsector by-election</i> )	2.3

## c

## candidate

- action checklist ..... 1.18, Appendix A
- appearing in commercial advertisements ..... 11.14-11.15
- attendance of public functions ..... 19.9
- definition .....  
Important Note under 8.1, Important Note under 11.1, Important Note under 19.1
- disqualification ..... 3.1, 3.4
- eligibility ..... 3.1-3.3
- false statement (see also *false statement*) .....  
..... 16.29-16.34, 16.44, 17.8-17.9, 20.18
- lodging of complaint inside polling station ..... 7.40, 20.9
- nomination (see *nomination of candidates*)
- open platform for public inspection .....  
..... 8.44-8.50, 17.10-17.11, 18.5, 18.11, Appendix D
- withdrawal ..... 3.15
- Candidates' Briefing ..... 3.19

## canvassing activities

- in a prison or the premises of a law enforcement agency ..... 9.8
- in no canvassing zone ..... 5.13-5.14, 7.38, 8.26, 12.10, 14.2, 14.10-14.13, 15.8
- involving pupils ..... 13.1-13.9
- outside a polling station (see also *polling station*) .....  
..... 5.3, 5.14, 12.10, 14.1-14.3, 14.10-14.13, 15.8
- using loudspeaker (see *amplifying device*)
- using vehicles ..... 12.4-12.9

censure (see also *reprimand*)

- abuse of free postage services ..... 8.85
- breach of time restriction when using loud-hailers ..... 9.14, 12.4
- breach/non-compliance of guidelines .....  
..... 1.21, 8.58, 9.28, 12.11, 13.10, 16.39, 17.26, 17.29, 20.14
- corrupt and illegal conduct ..... 17.29
- exit poll ..... 15.11
- false claim of support ..... 17.29
- involving youths of school age ..... 13.2, 13.10
- opportunity to make representations ..... 20.14
- unauthorised display of election advertisements ..... 8.26, 8.58
- unauthorised electioneering against the decision of an organisation or building  
..... 9.10
- unfair and unequal treatment ..... 9.21, 9.27-9.28, 11.23-11.24

Central Platform for public inspection .....	
.....	8.44-8.50, 17.10-17.11, 18.5, 18.11, Appendix A, Appendix D
Chief Electoral Officer (“CEO”) (see also <i>Registration and Electoral Office (“REO”)</i> )	
- authorising public officers to enter polling or counting station .....	5.17, 5.41
- Central Platform maintained by the CEO or a person authorized by the CEO .....	8.50, Appendix D
- designating polling and counting station .....	5.1, 5.13
- keeping sealed packets of documents for safe custody .....	5.53
- reporting irregularities to EAC .....	20.11, 20.17
chop (see also <i>ballot paper</i> ) .....	4.3, 5.20, 5.29, 7.37
civil servants (see also officials under the Political Appointment System)	
- attending public functions .....	19.1, 19.4-19.9
- civil servants acting as agents for candidates .....	7.5, 19.2
- supporting electioneering activities of a candidate .....	7.5, 19.2-19.3
claim of support .....	8.32, 17.10-17.12, 18.1-18.12
close of poll .....	5.25, 5.39, 15.4
columnist (see <i>regular columnist, restrictions to contribute articles</i> ) .....	11.18
commercial advertisements, candidates appearing in .....	11.14-11.15
common parts of building (see also <i>fair and equal treatment principle</i> ) .....	
.....	8.6, 8.21, 9.1, 9.6, 9.18-9.22, 9.24, Appendix J
communication network/websites .....	8.4, 8.44
complaints	
- against conduct, behaviour or acts of RO or REO officers .....	20.5
- against criminal, illegal or corrupt activities .....	20.2
- containing false statement (see also <i>false statement</i> ) .....	20.18
- duties of CEO, Presiding Officers (“PRO”), Deputy PRO, Assistant PRO and Returning Officer (“RO”) .....	20.10-20.11, 20.17
- hotline .....	20.7, 20.9
- inside polling station .....	7.40, 20.9-20.10
- obligations of the RO, PRO and the CEO .....	20.17
- period .....	20.6
- procedure .....	7.40, 20.7- 20.10
- processing .....	20.11-20.15
- relating to breach of Guidelines or Regulation .....	
.....	8.58, 9.10-9.11, 16.39, 17.26, 20.1, 20.4
- relating to display of election advertisements .....	8.58, 20.14
- report to Chief Executive .....	20.16
Complaints Committee .....	
.....	9.10-9.11, 16.39, 20.3-20.5, 20.9, 20.11-20.13, 20.15, 20.17-20.18

conduct at	
- counting station (see also <i>counting agent</i> and <i>counting station</i> ).....	5.41-5.46, 7.46-7.48
- polling station (see also <i>polling agent</i> and <i>polling station</i> ).....	5.36-5.39, 7.33-7.34
consent	
- consent of support (see also <i>namedropping</i> ).....	8.15, 8.84, 17.10-17.12, 18.1-18.12
contributor.....	11.12-11.13
corrupt and illegal conduct	
- election expenses and election donations.....	7.7, 7.16, 16.9-16.10, 16.41-16.46, 17.16, 17.21
- electioneering and voting.....	7.39, 17.13 -17.20
- ICAC, Information booklet.....	17.2
- non-compliance and sanction (see also <i>censure</i> and <i>reprimand</i> ).....	17.26-17.31
- penalty.....	17.3, 17.30
- power of court to excuse innocent acts.....	17.22-17.25
corrupt conduct	
- bribery.....	17.5, 17.13
- deception.....	17.5-17.6
- deface of nomination paper.....	17.7
- duress.....	17.6-17.7, 17.18-17.19
- election expenses and donations.....	17.16, 17.21
- force.....	Important Note under 3.15, 5.32, 17.5-17.6, 17.18-17.19
- nomination and withdrawal of candidates.....	17.5-17.7
- penalty.....	17.3, 17.30
- treating.....	10.3, 17.14-17.17
- voting offences.....	17.20
corruption, ICAC Information booklet (see also <i>ICAC, Information booklet</i> ).....	17.2
counting, rules relating to.....	5.40-5.51
counting agent	
- appointment.....	7.41
- civil servants acting as agents.....	7.5
- conduct inside counting station.....	5.41-5.46, 7.45-7.48
- number.....	7.3
- qualification.....	7.4
- revocation.....	7.42
- role.....	7.43
counting of votes	
- presence.....	5.40-5.41, 7.43

counting of votes ( <i>Cont'd</i> )	
- process.....	5.40-5.46
- re-count of votes.....	5.45
counting officer/staff.....	5.40-5.41, 5.49, 7.5, 7.46, 19.2
counting station	
- admission.....	5.41-5.42, 7.48
- conduct inside (see also <i>conduct at</i> and <i>counting agent</i> ).....	5.41-5.46, 7.45-7.48
- designation.....	5.1
- display of notice of result.....	5.44
- photographing, filming and video or audio recording.....	5.45
- public area.....	5.42
- public observation.....	5.2, 5.41
counting zone.....	5.2, 5.40, 5.45
Court of Final Appeal.....	3.5, 6.3, Appendix O
Court of First Instance.....	3.5, 6.3, 7.19-7.20, 8.59, 16.26, 16.29, 16.30, 16.34, 16.38, 17.23-17.25, Appendix A
court, power to excuse innocent acts.....	17.22-17.25

## *d*

date	
- allocation of number to candidates by drawing of lots.....	3.19
- deadline for postage-free election advertisement to reach addressees before polling day.....	8.77
- election or polling.....	1.4
- nomination.....	3.5
- sending in material for inclusion in Introduction to Candidates.....	3.21
- sending polling notice.....	5.7
- suggestions of designated spots to reach the CEO.....	Note under 8.19
death or disqualification of a candidate.....	3.1, 3.4
declaration	
- for using free postage.....	8.82
- omitted printing details.....	8.53
- result of election (see also <i>election or result</i> ).....	5.44
Declaration of Secrecy	
- counting station.....	5.42, 7.44-7.45
- polling station.....	5.19, 7.29-7.30, 7.33



dedicated polling station.....	
.....	5.1,5.4-5.6, 5.9-5.10, 5.12-5.13, 5.16-5.18, 5.23, 5.25, 5.35-5.37,
7.3, 7.9, 7.11-7.14, 7.22, 7.25-7.26, 7.28, 7.34, 7.38, 14.10, 15.6, Appendix A	
delivery of ballot box (see also <i>ballot box</i> ).....	5.39, 7.31
delivery of return and declaration of election expenses and election donations (see	
also <i>return and declaration of election expenses and donations</i> ).....	16.26-16.37
deposit, consent of support (see also <i>consent of support</i> ).....	
.....	8.15, 17.10-17.11, 18.7, 18.10-18.11
deposit, election advertisement with RO (see also <i>election advertisement</i> ).....	
.....	8.44-8.50, Appendix A, Appendix D
deposit, permission or authorisation to display election advertisement (see also	
<i>election advertisement</i> ).....	8.16-8.17, 8.20, 8.25, 8.30, 8.44-8.50, 10.22
designated spot for displaying election advertisement (see also <i>election advertisement</i> )	
.....	3.19, 8.17-8.24, 8.27-8.31, 8.33, Appendix A, Appendix D
determination of	
- no canvassing zone (see also <i>no canvassing zone</i> ).....	
.....	5.3, 5.13, 14.3-14.4, 14.6-14.8
- no staying zone (see also <i>no staying zone</i> ).....	5.3, 14.3-14.4, 14.6-14.8
- polling and counting station (see also <i>polling station</i> and <i>counting station</i> ).....	
.....	5.1-5.2
disability of electors (see also <i>elector</i> )	
- marking of ballot paper.....	7.36
- template (see <i>braille template</i> )	
dismounting of election advertisement (see also <i>election advertisement</i> ).....	8.40
display of election advertisement (see also <i>election advertisement</i> ).....	
.....	3.19, 8.17-8.24, 8.27-8.31, 8.33, Appendix A, Appendix D
disposal of documents and ballot papers.....	5.52-5.54
disposal of election donation (see also <i>donation</i> ).....	16.19, 16.21, 16.27, 16.42
disqualification	
- candidate (see also <i>candidate</i> ).....	3.4
- EC Members(see also <i>elector</i> ).....	2.5
- from voting.....	2.6
distribution of election advertisement (see also <i>election advertisement</i> ).....	
.....	8.1, 8.49, 9.1, 9.24, 13.4
document that gives the details of the work done (see also <i>election advertisement</i> ).....	
.....	8.7, 8.9, Appendix P
donation (see also <i>election donation</i> )	
- advance return.....	16.35-16.37
- anonymous.....	16.21, 16.27

donation (see also *election donation*) (*Cont'd*)

- definition ..... 16.4
- disposal ..... 16.19, 16.21, 16.27
- in kind ..... 16.4, 16.18, 16.21, 16.23-16.25
- purpose ..... 16.4-16.5, 16.16-16.17, 16.21, 16.25
- receipt ..... 16.21, 16.27-16.28, Appendix A
- return (see also *return and declaration of election expenses and election donations*) ..... 16.23-16.28

## drawing of lots

- allocation of number to candidate ..... 3.19
- allocation of designated spots ..... 8.23, 8.29, 8.31
- allocation of venue for conducting of election meeting ..... Appendix G
- occupation of government land (see also temporary occupation of government land) ..... 8.42

duress (see also *force or duress*)

..... Important Note under 3.15, 13.2, 17.6-17.7, 17.18-17.19

*e*

Election, Chief Executive Election ..... 1.4, 1.6, 3.1, 3.2, 6.1

## election

- by-election, subsector (see *by-election, subsector*)
- date ..... 1.4
- declaration of result ..... 5.44
- EC subsectors (see also *EC subsectors*) ..... 2.2
- petition ..... 6.1-6.3

## election advertisement

- Central Platform .....  
..... 8.44-8.47, 8.50, 17.10-17.11, 18.5, 18.11, Appendix A, Appendix D
- corrective information ..... 8.46
- declaration ..... 8.15, 8.53
- definition ..... 8.1-8.9
- deposit with RO ..... 8.44-8.47, Appendix A, Appendix D
- designated spots .....  
..... 8.17-8.20, 8.23-8.25, 8.27-8.31, Appendix A, Appendix D
  - allocation ..... 8.17-8.18, 8.23-8.25, 8.27- 8.31
  - re-allocation ..... 8.31
  - suggestions by prospective candidates ..... 8.19
- dismounting ..... 8.40

election advertisement (*Cont'd*)

- distribution ..... 8.1, 8.4, 9.1, 17.10
- document that gives the details of the work done ..... 8.7-8.9, Appendix P
- guidelines for sending election advertisement to registered electors in the custody of Correctional Services Department and other law enforcement agencies ..... 8.88-8.89, Appendix S
- mailing
  - free postage
    - addressing ..... 8.73-8.76
    - approval of specimens ..... 8.78-8.79
    - conditions ..... 8.64-8.66
    - make-up ..... 8.67-8.72
    - method of folding ..... 8.71, Appendix E
    - posting arrangement ..... 8.77-8.87
    - size ..... 8.66, 8.70
    - weight ..... 8.66
- mounting and installation ..... 8.34-8.39
- negative campaigning ..... 16.13
- no canvassing zone ..... 5.13, 8.26
- no-display of election advertisement ..... 7.38, 8.26
- non-compliance and consequences ..... 8.54-8.58
- omitted printing details ..... 8.53
- open platform/candidate's platform maintained by the candidate or a person authorised by the candidate ..... 8.44-8.47, 8.50, 17.10-17.11, Appendix D
- penalty ..... 8.25, 8.54, 8.56
- permission/authorisation of display ..... 8.16-8.17, 8.20, 8.25, 8.30, 8.44
- political advertising relating to broadcasting ..... 11.2
- prejudicing a candidate ..... 8.1-8.4, 8.8-8.9, 8.11-8.12, 8.60
- print media ..... 8.52, 11.16-11.18
- printed election materials ..... 8.51
- printing/publication details ..... 8.51-8.53
- private spots ..... 8.17-8.18, 8.20-8.21, 8.25-8.27, 8.57
- public inspection ..... 8.20, 8.44, 8.46-8.50, 8.53
- published materials by organisations ..... 8.60-8.63
- quantity ..... 8.14, 8.82
- relief ..... 8.59
- removal ..... 8.36-8.37, 8.40, 8.46, 8.55-8.56, 8.58
- re-use of old publicity boards ..... 8.32
- roadside railings ..... 8.33

election advertisement ( <i>Cont'd</i> )	
- size	8.27-8.28, 8.33
- unauthorised display and consequence	8.23, 8.56
- unlawful content	8.65
election agent	
- appointment	7.6-7.7
- civil servants action as agents	7.5
- lodging of complaint inside polling station	7.40, 20.9
- number	7.3
- qualification	7.4
- revocation	7.8-7.9
- role	7.11
election broadcasting	
- fair and equal treatment (see also <i>fair and equal treatment principle</i> )	11.3-11.5, 11.7-11.8, 11.11, 11.17, 11.19-11.22
- no unfair advantage	11.6, 11.21
- participation by candidates	11.5, 11.9, 11.12-11.13
- political advertising	11.2
- relating to exit poll results (see also <i>exit poll</i> )	15.4
- restrictions on presenters, regular contributors, actors, musicians, singers or other entertainers who are candidates	11.12-11.13
election campaigning	10.5, 10.14, 10.21, 11.6, 11.17, 11.21, 12.11, 13.9, 16.13
Election Committee (“EC”)	
- composition	2.1, Appendix B
- function	2.1
- ex-officio members	2.5, 2.6
Election Committee Subsectors	
- by-election (see also <i>by-election, subsector</i> and <i>election</i> )	2.3
- composition	2.1, Appendix B
- supplementary nomination	2.3
election donation (see also <i>donation</i> )	7.5, 7.19, 8.20, 16.2, 16.4, 16.16-16.25, 16.31, 16.35-16.38, 16.42-16.43, 17.21, 19.2, Appendix R
election expenses	
- corrupt and illegal conduct (see also <i>corrupt and illegal conduct, corrupt conduct</i> and <i>illegal conduct</i> )	7.7, 7.16, 10.2, 16.9-16.10, 16.41-16.46, 17.16, 17.21
- definition	8.13, 10.2, 16.2-16.3, 16.5
- items also counted	8.63, 9.16, 16.6, 16.25, 17.16, Appendix P
- liability of a candidate	7.11, 7.19, 16.15, 16.41

election expenses ( <i>Cont'd</i> )	
- maximum amount	8.14, 16.9-16.10
- return (see <i>return and declaration of election expenses and election donations</i> )	
- who may incur	7.11, 7.18, 8.60-8.61, 16.11-16.12, 16.41
election expense agent	
- appointment	7.15-7.16, 16.11
- civil servants acting as agents	7.5
- illegal conduct	7.16, 16.41
- number	7.3
- qualification	7.4
- revocation	7.17
- role	7.18, 16.11
election forums	10.1, 11.1, 11.18, 11.20-11.22
election meeting	
- at private premises	9.1, 10.5-10.7, 10.10, 10.18-10.19
- definition	10.1
- in a public place	10.8-10.13
- liability of candidates	10.4
- notification to the Police	10.8-10.12
- responsibility of organiser	10.12
- safe conduct, guidance note on election-related activities	Appendix J
election petition	5.51, 6.1-6.3
electioneering activities	
- at government premises	9.7
- at private premises	9.2
- declaration to management body	9.25
- identification of canvassers	9.16
- management bodies	9.1, 9.17-9.18, 9.23-9.25
- management company	9.20
- mutual aid committee	9.20
- notification of decision to RO	9.23
- owners' committee	9.20
- owners' corporation	9.19-9.20, 9.22
- owners' right	9.1, 9.19, 9.22
- residents' association	9.20
- sanction	9.27-9.28
- tenants' association	9.20
- tenants' right	9.22

electioneering activities ( <i>Cont'd</i> )	
- corrupt and illegal conduct (see also <i>corrupt and illegal conduct, corrupt conduct</i> and <i>illegal conduct</i> )	17.8-17.20
- in schools	13.8-13.9
- participated by school pupils (see also <i>pupil involvement</i> )	13.2-13.8
- safe conduct, guidance note on election-related activities	Appendix J
- scope	9.1
- using loud-hailers (see <i>amplifying device</i> )	
electioneering on television and radio (see also <i>election broadcasting</i> )	11.2-11.11
electioneering exhibition	10.21-10.22
elector	
- disqualification	2.5-2.7
- eligibility to vote	2.6-2.7
- imprisoned or held in custody	3.20, 5.5, 7.13, 7.24, 8.88-8.89
- visual impairment	3.23, 5.31, 7.36-7.37
- with a disability	3.23, 7.36
electronic address of the open platform maintained by a candidate	8.44, 8.50
electronic copy of election advertisement and the relevant information/documents	8.44-8.47, 8.50, 17.10-17.11, 18.11, Appendix D
eligibility	
- nomination of candidates (see also <i>nomination of candidates</i> )	3.2-3.3
- to vote	2.6
entertainers, during election	11.12-11.13
entrance intercom system	9.13, 9.15
exit poll	
- application	15.5-15.6
- approval	15.7
- identification of interviewers	15.9-15.10
- notice, conducting exit polls	15.7
- restrictions	15.3-15.4, 15.8-15.10
- sanction (see also <i>censure</i> and <i>reprimand</i> )	15.11
- secrecy of the vote	15.3
- time for publication of result	15.4
<i>f</i>	
facsimile transmission	7.6, 7.8, 7.12, 7.15, 7.17, 7.21-7.22, 7.25, 7.41-7.42, 8.2, 14.5
fair and equal treatment principle	
- common parts of building	8.6, 8.21, 9.1, 9.6, 9.18-9.22

fair and equal treatment principle (*Cont'd*)

- display of election advertisement in private premises..... 8.17, 9.24
- election broadcasting..... 11.3-11.5, 11.7-11.11
- election forums..... 11.20-11.22
- electioneering activities in private premises..... 9.1, 9.11- 9.18
- electioneering activities in schools..... 13.9
- electronic media..... 11.5-11.15, Appendix L
- print media..... 11.16-11.19, Appendix M
- sanction (see also *censure* and *reprimand*)..... 9.10, 9.21, 9.27-9.28

false claim of support..... 8.32, 17.10-17.12, 18.1-18.12

## false statement

- about a candidate..... 3.9, 17.8-17.9
- about a complaint..... 20.18
- in return and declaration of election expenses and election donations  
..... 16.29-16.34, 16.44
- of withdrawal of candidature..... 17.8
- penalty..... 16.44, 17.30

## filming inside

- counting station (see also *counting station*)..... 5.45
- polling station (see also *polling station*)..... 5.38, 7.38

float design..... 12.9, Appendix N

force or duress (see also *corrupt conduct*)

..... Important Note under 3.15, 5.32, 17.5-17.6, 17.18-17.19

## form

- advance return of election donations..... 16.28, 16.36, Appendix A
- authorisation for display/distribution of election advertisements or  
electioneering activities at private premises..... 8.16, 9.2
- consent of support..... 17.10-11.11, 18.1, 18.10-18.11, Appendix A
- corrected information of election advertisements..... 8.46
- declaration for posting of election mail..... 8.82-8.83
- Declaration of Secrecy (see *Declaration of Secrecy*)
- nomination (see also *nomination of candidates*)..... 3.6
- notice of appointment of counting agents..... 7.41
- notice of appointment of election agent..... 7.6
- notice of appointment of election expense agent..... 7.15
- notice of appointment of polling agents..... 7.21
- notice of appointment of a person to incur election expenses..... 7.16
- notice of posting of election mail..... 8.79
- notice of revocation of appointment of agents..... 7.8, 7.17, 7.25, 7.42
- notice of withdrawal of candidature..... 3.15

form (*Cont'd*)

- notification of decision on electioneering activities in a building .....	9.23
- notification for public meeting or procession (see also <i>notification to the Police</i> ).....	10.9
- permission to raise funds.....	10.23, Appendix K
- return and declaration of election expenses and election donations.....	16.26-16.28
- standard receipt for election donations.....	16.21, 16.27-16.28
free postage of election mail (see <i>election advertisement</i> )	
free publication.....	11.17
fund raising activities.....	10.23, Appendix K

*g*

Gazette of the result (see also <i>result</i> ).....	4.4-4.5, 4.9, 5.44, 7.19, 8.40, 16.26
--	---------------------------------------

*h*

## hotline

- complaints.....	20.7, 20.9
- enquiry on another round of voting.....	5.34
- enquiry on information of candidates by school supervisors, principals and teachers.....	13.9
hours of poll (see also <i>polling hours</i> and <i>voting</i> ).....	5.4

*i*

ICAC, Information booklet (see also <i>corrupt and illegal conduct</i> ).....	17.2
---	------

## identification of

- canvassers conducting electioneering activities in a building.....	9.16
- interviewers conducting exit poll.....	15.9-15.10

## illegal conduct

- claim of support.....	17.10-17.12, 18.1-18.12
- court to excuse innocent acts.....	17.22-17.25
- election advertisement.....	8.3
- election expenses exceeding maximum amount.....	16.33, 16.41
- false or misleading statement about a candidate.....	3.9, 17.8-17.9
- incurring election expenses without authorisation.....	7.7, 8.61, 17.16
- namedropping.....	18.1-18.12
- penalty.....	16.41-16.46, 17.3, 17.30
- voting offences.....	17.20

impersonation.....	5.23, 7.27, 7.32
--------------------	------------------



incapacitated elector (see also <i>disability of electors</i> and <i>elector</i> ).....	3.23, 5.25, 7.36
Information booklet, ICAC (see also <i>corrupt and illegal conduct</i> ).....	17.2
information in	
- election advertisement (see also <i>election advertisement</i> ).....	8.45-8.52
- Introduction to Candidates (see also <i>Introduction to Candidates</i> ).....	3.20-3.23
- nomination form.....	3.7
- return and declaration of election expenses and election donations (see also <i>return and declaration of election expenses and election donations</i> ).....	7.19, 16.26-16.28
inspection	
- election advertisement (see also <i>election advertisement</i> ).....	8.50
- nomination form.....	3.16
- return and declaration of election expenses and donations (see also <i>return and declaration of election expenses and donations</i> ).....	16.38
internet.....	8.4, 8.44
Introduction to Candidates	
- contents.....	3.21-3.23
- submission of message and photograph to Returning Officer.....	3.21
- to be displayed outside polling station.....	5.12
- to be mailed to electors.....	3.20
invalid ballot paper (see also <i>ballot paper</i> ).....	5.43, 5.47-5.50
invalid nomination (see also <i>nomination of candidates</i> ).....	3.11-3.12, 3.17
 <i>j</i>	
judicial review.....	6.4
 <i>l</i>	
law enforcement agency.....	3.20, 5.9, 5.15, 5.19, 5.23, 5.25, 5.35-5.37, 7.29, 7.34, 8.88-8.89, 9.8, 11.23, 14.14
locking of ballot box (see also <i>ballot box</i> ).....	5.10, 5.39, 7.31-7.32
loudspeaker (see <i>amplifying device</i> )	
 <i>m</i>	
mailing of election advertisement (see <i>election advertisement</i> ).....	8.64-8.87
management bodies.....	9.1, 9.17-9.18, 9.23-9.24
management company.....	9.20

marking of ballot paper (see also <i>ballot paper</i> )	4.3, 5.28-5.31, 7.31, 7.36-7.37
maximum amount of election expenses (see also <i>election expenses</i> )	1.15, 7.15, 7.20, 8.14, 16.9-16.10, 16.18, 16.33, 16.41
media	
- print	
- advertisements	8.52
- fair and equal treatment	11.16-11.19, Appendix M
- restrictions on regular columnists	11.18
- reporting (see also <i>election broadcasting</i> and <i>election forum</i> and <i>electioneering on television and radio</i> )	11.1, 11.4, 11.9, 11.17, 11.19, 11.23, Appendix M
- television and radio (see also <i>election broadcasting</i> , <i>election forums</i> and <i>electioneering on television and radio</i> )	8.1, 11.1-11.13, 11.20-11.22, Appendix L
misconduct	
- in a no canvassing zone or no staying zone	14.11
- in or in the vicinity of a counting station	5.45-5.46, 7.47
- in or in the vicinity of a polling station	5.36, 5.38, 7.33-7.35
mobile telephone	5.38, 7.33
mounting and installation of election advertisement (see also <i>election advertisement</i> )	8.34-8.39
musicians, during election period	11.13
mutual aid committee	8.2, 8.60, 9.20, 10.19, 10.21, Appendix J
<i>n</i>	
namedropping	
- form of consent	18.1, 18.10-18.11
- illegal conduct (see also <i>false claim of support</i> and <i>illegal conduct</i> )	18.1-18.12
- penalty (see also <i>censure</i> and <i>reprimand</i> )	18.12
negative campaigning	16.13
no canvassing zone	
- boundary	5.13, 8.26
- canvassing activities allowed/forbidden (see also <i>canvassing activities</i> )	5.13-5.14, 7.38, 8.26, 12.10, 14.10-14.12, Appendix F
- designation	5.3, 14.3
- notice of declaration	5.13, 14.5-14.6

no canvassing zone ( <i>Cont'd</i> )	
- penalty.....	5.15, 14.14, 14.16
- purpose.....	5.13, 14.2
- variation.....	5.3,14.6-14.8
no-display of election advertisement (see also <i>election advertisement</i> and <i>no canvassing zone</i> ).....	5.13, 7.38, 8.26
no staying zone	
- canvassing activities forbidden.....	7.38, 14.10-14.12
- designation.....	5.3, 14.3
- notice of declaration.....	5.13, 14.5-14.6
- penalty.....	5.15, 14.14, 14.16
- purpose.....	5.13, 14.2
- variation.....	5.3, 14.6-14.8
no unfair advantage principle.....	
.....	11.5-11.6, 11.9, 11.11-11.13, 11.15, 11.17-11.18, 11.21
noise nuisance.....	12.2-12.5
nomination of candidates	
- corrupt conduct.....	17.5-17.7
- disqualification.....	3.1, 3.4
- eligibility.....	3.1-3.3
- false declaration.....	3.9
- form.....	3.6
- invalid.....	3.11-3.12, 3.17
- notice of validly nominated candidates.....	3.16
- period.....	3.5
- procedure.....	3.5-3.18
- subscriber.....	Important Note under 3.7, 3.11, 3.17
- validity.....	3.10-3.14
- withdrawal.....	3.15
notification to RO regarding electioneering activities in a building.....	9.23
notification to the Police	
- public meeting (see also <i>public meeting</i> ).....	10.8-10.13, Appendix J
- public procession (see also <i>public procession</i> ).....	10.14-10.18
notice of	
- declaration of no canvassing zone (see also <i>no canvassing zone</i> ).....	5.13, 14.3-14.7
- nomination (see also <i>nomination of candidates</i> ).....	3.16
- result of nomination of candidates.....	3.16
- result of the election (see also <i>counting station</i> and <i>result</i> ).....	5.44

notice of ( <i>Cont'd</i> )	
- validly nominated candidates (see also <i>nomination of candidates</i> )	3.16
<i>o</i>	
Officials under Political Appointment System (see also <i>civil servants</i> )	19.1, 19.10-19.13
Online Voter Information Enquiry System	2.8
open platform for public inspection	8.44, 18.11, Appendix D
opening of ballot box (see also <i>ballot box</i> )	5.40
ordinary resided in Hong Kong	3.2-3.3
owners' committee	8.2, 8.60, 9.20
owners' corporation	8.2, 8.60, 9.19-9.20, 9.22, 10.19, 10.21
<i>p</i>	
paging machine	5.38, 7.33
period for nomination (see also <i>nomination of candidates</i> )	3.5
permission/authorisation of display	
- display of election advertisement at private premises	8.21, 8.25, 8.26, 8.27, 8.44
- display of election advertisement on designated spots	8.17-8.19, 8.25
personal data privacy, guidance note on electioneering activities	9.12-9.13, 18.9, Appendix H
personal data privacy, nominations of candidates	Important under 3.7
photograph, Introduction to Candidates	3.21
photographing inside	
- counting station (see also <i>counting station</i> )	5.45
- polling station (see also <i>polling station</i> )	5.38, 7.38
politically appointed officials	19.10-19.13
polling notice	
- contents	5.7
- date of sending	5.6-5.7
polling agent	
- appointment	7.21-7.22
- civil servants acting as agents	7.5
- conduct inside polling station	5.20-5.39, 7.30, 7.32-7.35, 7.38
- lodging of complaint inside polling station	7.40, 20.9-20.10
- number	7.3, 7.21

polling agent ( <i>Cont'd</i> )	
- qualification	7.4
- revocation	7.25-7.26
- role	7.27
polling hours (see also <i>hours of poll</i> and <i>voting</i> )	5.4
polling day (see also <i>date</i> )	1.4
polling officer/staff	5.10, 5.17, 5.20, 5.37- 5.38, 7.5, 7.32, 7.36
polling station	
- admission	5.17
- allocation	5.1
- canvassing activities forbidden	5.13, 5.14
- communication with electors inside	5.38
- conduct inside	5.36-5.39, 7.38
- conduct outside	5.13-5.14, 7.38, 12.10, 14.2, 14.9-14.15
- dedicated polling station (see <i>dedicated polling station</i> )	
- designation	5.1-5.2
- elector with visually impairment	
- assistance to mark a ballot paper	7.36-7.37
- template	7.37
- persons with a disability	3.23, 7.36
- photographing, filming and recording (video or audio)	5.38, 5.45, 7.38
- situated in maximum security prisons	5.10, 5.17-5.18, 7.3, 7.11-7.12, 7.22
- visually impaired electors (see also <i>visually impaired elector</i> )	7.36-7.37
- voting compartment	5.20, 5.27-5.29, 7.33
posting arrangement of election mail (see <i>election advertisement</i> )	
posting up an electronic copy of election advertisement and relevant information/ documents	8.44-8.50, 17.10- 17.11, 18.11, Appendix D
presenters of television, radio and movie	
- guest presenter	11.5, 11.12
- restrictions to appear in a programme	11.14-11.15
Presiding Officer	
- after the close of poll	5.39
- assistance to incapacitated elector	7.36
- before commencement of poll	5.10, 7.31
- keeping order at polling and counting stations	5.9, 14.9
- overseeing no canvassing zone	5.9, 14.9
- questioning elector before issuing ballot paper	5.22, 7.32
- recording complaint	20.9, 20.10
- reporting irregularities to the EAC	20.11, 20.17

print media (see also <i>media</i> )	
- advertising through	8.52, 11.16-11.19
- fair and equal treatment (see also <i>fair and equal treatment principle</i> )	11.17-11.19, Appendix M
printed election materials (see also <i>election advertisement</i> )	8.52
printing/publication details of election advertisement (see also <i>election advertisement</i> )	8.51-8.53
privacy of electors	9.12
private premises	
- display of election advertisement (see also <i>election advertisement</i> and <i>fair and equal treatment principle</i> )	8.16-8.21, 8.25-8.27, 8.57
- election meeting (see also <i>election meeting</i> )	10.5, 10.10, 10.19-10.20
- electioneering activities (see also <i>electioneering activities</i> and <i>fair and equal treatment principle</i> )	9.2-9.4, 9.9-9.11, 9.18-8.20, 9.26
private spots for displaying election advertisement (see also <i>election advertisement</i> )	8.17, 8.20, 9.24
procedure	
- complaints (see also <i>complaints</i> )	20.6-20.8
- nomination (see also <i>nomination of candidates</i> )	3.5-3.18
propaganda material (see also <i>badge, emblem, clothing or head-dress</i> )	7.33, 7.38, 8.2, 14.10, Appendix F
public area inside counting station (see also <i>counting station</i> )	5.42
public functions	19.1-19.7, 19.9
public fund-raising permits (see also <i>fund raising activities</i> )	10.23, Appendix K
public inspection	
- central platform	8.44-8.50, 17.10-17.11, 18.5, 18.11, Appendix A, Appendix D
- copies of authorisation of election expenses agent	7.20
- election advertisement (see also <i>election advertisement</i> )	8.20, 8.44, 8.46-8.50, 8.53
- nomination form	3.16
- permission or authorisation of display of election advertisements in private spots	8.20, 8.25
- return and declaration of election expenses and election donations (see also <i>return and declaration of election expenses and election donations</i> )	7.20, 16.38
- statutory declaration for inadvertent omission of printing details	8.53
- written consent and notices of revocation	18.11

public meeting (see also <i>election meeting</i> )	
- notification	10.8-10.10
- prohibition	10.11
- responsibility of organiser	10.12
public observation inside counting station (see also <i>counting station</i> )	5.2, 5.41
public procession	10.4-10.5, 10.14-10.18
- notification to the Police	10.15
public statement	1.21, 8.58, 8.85, 9.27, 11.23-11.24, 12.11, 13.10, 15.7, 15.11, 17.29, 20.14
publish materials (or message)	8.2-8.9, 8.11-8.12, 8.44, 8.60, 9.13, 17.9, Appendix A, Appendix D
publicity materials	1.16, 8.5-8.6, 9.25, 18.8, Appendix P
pupil involvement	
- canvassing activities (see also <i>canvassing activities</i> )	13.2-13.8
- sanction (see also <i>censure</i> and <i>reprimand</i> )	13.2, 13.10
- undue influence (see also <i>force or duress</i> )	13.2, 13.4
<i>q</i>	
qualification	
- counting agent (see also <i>counting agent</i> )	7.4
- election agent (see also <i>election agent</i> )	7.4
- election expense agent (see also <i>election expense agent</i> )	7.4
- polling agent (see also <i>polling agent</i> )	7.4
- subscriber (see also <i>subscriber</i> )	3.7, 3.11, 3.17
questionable ballot paper (see also <i>ballot paper</i> )	5.43, 5.48-5.50
<i>r</i>	
recording (video or audio) inside	
- counting station (see also <i>counting station</i> )	5.45
- polling station (see also <i>polling station</i> )	5.38, 7.38
Registration and Electoral Office (REO) (see also <i>Chief Electoral Officer</i> )	
- reporting irregularities to EAC	20.11, 20.17
regular columnists, restrictions to contribute articles	11.18
regular contributors, restrictions to appear in a programme	11.12-11.13
reprimand (see also <i>censure</i> )	
- breach of time restriction when using loud-hailers	9.20, 12.4

reprimand (see also *censure*) (*Cont'd*)

- breach/non-compliance of guidelines .....  
..... 1.21, 8.58, 12.11, 13.10, 15.7, 15.11, 17.26, 20.14
- corrupt and illegal conduct ..... 17.29
- exit poll ..... 15.7, 15.11
- false claim of support ..... 17.29
- involving youths of school age ..... 13.2, 13.10
- namedropping ..... 17.29
- opportunity to make representations ..... 20.14
- unauthorised display of election advertisements ..... 8.26, 8.58
- unauthorised electioneering against the decision of an organisation or building  
..... 9.10
- unfair and unequal treatment ..... 9.21, 9.27-9.28, 11.23-11.24

residents' association ..... 9.20

restricted zone ..... 5.41, 7.33

## restrictions on

- canvassing activities in no canvassing zone and no staying zone .....  
..... 5.13-5.14, 7.38, 8.26, 12.10, 14.10-14.13, Appendix F
- presenters ..... 11.12-11.13
- regular columnists ..... 11.18
- regular contributors ..... 11.12-11.13
- use of loudspeaker (see *amplifying device*)

## result

- declaration ..... 4.4, 4.8-4.9, 5.44
- notice ..... 5.44
- publication in Gazette ..... 4.4-4.5, 4.8-4.9, 5.44, 16.26

## return and declaration of election expenses and election donations

- court power to excuse innocent acts ..... 17.22-17.25
- delivery ..... 16.26-16.37
- errors ..... 16.29-16.34
- false statement ..... 16.44
- penalty for non-compliance ..... 16.43-16.46
- public inspection ..... 7.20, 16.38
- requirement ..... 16.26-16.28

## Returning Officer

- announcement of another round of poll ..... 5.34
- allocation of designated spots ..... 8.23, 8.25, 8.27-8.29, 8.31
- authorising a person to enter polling station for liaison purposes ..... 5.17
- authorising other form of delivery of nomination form ..... 3.8
- authorising a person to enter counting station ..... 5.41



Returning Officer (*Cont'd*)

- decision on a ballot paper.....	5.43, 5.48-5.51
- declaration of election result.....	5.44
- determination and declaration of no canvassing zone and no staying zone....	5.3
- designation of designated spots.....	8.18
- displaying notice of result.....	5.44
- handling complaints.....	8.58, 20.4-20.5, 20.9, 20.11-20.13
- keeping order at polling and counting stations.....	5.41
- opening of ballot box at counting station.....	5.40
- providing sketch maps of no canvassing zone and no staying zone.....	14.3
- reporting irregularities to the EAC.....	20.11, 20.17
revocation	
- counting agent (see also <i>counting agent</i> ).....	7.42
- election agent (see also <i>election agent</i> ).....	7.8-7.9
- election expense agent (see also <i>election expense agent</i> ).....	7.17
- polling agent (see also <i>polling agent</i> ).....	7.25-7.26
role	
- counting agent (see also <i>counting agent</i> ).....	7.43
- election agent (see also <i>election agent</i> ).....	7.11
- election expense agent (see also <i>election expense agent</i> ).....	7.18, 16.11
- polling agent (see also <i>polling agent</i> ).....	7.27
roll-up banner.....	8.2, 8.41
<i>s</i>	
schools, electioneering activities.....	13.8-13.9
- enquiry on information of candidates.....	13.9
school pupils (see <i>pupil involvement</i> )	
sealing of ballot box (see <i>ballot box</i> )	
secrecy of the vote.....	5.19, 5.42, 7.29, 7.33, 7.44, 15.3
- exit poll (see also <i>exit poll</i> ).....	15.3-15.4
- inside counting station.....	7.44
- inside polling station.....	7.29, 7.33
secrecy of voting (see <i>secrecy of the vote</i> )	
Sectors of Election Committee.....	Appendix B
singers, during election period.....	11.12-11.13
social media/networking.....	8.4, 8.44, Appendix D
sound amplifying device/system (see <i>amplifying device</i> )	
spoilt ballot paper (see also <i>ballot paper</i> ).....	7.31

subsector by-election (see also <i>by-election</i> , <i>Election Committee Subsectors</i> and <i>election</i> ).....	2.3
subsectors of sectors of Election Committee.....	2.2, Appendix B
statutory relief mechanism/arrangement for errors and false statements.....	16.29-16.34
subscriber (see also <i>nomination of candidates</i> )	
- number required.....	3.7
 <i>t</i>	
telephone (see <i>mobile telephone</i> )	
template (see also <i>braille template</i> ).....	7.37
tenants' association.....	8.2, 8.60
tendered ballot paper (see also <i>ballot paper</i> ).....	5.24, 5.47, 7.31
treating (see also <i>corrupt conduct</i> ).....	17.14-17.17
television and radio (see also <i>election broadcasting</i> and <i>election forums</i> ).....	
.....	8.1, 11.1-11.15
types and numbers of agents.....	7.3
 <i>u</i>	
undue influence (see also <i>force or duress</i> ).....	13.2, 13.4, 17.18-17.19
unissued ballot paper (see also <i>ballot paper</i> ).....	7.31
unused ballot paper (see also <i>ballot paper</i> ).....	5.25-5.27, 5.47, 7.31
 <i>v</i>	
validity	
- ballot paper (see also <i>ballot paper</i> ).....	5.43, 5.48-5.50
- nomination (see also <i>nomination of candidates</i> ).....	3.10-3.14
vehicles (see also <i>amplifying device</i> ).....	12.4, 12.6-12.9
venue of the Election.....	5.1-5.2
video or audio recording inside	
- counting station (see also <i>counting station</i> ).....	5.45
- polling station (see also <i>polling station</i> ).....	5.38, 7.38
voluntary service.....	16.4, 16.20, 16.25
voting	
- corrupt conduct (see also <i>corrupt conduct</i> ).....	17.20
- date (see also <i>date</i> and <i>polling day</i> ).....	1.4
- disqualification.....	2.6

voting ( <i>Cont'd</i> )	
- eligibility.....	2.6
- marking of ballot paper (see also <i>ballot paper</i> ).....	4.3, 4.8, 5.28-5.31
- number of vote allowed.....	4.3, 4.8
- secrecy (see <i>secrecy of the vote</i> )	
- time (see also <i>hours of poll</i> ).....	5.4
- where.....	5.1
voting compartment.....	5.20, 5.27-5.29, 7.33
voting offences (see also <i>corrupt conduct</i> ).....	17.20
voting preference (see also <i>corrupt conduct</i> ).....	17.13-17.17
voting system, contested election.....	4.2-4.6
voting system, uncontested election.....	4.7-4.9
w	
websites of	
- candidates.....	8.2, 8.4, 8.44
- ICAC.....	17.2
- REO.....	7.13, 7.24
withdrawal of candidature (see also <i>candidate; corrupt conduct and false statement</i> )....	
.....	3.15