

IMPORTANT

1. These Guidelines are expected to be published in mid June 2020. Subject to any subsequent revisions, they apply to all Legislative Council general elections and by-elections conducted under the Legislative Council Ordinance (Cap 542) to be held after publication.
2. The law stated in the Guidelines is that prevailing as at the date of publication.
3. Upon publication of the Guidelines, all specified forms referred to in the Guidelines are obtainable from the Registration and Electoral Office (tel: 2891 1001; fax: 2891 1180; e-mail: reoenq@reo.gov.hk) and its website at <https://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 these Guidelines are necessary, the updated Guidelines will be made available at the website of the Electoral Affairs Commission at <https://www.eac.hk>.

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9 March 2020

(With Chinese translation)

Message from the Chairman

Public Consultation on the Proposed Guidelines on Election-related Activities in respect of the Legislative Council Election

The 2020 Legislative Council (“LegCo”) General Election will be held in the third quarter of 2020. The Electoral Affairs Commission (“EAC”) is empowered under section 6(1)(a) of the Electoral Affairs Commission Ordinance (Chapter 541) (“EACO”) to issue guidelines to facilitate the conduct and supervision of an election. These guidelines aim to explain in simple language the relevant provisions under the electoral legislation and to promulgate a code of conduct in election-related activities based on the fair and equal treatment principle.

The EAC has at all times made its best endeavours to refine and improve the electoral arrangements for public elections. A new set of the proposed guidelines has now been drawn up by the EAC for the 2020 LegCo General Election and all LegCo by-elections to be held afterwards. The proposed guidelines are prepared on the basis of the existing guidelines for the LegCo Election (June 2016 edition) with suitable revision. On the aspect of legislative amendments, the major changes are:

- (a) reflect the proposed legislative amendments made to the Legislative Council Ordinance (Chapter 542) to increase the subsidy rate of financial assistance for eligible candidates of LegCo election;
- (b) reflect the legislative amendments made to the subsidiary legislation under the EACO in relation to some technical details concerning voter registration arrangements and electoral procedures;

- (c) reflect the legislative amendments made to the Elections (Corrupt and Illegal Conduct) Ordinance (Chapter 554) in relation to arrangements for lodging election returns by candidates and the exemption from criminal liability for a third party (other than a candidate and his/her election expense agents) publishing an election advertisement on the Internet and the only election expenses thus incurred are merely electricity and/or Internet access charges;
- (d) reflect the proposed legislative amendments made to the Maximum Amount of the Election Expenses (Legislative Council Election) Regulation (Chapter 554D) to increase the maximum amount of election expenses which can be incurred by candidates for each geographical and functional constituency;

On the aspect of the guidelines based on the fairness of the election, the major changes are:

- (e) with reference to the operational experience gained in previous elections, propose some electoral arrangements such as measures to facilitate electors with special needs to vote and arrangements for admitting public to the counting stations; and
- (f) elaborate on certain parts of the guidelines to enhance understanding and, where appropriate, align with the other electoral guidelines.

The major changes proposed, as compared with the existing LegCo guidelines, are set out in the **Appendix**. Indeed, many of the changes are for alignment purpose and similar changes have been incorporated in the Guidelines for the Rural Representative Election issued in October 2018 and the Guidelines for the District Council Election issued in September 2019.

Before finalising the guidelines for issue to the public, we shall, in accordance with section 6(2) of the EACO, consult the public on the proposed guidelines for a period of 30 days from **9 March to 7 April 2020**, both dates inclusive. At this stage, the EAC has not made any decision with respect to the issues addressed in the proposed guidelines (except for those under the requirements of the relevant legislation). The final decision will be taken in the light of the responses received in this consultation exercise.

Please send in your written representations on the proposed guidelines to the EAC Secretariat at 10/F, Harbour Centre, 25 Harbour Road, Wan Chai, Hong Kong, or by fax (fax no.: 2511 1682) or e-mail (eacenq@eac.hk) the latest by **7 April 2020**. **Late representations will not be considered.** Due to public health consideration, no public forum will be arranged during the public consultation period in order to reduce the risk of the spread of novel coronavirus in the community.

It is optional for you to supply your name or other personal data when providing views on the proposed guidelines. But, if you wish to remain anonymous or keep your views confidential in part or in whole, you should indicate your request clearly in your submissions. Unless so requested in the submissions, all responses received will be treated as public information. For enquiries, please call the EAC Secretariat at 2827 1269.

The EAC has always made its best endeavours to ensure that all public elections are held in an open, fair and honest manner. The electoral guidelines play an important role in the conduct of the 2020 LegCo General Election. We therefore encourage members of the public to make known their views to us through submission of written representations, no matter they support or oppose the proposed guidelines. The EAC will consider the representations received during the public consultation period and revise the guidelines as appropriate.

Yours faithfully,



(Barnabas W FUNG)

Chairman

Electoral Affairs Commission

(With enclosure)

**Major Changes in the Proposed Guidelines
for the Legislative Council Election
as Compared with the Guidelines Issued in June 2016**

Relevant Chapter	Major changes
Chapter 2 <i>Composition, Registration of electors and voting system for Geographical Constituencies</i> Chapter 3 and Appendix 2 <i>Composition, Registration of electors and voting system for Functional Constituencies</i>	<ul style="list-style-type: none">● specifying the requirement to submit documentary evidence proving an elector's principal residential address upon an application for change of that address by the elector in accordance with the amendment made to section 10A(3) of the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap 541A) ("<i>EAC (ROE) (GC) Reg</i>") and section 26A(3) of the Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap 541B) ("<i>EAC (ROE) (FCSEC) Reg</i>") in February 2018 (paras. 2.22 and 3.31);● revising the statutory deadline for electors to report on change of principal particulars in accordance with the amendment made to section 10A(12) of the EAC (ROE) (GC) Reg and section 26A(12) of the EAC (ROE) (FCSEC) Reg in February 2018 (paras. 2.22, 2.33, 3.31 and 3.44);● setting out clearly the fine and imprisonment that electors who knowingly or recklessly give false or misleading information for voter registration are liable to in accordance with the amendment made to section 22 of the EAC (ROE) (GC) Reg and section 42 of the EAC (ROE) (FCSEC) Reg in January 2019 (paras. 2.23 and 3.33); and● specifying that a person who lodges an objection or a claim must provide sufficient information so as to inform

Relevant Chapter	Major changes
	<p>the Revising Officer of the grounds of the objection or claim and that the Revising Officer may dismiss the objection or claim if the person does not attend the hearing in accordance with the amendments made to sections 2(5A) and 2B of the Registration of Electors (Appeals) Regulation (Cap 542B) in January 2019 (paras. 2.32 and 3.43).</p>
<p>Chapter 4 <i>Nomination of candidates</i></p>	<ul style="list-style-type: none"> ● specifying that Returning Officers (“ROs”) would state the “address” of each candidate in the notice of validly nominated candidates published in the Gazette in accordance with the amendments made to section 21 of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council Election) Regulation (Cap 541D) (“EAC (EP) (LC) Reg”) in January 2020 (para. 4.47).
<p>Chapter 5 <i>Polling and counting arrangements</i></p>	<ul style="list-style-type: none"> ● Presiding Officers (“PROs”) may make arrangement to facilitate electors with special needs (e.g. senior citizens aged 70 or above, pregnant women and physically-handicapped persons with mobility difficulties) to vote, or even to vote with priority (para. 5.37(a)); ● setting out precisely the types of identity document that an elector should produce before a ballot paper can be issued to him/her in accordance with the amendment made to section 50 of the EAC (EP) (LC) Reg in December 2018 (paras. 5.40 and 5.41); ● specifying that an elector may request to check if a line has been drawn across his/her name and identity document number in the copy of the register of electors when applying for a ballot paper (para. 5.42); ● reminding candidates that votes cast at the small polling stations and the dedicated polling stations will not be counted therein after the close of poll, and to note the delivery and counting arrangements of the relevant ballot papers (para. 5.71);

Relevant Chapter	Major changes
	<ul style="list-style-type: none"> ● specifying the seating capacity and admission arrangement of the public area for observation of counting of votes at each counting station (para. 5.86); ● updating the category of invalid ballot papers to include the ballot paper on which a vote for a deceased or disqualified candidate/list of candidates is recorded and the name of, and other information relating to, the candidate/list of candidates are crossed out in accordance with the amendment made to section 80 of the EAC (EP) (LC) Reg in January 2019 (paras. 5.94(f) & 5.111(g)); ● specifying clearly that during the count, questionable ballot papers must be separated and forwarded to the RO or the PRO to decide whether the vote is to be counted in accordance with the amendment made to section 75(7) of the EAC (EP) (LC) Reg in January 2019 (para. 5.95); and ● setting out the provisions on the postponement or adjournment of a Legislative Council general election as a whole, or the election of a particular GC/FC, or the poll/count of a particular polling/counting station as stipulated under the Legislative Council Ordinance (“LCO”) and EAC (EP) (LC) Reg (Part XII of this Chapter).
Chapter 8 <i>Election advertisements</i>	<ul style="list-style-type: none"> ● reflecting the new provision under section 23(1A) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) (“ECICO”) added in January 2019 that a person (other than a candidate and his/her election expense agents) who publishes an election advertisement (“EA”) on the Internet is exempted from the relevant criminal liability under section 23(1) of the ECICO if the only election expenses incurred are either or both of electricity charges and charges necessary for accessing the Internet (para. 8.10);

Relevant Chapter	Major changes
	<ul style="list-style-type: none"> ● adjusting the allocation ratio of designated spots between GCs/FCs for candidates to display EAs on government land and property (para. 8.31); ● revising the deadline for candidates to post corrective information in relation to EAs after the polling day (para. 8.60); and ● reflecting the new technical requirements on election mails that may be sent free of postage by candidates in accordance with the amendments made to section 101A of the EAC (EP) (LC) Reg in December 2019 (para. 8.86(d) and (e)).
Chapter 9 and Appendix 9 <i>Electioneering activities in premises or buildings where electors reside, work or frequent</i>	<ul style="list-style-type: none"> ● reflecting the guidelines issued by the Office of the Privacy Commissioner for Personal Data to remind candidates to adopt security measures when transferring personal data of electors to election agents or other contractors for electioneering purpose (para. 9.20 and Appendix 9); and ● reminding candidates that information relating to an elector contained in any register of electors or in any extract of any register of electors can only be used for election-related purposes under the electoral legislation and that any abuse or misuse of such information is an offence (para. 9.21).
Chapter 11 <i>Election broadcasting, media reporting and election forums</i>	<ul style="list-style-type: none"> ● specifying that for the purpose of the principle of fair and equal treatment of candidates under the guidelines in the Chapter, “candidate” refers to a person whose nomination form has been received by the relevant RO (para. 11.5); and ● elaborating on the requirements of the fair and equal treatment principle for producing and publishing election-related programmes and reports by broadcasters licensed under the Broadcasting Ordinance (Cap 562)

Relevant Chapter	Major changes
	<p>and the Telecommunications Ordinance (Cap 106) as well as the print media. When determining whether any media is in breach of the principle of fair and equal treatment, the EAC may take into consideration the overall reporting by the media organisation during the election period (the Chapter).</p>
<p>Chapter 14 and Appendix 7 <i>Prohibition against Canvassing Activities outside Polling Stations</i></p>	<ul style="list-style-type: none"> ● reminding candidates of the canvassing activities which are forbidden in the No Canvassing Zone (“NCZ”) (para. 14.3 and Appendix 7); ● setting out clearly the statutory requirement under section 40 of the EAC (EP) (LC) Reg that canvassing activities are strictly prohibited on the storey at street level of all the buildings within the NCZ (para. 14.12); and ● reminding candidates to remove the EAs on the windows or the bodywork of a public service vehicle before the polling day if it will pass through or be parked within the NCZ on the polling day (para. 14.13).
<p>Chapter 16 and Appendix 1 <i>Election expenses and election donations</i></p>	<ul style="list-style-type: none"> ● reminding persons who intend to stand as a candidate at an election to note that under the electoral law, the term “candidate” includes a person who has publicly declared an intention to stand as a candidate at an election before the close of nominations for the election regardless of whether he/she has submitted his/her nomination form. Whether a person has publicly declared an intention to stand for election is to be considered on the basis of substance and not form, including the intention to stand for election, whether the intention to stand for election is made public, and/or whether the acts constitute part of the machinery of the election. In this regard, prospective candidates must exercise due care to avoid incurring any legal liability inadvertently (para. 16.8);

Relevant Chapter	Major changes
	<ul style="list-style-type: none"> ● revising the maximum amount of election expenses which can be incurred by or on behalf of a candidate <i>subject to the enactment</i> of the proposed amendment to sections 3, 3A and 4 of the Maximum Amount of the Election Expenses (Legislative Council Election) Regulation (Cap 554D) (para. 16.16); ● revising the threshold for submission of invoices and receipts giving particulars of the election expenses for the purpose of election return in accordance with the amendment to section 37 of the ECICO in December 2019 (para. 16.33 and Appendix 1); ● revising the limit in relation to relief for minor errors in election returns in accordance with the amendments to items 2, 3 and 4 of the Schedule to the ECICO in December 2019 (para. 16.38 and Appendix 1); and ● revising the subsidy rate of financial assistance for the eligible candidate/list of candidates <i>subject to the enactment</i> of the proposed amendment to Schedule 5 to the LCO (para. 16.45).
Chapter 18 <i>Namedropping</i>	<ul style="list-style-type: none"> ● reminding candidates to comply with the requirements under the Personal Data (Privacy) Ordinance (Cap 486) in handling the personal data of his/her supporters (paras. 18.4 and 18.11); and ● setting out the guidelines for seeking prior written consent from supporters when a candidate publishes EAs and live broadcast of electioneering activities through online platforms (para. 18.5).

ABBREVIATIONS

AR, ARs	authorised representative, authorised representatives
ARO, AROs	Assistant Returning Officer, Assistant Returning Officers
BO	Buildings Ordinance (Cap 123)
Candidate's Platform	an open platform maintained by the candidate(s) or a person authorised by the candidate(s)
Cap	Chapter of the Laws of Hong Kong
CAS	Civil Aid Service
CE	Chief Executive
CEEEO	Chief Executive Election Ordinance (Cap 569)
Central Platform	an open platform maintained by the CEO or a person authorised by the CEO
CEO	Chief Electoral Officer
CRO	Chief Returning Officer
CFA	Court of Final Appeal
CFI	Court of First Instance
CSD	Correctional Services Department
DAS	Director of Accounting Services
DC	District Council

DC (first) FC	District Council (first) functional constituency
DC election year	in a year which a DC ordinary election is to be held
DC (second) FC	District Council (second) functional constituency
DCO	District Councils Ordinance (Cap 547)
DLO, DLOs	District Lands Office, District Lands Offices
DO, DOs	District Office, District Offices
EA, EAs	election advertisement, election advertisements
EAC or the Commission	Electoral Affairs Commission
EAC (EP) (LC) Reg	Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap 541D)
EAC (FA) (APP) Reg	Electoral Affairs Commission (Financial Assistance for Legislative Council Elections and District Council Elections) (Application and Payment Procedure) Regulation (Cap 541N)
EAC (NAC) (LC) Reg	Electoral Affairs Commission (Nominations Advisory Committees (Legislative Council)) Regulation (Cap 541C)
EAC (ROE) (FCSEC) Reg	Electoral Affairs Commission (Registration) (Electors for Legislative Council Functional Constituencies) (Voters for Election Committee Subsectors) (Members of Election Committee) Regulation (Cap 541B)

EAC (ROE) (GC) Reg	Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap 541A)
EACO	Electoral Affairs Commission Ordinance (Cap 541)
EC	Election Committee
ECICO	Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554)
election	general election or by-election as appropriate
election return	return and declaration of election expenses and election donations
ERO	Electoral Registration Officer
FC, FCs	functional constituency, functional constituencies
FR	final register
GC, GCs	geographical constituency, geographical constituencies
HKICPA	Hong Kong Institute of Certified Public Accountants
HKID	Hong Kong Permanent Identity Card
HKSAR	Hong Kong Special Administrative Region
ICAC	Independent Commission Against Corruption

LC Subscribers & Deposit Reg	Legislative Council (Subscribers and Election Deposit for Nomination) Regulation (Cap 542C)
LCO	Legislative Council Ordinance (Cap 542)
LegCo	Legislative Council
MAC, MACs	Mutual Aid Committee, Mutual Aid Committees
NAC, NACs	Nominations Advisory Committee, Nominations Advisory Committees
NCO	Noise Control Ordinance (Cap 400)
NCZ	no canvassing zone
non-DC election year	in a year which a DC ordinary election is not to be held
NSZ	no staying zone
OL	omissions list
OVIES	Online Voter Information Enquiry System (www.voterinfo.gov.hk)
para., paras.	paragraph, paragraphs
PCBP (LC & DC) Reg	Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) Regulation (Cap 541M)
PCPD	Office of the Privacy Commissioner for Personal Data
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)
PR	provisional register
PRO, PROs	Presiding Officer, Presiding Officers
REO	Registration and Electoral Office
RO, ROs	Returning Officer, Returning Officers
RR	Rural Representative
RREO	Rural Representative Election Ordinance (Cap 576)
RTO	Road Traffic Ordinance (Cap 374)
S, s, Ss, ss	section, sections
SFC, SFCs	special functional constituency, special functional constituencies
SOO	The Summary Offences Ordinance (Cap 228)
TD	Transport Department

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PROLOGUE

ROLE OF THE ELECTORAL AFFAIRS COMMISSION AND THE GUIDELINES

1. Under the Electoral Affairs Commission Ordinance (Cap 541) (“EACO”), the Electoral Affairs Commission (“EAC”) is an independent statutory body responsible for organising and supervising public elections, and to ensure that the elections are conducted in an open, fair and honest manner. Under the EACO, the EAC shall perform its function through the Chief Electoral Officer (“CEO”).

2. The EAC is empowered by the law to issue guidelines on election-related activities. The guidelines cover two different aspects, namely, to explain the relevant legislative provisions and to promulgate a code of conduct in election-related activities based on the fair and equal treatment principle.

Legislation Aspect

3. With regard to the legislation aspect, the relevant provisions are enacted by the legislature. The guidelines seek to explain in simple language the relevant provisions based on the electoral legislation, and where applicable to give examples of best practices.

4. Safeguarding the autonomy and secrecy of the vote are the most important principles of the electoral legislation. The electors must mark the ballot papers by themselves inside the voting compartments, and are not required to disclose their voting preference. It is a criminal offence to influence the voting preference of the elector by corrupt conduct such as the

use of force, threat, coercion, inducement or deception; or by the illegal conduct of making false statements about a candidate. It is also a criminal offence to require an elector to disclose his/her voting preference. In any case, the voting choice is ultimately made by the elector voluntarily and under the protection of secrecy. Electors may discuss among themselves their voting preference, but in no case under the influence of any corrupt or illegal conduct.

5. Nomination of candidates is an important part of an election. Candidates nominated must satisfy the requirements in two parts, namely (1) the eligibility to be nominated as a candidate and (2) the requirements to be complied with by nominated candidates (including making a declaration in the nomination form to the effect that they will uphold the Basic Law and pledge allegiance to the Hong Kong Special Administrative Region (“HKSAR”)). Otherwise, he/she is not a validly nominated candidate. For details, please refer to Chapter 4.

6. For the first part, i.e. candidates’ eligibility for nomination, the EAC may appoint the Nominations Advisory Committees (“NACs”) to provide advice to prospective candidates and the Returning Officers (“ROs”) as to whether a prospective candidate is eligible to be, or is disqualified from being, nominated as a candidate at the election. However, as stipulated in the law, the NACs are not empowered to advise on any matter relating to the requirements to be complied with by nominated candidates under the second part (including making the above-mentioned statutory declaration). Therefore, the advice provided by the NAC on a prospective candidate’s eligibility to be nominated as a candidate does not indicate whether his/her nomination is valid or not.

7. In short, whether a candidate’s nomination is valid or not is solely determined by the RO. The EAC would not provide any guidelines to the RO

for determining whether a candidate's nomination is valid or not. The EAC will only make practical arrangements for the election according to the list of validly nominated candidates determined by the RO. If any person is disqualified from being a candidate at an election, he/she may make an election petition to question the result of the election in accordance with the law.

8. To ensure that all candidates clearly understand the provisions of the Basic Law and the legal requirements and responsibilities involved when they sign the relevant statutory declarations in the nomination form, the EAC has prepared a Confirmation Form for candidates for submission together with the nomination form on a voluntary basis to confirm that they understand the legal requirements. It also assists the ROs in determining the validity of the nominations of the candidates.

9. Another important aspect of the electoral legislation is to prescribe the maximum limit for election expenses. Election expenses mean the expenses in promoting or prejudicing the election of a candidate. The definition of "candidate" means a person who stands nominated as a candidate at an election and includes a person who has publicly declared an intention to stand for election before the close of nominations. The public declaration of the intention to stand as a candidate is a legal question which must be determined on the basis of actual facts and intention, rather than on the face of any statement alone. The setting of a maximum limit of election expenses is to ensure that the candidates do compete on a level playing field and within a reasonable level of expenditures. It is a criminal offence for a candidate to incur election expenses in excess of the prescribed maximum limit. Hence, the candidate must, in accordance with the law, submit an election return after the election to rigorously declare all the election expenses incurred by him/her; otherwise, he/she commits an offence.

10. For the effective sanction of the limit on election expenses, the law also stipulates that only candidates and their authorised election expense agents may incur election expenses. It is a criminal offence for other unauthorised persons, no matter it is for the purpose of promoting or prejudicing the election of a candidate, to incur election expenses. Nevertheless, as far as opinions published on the Internet are concerned, even though they amount to election advertisements (“EAs”), if the publisher is a third party (i.e. a person other than a candidate and his/her election expense agents) and the only election expenses incurred are either electricity charges and/or charges necessary for accessing the Internet, he/she is exempted from the relevant criminal liability. However, if the publisher is a candidate or his/her election expense agent, the exemption does not apply. As such, the candidate should declare all election expenses in his/her election return (i.e. including election expenses incurred in relation to the internet and all other media).

11. EA has always been an important part of election expenses, and therefore it is necessary to regulate EAs. Notwithstanding that EAs are regulated, the paramount principles of freedom of speech, press freedom and the dissemination of election information must be guaranteed. In determining whether certain statements are EAs and whether election expenses are involved, consideration must be given to the overall circumstances and evidence, including the nature of those statements, the expenses involved and the intention of promoting or prejudicing any candidate from being elected.

12. As the EAC is not a law enforcement agency, it will refer any complaint involving any offence to the law enforcement agencies for follow-up and investigation. Any issues over the law or fact will ultimately be a matter for the adjudication of the Court.

13. The EAC will seek to provide a statement of principle on the compliance of the electoral legislation. However, the EAC is not the legal advisor for a candidate and any person who has any questions on any particular matter should seek independent legal advice.

Code of Conduct

14. Apart from the electoral legislation, the EAC has promulgated guidelines on election-related activities based on the fair and equality principle. It is not an offence for non-compliance with the guidelines beyond the scope of electoral legislation. However, the EAC is authorised under the law to issue censure or reprimand against unfair conduct in breach of the guidelines. An important application of the fair and equal treatment principle is concerned with the utilisation of the public resources. For example:

- (a) The guidelines prescribe a fair and equal system in allocating the designated spots for display of EAs on Government land, premises and roadways;
- (b) Licensed radio and television stations as well as registered newspapers and magazines should uphold the fair and equal treatment principle in their treatment of the candidates;
- (c) Building management organisations, owners' incorporations and mutual aid residents' associations should observe the fair and equal treatment principle in handling the requests of the candidates for the display of EAs and conducting electioneering activities in the common parts of the buildings under their management; and

- (d) A candidate must not make use of any public resources for electioneering.

The management organisations mentioned under (c) above should handle the applications from the candidate/list of candidates fairly and equally. If a management organisation decided to allow a particular candidate/list of candidates to conduct electioneering activities in the common parts of the buildings under its management, it should also allow other candidate(s)/list(s) of candidates in the same geographical constituency (“GC”) /functional constituency (“FC”) to do so (whether to make the same request is individual candidate’s own choice). On the other hand, if it is decided to reject an application from a particular candidate/list of candidates, applications from other candidate(s)/list(s) of candidates in the same GC/FC should also be rejected. However, this principle does not apply to private properties.

15. It is noteworthy that, as Hong Kong is a pluralistic society with different sectors of people who may have different pursuits, whether a particular matter is fair or not will often have contrary views. Whereas it is ideal to achieve absolute fairness, but that is often not practicable. The bottom line is to guard against serious and material unfairness.

16. The EAC will solemnly handle complaints against any breach of the fair and equality principle as set out in the election guidelines. Investigation must be in accordance with the principle of procedural fairness and be based on factual evidence. The parties concerned must be given the opportunity to make representations in defence. In the context of considering whether any conduct is unfair in the absence of contravention of the law, a decision could not be made lightly without careful consideration of all relevant matters and circumstances. Furthermore, while complaints are often made shortly before the polling day, the EAC cannot circumvent or compress the

established procedure because of the time constraint so as to avoid any unfairness.

17. If the complaint is substantiated, the EAC may, if necessary, make a censure in a public statement to enable that the electors and the public be informed of the major occurrences during the election. The EAC may also issue press statements on matters of principle which have attracted widespread public concern in order to set the record straight. Apart from that, the EAC, as a long-standing practice, does not comment on the political platforms of candidates, individual comments and reporting, or hearsays.

18. Electors rely on fair and orderly elections to elect their representatives. Hence, election is a solemn matter. The electoral procedures are strictly sanctioned by the relevant electoral legislation. Persons who wish to run for an election and other stakeholders must understand and comply with the legislative requirements so as to avoid committing any criminal offence inadvertently.

19. Apart from the legislation aspect, candidates and stakeholders should also make reference to the best practices provided in the Guidelines in order to ensure that the elections are conducted in an open, fair and honest manner.

20. The EAC appeals to members of the public to be acquainted with and to uphold the electoral legislation and electoral guidelines in order to carry on the good election culture in Hong Kong.

CHAPTER 1

INTRODUCTION

PART I : THE LEGISLATIVE COUNCIL ELECTION

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

1.2 In accordance with the Basic Law and the LCO, the term of office of the LegCo is 4 years except the first term which was 2 years. Each term of its office is to begin on a date to be specified by the CE in Council. The first term LegCo was between 1 July 1998 and 30 June 2000. Starting from the second term LegCo, all LegCo terms began on 1 October of the year in which the LegCo general election was held. To this effect, the term of office for the seventh term LegCo will begin on 1 October 2020, with its term being 4 years. The CE must specify a date for holding a general election to elect the members for each term of office of the LegCo [s 6(1) of the LCO]. A person returned as a member at a general election holds office from the beginning of the term of office of the LegCo following the election and vacates office at the end of the term. A by-election will be held to fill a vacancy in membership of LegCo. However, no by-election to fill a vacancy in membership of LegCo is to be held within the 4 months preceding the end of the LegCo’s current term of office or if the CE has published in the Gazette an order dissolving that LegCo in accordance with the Basic Law [s 36(2) of the LCO].

1.3 At its Sixteenth Session on 28 August 2010, the Standing Committee of the Eleventh National People's Congress recorded the amendment to Annex II to the Basic Law concerning the formation of the LegCo. As set out in the aforesaid Annex II, the fifth term of the LegCo shall be composed of 70 members and the composition shall be as follows:

- | | | |
|-----|--|----|
| (a) | Members returned by GCs through direct elections | 35 |
| (b) | Members returned by FCs | 35 |

The formation method for the seventh term LegCo of the HKSAR in 2020 will remain unchanged.

Geographical Constituency

1.4 The HKSAR is divided into 5 GCs, each having 5 to 9 seats. The GCs are geographically based and a total of 35 LegCo members will be returned through the following 5 GCs: Hong Kong Island to return 6 members; Kowloon East to return 5 members; Kowloon West to return 6 members; New Territories East to return 9 members; and New Territories West to return 9 members. The list system of proportional representation for voting is adopted. Details of the features of GC elections are set out in Chapter 2.

Functional Constituency

1.5 For the seventh term of the LegCo, there is a total of 29 FCs. The 28 traditional FCs (for the purpose of the Guidelines, "traditional FCs" mean all FCs other than District Council (second) FC ("DC (second) FC")) each represents a different economic, social, or professional sector of the community,

whereas the DC (second) FC is composed of persons who are registered as electors for GCs but are not registered as electors for any of the other 28 FCs. 35 LegCo members will be returned through the following 29 FCs: (1) Heung Yee Kuk; (2) Agriculture and Fisheries; (3) Insurance; (4) Transport; (5) Education; (6) Legal; (7) Accountancy; (8) Medical; (9) Health Services; (10) Engineering; (11) Architectural, Surveying, Planning and Landscape; (12) Labour; (13) Social Welfare; (14) Real Estate and Construction; (15) Tourism; (16) Commercial (first); (17) Commercial (second); (18) Industrial (first); (19) Industrial (second); (20) Finance; (21) Financial Services; (22) Sports, Performing Arts, Culture and Publication; (23) Import and Export; (24) Textiles and Garment; (25) Wholesale and Retail; (26) Information Technology; (27) Catering; (28) District Council (“DC”) (first); and (29) DC (second). Of these 29 FCs, the Labour FC is to return 3 members, the DC (second) FC is to return 5 members and the remaining 27 FCs are each to return 1 member. [Ss 20 and 21 of the LCO]

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

- (a) the preferential elimination system of voting for the election for the 4 special FCs (“SFCs”), i.e. Heung Yee Kuk FC, Agriculture and Fisheries FC, Insurance FC and Transport FC;
- (b) the list system of proportional representation for the election of DC (second) FC; and
- (c) the first past the post voting system for the election of the other 24 ordinary FCs (for the purpose of the Guidelines, “ordinary FCs” mean all FCs other than SFCs and DC (second) FC).

[Ss 49(2), 50(2) and 51(2) of the LCO]

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

Governing Legislation

1.7 The LegCo elections are governed by the statutory requirements provided in 3 different ordinances, namely the LCO, the EACO and the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) (“ECICO”).

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

1.9 The EACO tasks the EAC with making recommendations regarding the delineation of GCs for the LegCo election and demarcation of their boundaries. Besides, the EAC is also responsible for the conduct and supervision of LegCo elections, and matters incidental thereto, and regulating the printing of particulars relating to candidates on ballot papers and financial assistance for candidates.

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

1.11 These ordinances are complemented by 9 pieces of subsidiary legislation, including those set out in paras. 1.12 to 1.19 below, which provide the detailed procedures for the conduct of the LegCo elections.

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

1.13 The Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council

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

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

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

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

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

1.18 The Maximum Amount of Election Expenses (Legislative Council Election) Regulation (Cap 554D) sets out the maximum amount of election

expenses that can be incurred by or on behalf of a candidate, or all the candidates on a list, at a LegCo election.

1.19 The Legislative Council (Election Petition) Rules (Cap 542F) set out the procedures for the lodgement of an election petition against the result of the LegCo elections to the High Court.

PART II : THE GUIDELINES

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

- (a) the conduct or supervision of or procedure at an election;
- (b) 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 EAs or other publicity materials; and
- (e) the procedure for making a complaint.

1.21 The aim of this set of Guidelines is twofold: with regard to matters governed by relevant electoral legislation, the Guidelines provide candidates and their electioneering teams with guidance in layman's terms on compliance with the electoral legislation; they also lay down a code of conduct based on the principle of fairness and equality, and provide standard good practices regarding election-related activities not covered by electoral legislation, such as media report and conduct of electioneering activities in buildings, etc. The Guidelines are also issued for reference by members of the public, to enable them to give

play to the role of monitoring the elections and ensure that the elections are conducted in an open, fair and honest manner.

1.22 This set of Guidelines applies to the LegCo general election and by-election. It explains the various electoral arrangements made for the LegCo elections, the legislative provisions and regulations as well as guidelines that should be observed by all parties concerned before, during and after an election (in relation to machinery of the election) and the procedure for lodging an election-related complaint. An action checklist for candidates is set out in **Appendix 1**.

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

PART III : SANCTION

1.24 Electors, candidates and their agents, government officials engaged in election-related duties, and other persons involved in election-related activities should read, familiarise themselves with, and strictly observe, the Guidelines.

1.25 The EAC is committed to ensuring that all elections are conducted openly, fairly and honestly. 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) to allow full disclosure of the relevant facts to the public. If the candidate, the person or persons concerned committed any offences under the electoral legislation, he/she will also bear criminal liability responsibility.

CHAPTER 2

COMPOSITION, REGISTRATION OF ELECTORS AND VOTING SYSTEM FOR GEOGRAPHICAL CONSTITUENCIES

PART I : GENERAL

2.1 This chapter describes the voter registration and the electoral procedures of GCs.

2.2 Only registered electors in a GC whose names appear on the final register (“FR”) of electors may vote at an election for a GC. Registered electors in a GC may visit the Online Voter Information Enquiry System (“OVIES”) (www.voterinfo.gov.hk) any time to check their registration particulars. The FR is updated in every voter registration cycle. In a year which a DC ordinary election is not to be held (“non-DC election year”), the deadline for new voter registration is on 2 May and the deadline for change of residential address and other registration particulars is on 2 April, while in a year which a DC ordinary election is to be held (“DC election year”), the deadlines are on 2 July and 2 June respectively.

2.3 True and accurate information must be provided for registration as an elector. Giving false or misleading information knowingly or recklessly for voter registration (commonly known as “vote rigging”) is an offence under the law, no matter whether the elector has subsequently voted or not.

2.4 The Registration and Electoral Office (“REO”) will assign a GC to each elector according to the residential address provided by him/her. Under the law, an elector must provide his/her true and only or principal residential address at the time of submitting his/her application for voter

registration. If an elector has more than one residential address, the principal residence must be furnished. Electors are not required under the law to update the principal residential address with the REO after they have moved. It does not constitute an act of providing false information or an offence even if an elector does not update his/her principal residential address after moving, provided that the principal residential address supplied was true and correct at the time of application for registration. As long as his/her entry has not been removed from the register concerned and his/her name remains on the FR, an elector who has moved may still vote at the GC corresponding to his/her registered residential address.

2.5 Nevertheless, in order to ensure the accuracy of the particulars in the register of electors, registered electors should provide the updated residential address as soon as possible to the REO after moving residence pursuant to civic responsibility. It is a statutory requirement to submit an address proof issued within the last three months together with the submission of the application form for change of address. However, address proof is currently not required for new voter registration. In order to allow sufficient time for the REO to verify the information on the address proof, the statutory deadline for application for change of registration particulars was 30 days earlier than that for new registration. Although address proof is currently not required for new voter registration, the Electoral Registration Officer (“ERO”) may request the applicant concerned to provide address proof if the ERO considers that there is anything suspicious or unclear on any application for registration.

2.6 The REO has all along put in place appropriate checking measures. If an elector is suspected to have moved and has not reported his/her new principal residential address, the statutory inquiry procedure will be initiated under which the elector may be removed from the register. If an elector has responded to the inquiry and provided address proof to update his/her new principal residential address by the deadline, his/her name may

remain on the register. Otherwise, his/her name will be included in the omissions list (“OL”).

2.7 Before the FR is published, the REO will publish the provisional register (“PR”) and OL for public inspection. The procedure for objections and claims in respect of eligibility for voter registration will also commence at the same time. Any person who has suspicion on the eligibility of an elector may make an objection and the Revising Officer will make a determination on the case. A person whose name has been included in the OL may make a claim with the Revising Officer. If the grounds for the claim are accepted by the Revising Officer, his/her voter registration can then be maintained. A person who makes an objection or a claim must provide sufficient information on the objection or claim to inform the Revising Officer of the grounds of the case. The person concerned needs to attend the hearing (except for incontrovertible cases); otherwise the Revising Officer may dismiss the objection or claim (for details, please see para. 2.32 below). For a person whose name has been included in the OL and whose voter registration was not maintained in the end, his/her entry will not be included in the FR to be published afterwards.

PART II: FORMATION OF THE GEOGRAPHICAL CONSTITUENCIES

2.8 In the general election for the seventh term of the LegCo, the 5 GCs are to return 35 of the 70 members of the LegCo, as follows:

- (a) the Hong Kong Island GC to return 6 members;
- (b) the Kowloon East GC to return 5 members;
- (c) the Kowloon West GC to return 6 members;

- (d) the New Territories East GC to return 9 members; and
- (e) the New Territories West GC to return 9 members.

PART III : REGISTRATION OF ELECTORS

Eligibility to Vote

2.9 Under the existing voter registration arrangement in Hong Kong, a system of honest declaration is adopted to facilitate eligible persons to register as electors. Applicants must provide true and accurate information for voter registration. Any person who makes a false statement in his/her application for voter registration or change of registration particulars violates s 22 of the EAC (ROE) (GC) Reg, no matter whether he/she subsequently votes at an election or not. If the person votes at an election, he/she contravenes s 16 of the ECICO and will be liable to more serious penalty.

2.10 Only a registered elector has the right to vote in a LegCo election. A registered elector is a person whose name appears on the FR of GC that is in effect at the time of election as compiled and published by the ERO under the LCO. A registered elector may only vote at an election in respect of the GC for which he/she is registered as an elector in the FR. [S 48(1) of the LCO]

Qualifications for Registration as an Elector

2.11 To qualify for registration as an elector in a GC under the LCO, a person has to satisfy all the following requirements:

- (a) in any non-DC election year, he/she has to be aged 18 years or above as at 25 July next following his/her application for

registration (or 25 September in a DC election year) [s 29 of the LCO];

- (b) he/she is a permanent resident of Hong Kong [s 27 of the LCO];
- (c)
 - (i) he/she ordinarily resides in Hong Kong and the residential address in his/her application for registration is his/her only or principal residence in Hong Kong [s 28(1) of the LCO]; or
 - (ii) if he/she is a person serving a sentence of imprisonment and at the time of the application does not have a home in Hong Kong outside the penal institution, the following prescribed address is deemed to be the person's only or principal residence in Hong Kong for the purpose of voter registration:
 - (1) the last dwelling-place in Hong Kong at which the person resided and which constituted his/her sole or main home; or
 - (2) the residential address of the person last recorded by the Immigration Department under the Registration of Persons Regulations (Cap 177A) if the person cannot provide any proof on his/her last dwelling-place in Hong Kong [s 28(1A) and (1B) of the LCO].
- (d) he/she holds an identity document or has applied for a new identity document or a replacement identity document [s 30 of the LCO]; and

- (e) he/she is not disqualified from being registered as an elector by virtue of s 31 of the LCO.

2.12 A person who is **already registered** in the existing FR of GCs **need not apply** to be registered as an elector in a GC any further as his/her name and residential address will be repeated in the next register (a PR) [s 8(1) of the EAC (ROE) (GC) Reg]. However, he/she is not entitled to be included as an elector in the next register of GCs if:

- (a) he/she has ceased to ordinarily reside in Hong Kong [s 24(2)(a) of the LCO];
- (b) he/she no longer resides at the residential address recorded against his/her name in the existing register and the ERO does not know his/her new principal residential address in Hong Kong [s 24(2)(b) of the LCO and s 9(2) of the EAC (ROE) (GC) Reg] (see para. 2.23 below);
- (c) he/she is no longer a permanent resident of Hong Kong [s 27 of the LCO];
- (d) he/she was an imprisoned person who used his/her last dwelling-place in Hong Kong at which he/she resided or the address last recorded under the Registration of Persons Regulations as the address for registration as an elector and who had served his/her sentence of imprisonment and left the penal institution without reporting his/her new residential address to the ERO [s 9(2A) of the EAC (ROE) (GC) Reg]; or
- (e) he/she is disqualified from being registered as an elector by virtue of s 31 of the LCO.

Disqualifications

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

- (a) has ceased to be eligible to be registered as an elector for such a GC (see paras. 2.11 and 2.12 above) [ss 27, 28 and 53(1) of the LCO];
- (b) is found to be incapable, by reason of mental incapacity, of managing and administering his/her property and affairs under the Mental Health Ordinance (Cap 136) [ss 31(1) and 53(5) of the LCO]¹; or
- (c) is a member of any armed forces [ss 31(1) and 53(5) of the LCO].

Application for Registration and De-registration

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

2.15 A person may send in his/her application for registration as an elector on the specified form² to the ERO any time in the year. For a person whose voter registration has been removed (e.g. due to failure to respond to the inquiry letter from the REO after moving residence), if he/she is eligible for registration as an elector, the person may submit a new application to register again as an elector.

¹ For other persons whose mental health may be at stake, apart from the situation mentioned in para. 2.13(b) above, there is no restriction imposed on the voting rights of the persons concerned under the law but the person must cast his/her vote on his/her own. If the elector concerned has difficulties in marking the ballot paper by himself/herself, he/she may request the Presiding Officer ("PRO") or his Deputy to mark the ballot paper on his/her behalf according to his/her voting preference in the presence of one of the polling officers as a witness (for details, please see para. 5.57 below).

² The application form, "Application for New Voter Registration (Geographical Constituencies)"

2.16 An elector may make an application for de-registration in person at the office of the REO. If he/she chooses to make the application in writing instead, no specified form is required. The elector may inform the REO by letter, and must provide his/her personal particulars in the letter to be signed by him/her. All applications for de-registration will not take effect immediately. For a written application, upon receipt of the notice, the REO will contact the elector concerned to verify his/her application. The REO will only include the elector's name in the OL after the verification. An elector who has been included in the OL may inspect his/her voter registration particulars starting from the day of publication of the PR and OL till the end of the public inspection period, and if necessary, may lodge a claim accompanied by relevant evidence to request that his/her elector status be maintained. The public inspection period is from **1 to 25 June in a non-DC election year** (or from 1 to 25 August in a DC election year). If the REO is unable to complete the verification of the application for de-registration, the name of the elector will remain on the PR in that year. If the elector's registration is not removed, he/she may decide by himself/herself whether to vote or not on the polling day. The application for de-registration submitted by the elector earlier will be processed in the next election cycle.

2.17 Although the application mentioned in paras. 2.15 and 2.16 above could be delivered to the REO at any time, for inclusion/exclusion of his/her name in the FR of GCs to be published not later than 25 July **in a non-DC election year** (or 25 September in a DC election year), a person's application must have been received by the ERO **not later than 2 May** in that year (or 2 July in a DC election year). [S 4 of the EAC (ROE) (GC) Reg]

2.18 The ERO will process the application forms for registration after they have been received. The ERO will send written enquiries to applicants to seek information or proof if the information on their applications is incomplete or incorrect [s 5(2) of the EAC (ROE) (GC) Reg]. An applicant who qualifies

for registration will be allocated to the GC concerned on the basis of his/her residential address and the REO will notify him/her of the result by post [s 5(8) of the EAC (ROE) (GC) Reg]. For applicants who are not qualified for registration, the REO will also inform him/her of the relevant result by post [s 5(9) of EAC (ROE) (GC) Reg].

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

Change of Residential Address and Other Registered Particulars

2.20 It will not be necessary for a registered elector to re-apply for registration every year. However, if a registered elector has changed his/her principal residential address in the FR, he/she should **notify the ERO of his/her new principal residential address** in Hong Kong to update his/her registration particulars in the next register of electors.

2.21 Apart from principal residential address, any registered elector who has changed his/her other particulars (e.g. name, telephone numbers and email address) should also notify the ERO.

2.22 An elector should notify the ERO of any change of his/her registration particulars on the specified form³ to report the change of particulars. For an application for change of principal residential address recorded in the FR, relevant documentary evidence should be provided to prove that the address stated in the application is his/her principal residential address⁴ [s 10A(3) of the EAC (ROE) (GC) Reg]. The address proof must be a document issued within the last three months or any other period as specified

³ The application form, "Report on Change of Particulars by an Elector in a Geographical Constituency" (REO-2), is available at the website of the REO (www.reo.gov.hk).

⁴ For electors who are the authorised occupants of public rental housing under the Housing Department or registered residents in the tenancy of subsidised housing under the Hong Kong Housing Society applying for change of registered address, if the addresses in the tenancy records match the residential addresses provided by the electors, address proof requirement for such electors

by the ERO⁵. In order to allow the alteration of his/her particulars to be effected in the next FR of electors, he/she should notify the ERO as soon as possible and the **latest by 2 April in a non-DC election year** (or 2 June in a DC election year) [s 10A(12) of the EAC (ROE) (GC) Reg]. An elector who has reported change of particulars will be sent a notice by the ERO confirming his/her updated electoral record [s 10A(10) of the EAC (ROE) (GC) Reg]. An elector who has yet to submit his/her application for change of registration particulars to the ERO to change his/her principal residential address by the statutory deadline may still vote at the GC corresponding to his/her original registered address if his/her name remains on the register of electors.

2.23 While it is not a mandatory requirement under the law, a registered elector is encouraged to fulfil their civic duty to notify the ERO of any change in his/her principal residential address in Hong Kong in a timely manner and submit the specified address proof at the same time. To enhance the accuracy of the register of electors, the REO has put in place suitable checking measures. **If it comes to the knowledge of the ERO that an elector's registered address may no longer be his/her principal residential address**, the ERO will invoke the statutory inquiry process to ascertain whether the address recorded in the existing register is still the elector's only or principal residential address in Hong Kong [s 7(1) of the EAC (ROE) (GC) Reg]. **The elector's name and other registration particulars will be included in the OL and may be removed from the next register of electors** if he/she fails to respond to the satisfaction of the ERO during the inquiry process, including failing to respond to the inquiry from the REO by the statutory deadline. Meanwhile, for any election held before the publication of the next register, the person remains a registered elector for the GC as recorded in the current register of electors [s 33 of the LCO]. It is of utmost importance for electors to provide the ERO with true, accurate and updated information for voter registration and it is an offence for a person to knowingly or recklessly

may be exempted

⁵ For details of the acceptable address proofs, please refer to guidance notes of the application form

give false or misleading information for voter registration no matter whether or not he/she subsequently votes at an election. Offenders will be liable to a fine at level 3 (\$10,000) and to imprisonment for 2 years. [S 22 of the EAC (ROE) (GC) Reg]

The Provisional Register and the Omissions List

2.24 The PR for GCs will be published **not later than 1 June in a non-DC election year** (or no later than 1 August in a DC election year). It should include:

- (a) the names and principal residential addresses of those electors in the existing FR for GC, updated and corrected by the ERO based on reported or other available information obtained; and
- (b) the names and principal residential addresses of the eligible new applicants who have applied for registration in the constituency concerned on or before 2 May of that year (or 2 July in a DC election year).

The PR will be **available for public inspection** at the REO and specified District Offices (“DOs”) from the date of publication till 25 June (or 25 August in a DC election year). [Ss 12 and 13 of the EAC (ROE) (GC) Reg]

2.25 At the same time when the PR for GCs is published, the ERO will also publish for public inspection an OL, containing the names and principal residential addresses of persons formerly registered as GC electors, which are struck out of the PR and proposed to be omitted from the next FR because, based on the information available, the ERO is satisfied on reasonable grounds that the persons concerned do not wish to remain registered in the register of electors; or are no longer eligible to be registered; or have been

disqualified [s 32(4)(a) and (b) of the LCO and s 9(1) and (2) of the EAC (ROE) (GC) Reg].

2.26 For an imprisoned person who has used his/her last dwelling-place in Hong Kong at which he/she resided or the address last recorded under the Registration of Persons Regulations as the address for registration as an elector, if the ERO is satisfied on reasonable grounds that he/she has served his/her sentence of imprisonment and left the penal institution without reporting his/her new residential address to the ERO, the ERO shall enter his/her name and principal residential address in the OL according to the procedures prescribed in the relevant legislation. [S 9(2A) of the EAC (ROE) (GC) Reg]

2.27 The names and principal residential addresses of the persons included in the OL will not appear in the PR [s 32(4)(a) and (b) of the LCO and s 9 of the EAC (ROE) (GC) Reg]. However, the inclusion of an elector in the OL does not mean that his/her registration status will be immediately revoked. If the elector makes a claim to the ERO and the Revising Officer accepts the grounds he/she submitted, his/her registration status will be maintained (see paras. 2.30 to 2.32 below).

2.28 The time and place where the PR and the OL can be inspected will be published in the Gazette and in newspapers. Publication of the PR is deemed to be done by publication of that notice. Upon request by a person imprisoned or held in custody by a law enforcement agency, the ERO may make available, at a penal institution or the premises of a law enforcement agency as the case may be, a copy of the PR and OL for inspection by the persons concerned if the ERO considers it appropriate to do so. The ERO may require persons who wish to inspect the PR and/or OL to produce an identity document and complete a form furnished by him/her. [Ss 10 and 13 of the EAC (ROE) (GC) Reg]

Online Voter Information Enquiry System

2.29 Registered electors may log on to the OVIES (www.voterinfo.gov.hk) any time to check their latest registration particulars including their registered addresses and respective constituencies as well as information on whether they were included in the statutory inquiry.

Appeals – Objections and Claims

2.30 Members of the public may lodge in person with the ERO a notice of objection on the specified form as regards any entry in the relevant **PR not later than 25 June in a non-DC election year** (or 25 August in a DC election year) [s 14(2) of the EAC (ROE) (GC) Reg]. The procedures for making claims or objections are provided in the REO website (www.reo.gov.hk) during the public inspection period. On or before the same date, an applicant who claims that he/she is entitled to be registered as an elector but whose name has not been recorded in the PR or has been included in the OL or an elector whose particulars have not been correctly recorded in the PR may lodge in person with the ERO a notice of claim on the specified form in respect of the entry or the omission concerning himself/herself [s 15(1), (2) and (7) of the EAC (ROE) (GC) Reg]. To facilitate the making of such an objection or claim by a person imprisoned or held in custody by a law enforcement agency, he/she is allowed to deliver a notice of objection or claim to the ERO by post [s 15(7A) of the EAC (ROE) (GC) Reg].

2.31 The REO will issue reminding letters to those electors who have been listed on the OL. The envelopes of the letters will be stamped with a reminding message in red, “Immediate action required. Your voting right is at stake.” to remind electors concerned to submit a claim form or to return the reply slip by the specified deadline to confirm the validity of their registered addresses or to update their registered addresses (submission of address proof is required for an update of registered address). For an elector who was subject

to the statutory inquiry and was then listed on the OL, when he/she logs on to the OVIES to view his/her registration particulars, the system will remind him/her to respond to the reminding letter issued by the REO as soon as possible so as to confirm that his/her current residential address is correct or to update his/her residential address.

2.32 Cases of objections and claims will be referred to the Revising Officer⁶ for consideration. The Revising Officer will rule on each objection or claim and decide on the inclusion, exclusion or correction of the entry concerned in the relevant FR. [Ss 34 and 77 of the LCO and Part 3 of the EAC (ROE) (GC) Reg] A person who lodges an objection or a claim must provide sufficient information so as to inform the Revising Officer of the grounds of the objection or claim. He/She needs to attend the hearing (except for incontrovertible cases⁷); otherwise the Revising Officer may dismiss the objection or claim. [Ss 2(5A) and 2B of the Registration of Electors (Appeals) Regulation (Cap 542B)]

The Final Register

2.33 The FR for GCs will be published **not later than 25 July in a non-DC election year** (or 25 September in a DC election year) [s 32(1)(b) and (1A)(b) of the LCO]. It will include the entries in the relevant PR with the updated names and principal residential addresses of electors who have applied to alter their particulars not later than 2 April of that year (or 2 June in a DC election year), and the names and principal residential addresses of those who were subject to a notice of objection or claim as updated or corrected to reflect the decisions of the Revising Officer [s 19(1) of the EAC (ROE) (GC) Reg].

⁶ The Revising Officer may be any magistrate, former magistrate, retired magistrate or any legal officer within the meaning of the Legal Officers Ordinance (Cap 87), appointed by the Chief Justice [s 77(1) of the LCO].

⁷ In accordance with s 2A of the Registration of Electors (Appeals) Regulation, for an incontrovertible objection or claim, including the person who lodges the objection or claim has not provided any ground in his/her notice, the ground(s) submitted by the person are irrelevant to registration eligibilities or the case involves only a clerical error made in compiling or printing a PR, the Revising Officer must direct that the objection or claim be determined without a hearing on the basis of written submissions only.

The ERO will also take the opportunity to delete those entries of electors who are known to have died and to correct any mistakes in the PR. This FR shall remain valid until the publication of the next FR in the following year.

2.34 The time and place where the FR can be inspected will be published in the Gazette and in newspapers. Publication of the FR is deemed to be done by publication of that notice⁸. Upon request by a person imprisoned or held in custody by a law enforcement agency, the ERO may make available at a penal institution or the premises of a law enforcement agency as the case may be, a copy of the FR for his/her inspection if the ERO considers it appropriate to do so. The ERO may require persons who wish to inspect the FR to produce an identity document and complete a form furnished by him/her. [S 20 of the EAC (ROE) (GC) Reg]

IMPORTANT :

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

⁸ In view of the judicial review case filed by the Junior Police Officers' Association (HCAL 3024/2019), the Court had issued an interim injunction order prohibiting the REO from making the FR containing the name and the principal residential address of electors available for public inspection as well as providing its extracts or any relevant particulars to the public until the conclusion of the litigation. The arrangement for public inspection of the 2020 FR will be subject to the judgement of the Court.

PART IV : THE VOTING SYSTEM FOR GEOGRAPHICAL CONSTITUENCIES

2.35 For GCs, the list system of proportional representation applies [s 49(2) of the LCO].

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

2.37 In the list system of proportional representation, the nomination of candidates is to be by way of a list in a nomination form specified by the EAC to contain the names of one or more candidates for a GC as a group, and if more than one name, the names have to be ranked in the order of priority of the group. After the RO of the GC concerned has determined the eligibility of the candidates on a nomination list, only the eligible candidates whose priority on the list is below or equals the number of vacancies in the GC will be allowed to remain as candidates, and other candidates on the same list who rank after those prior candidates will have their names excluded from the nomination list. If, after the end of the nomination period but before the date of the election, proof is given to the satisfaction of the RO that a candidate

whose name appears on a list of candidates has died or is disqualified from being nominated as a candidate, the RO must strike out the name of that candidate from the list. After striking out a name from a list of candidates, the RO must not add the name of any other person to the list. If no name remains on the list of candidates, the RO must reject the list. [S 38 of the LCO]

2.38 At a GC election, an elector is entitled to cast a **single vote for a list** (as shown on the ballot paper) and not for an individual candidate. The number of valid votes cast for the election of the GC will be divided by the number of vacancies to be elected for that GC to arrive at the quota of votes. Each list that gets the quota will have one candidate on the list elected. When not all the vacancies are filled by applying the quota, then the filling of the remaining seat or seats will be decided by the largest remainder of valid votes cast for each list after the deduction of the quota or a number of quotas of votes cast for that list. If there are votes cast for a list that exceed the quota or quotas necessary to return all the candidates in the list, the list will be treated as having no further votes remaining. [S 49 of the LCO] For example, in a GC to elect 5 LegCo members, i.e. with 5 vacancies, where the number of valid votes cast is 1 million and there are 6 lists with varying number of candidates, the voting system operates in the following manner: The quota of votes required to elect 1 candidate = $1,000,000 \div 5 = 200,000$

The valid votes cast for the 6 lists, e.g.:

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

Step 1

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

<u>List 1</u>	<u>List 2</u>	<u>List 3</u>	<u>List 4</u>	<u>List 5</u>	<u>List 6</u>
Candidate A	Candidate F	None	None	None	Candidate Q
90,000	70,000	80,000	120,000	30,000	10,000
votes	votes	votes	votes	votes	votes
					(treated as no votes remaining)

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

Step 2

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

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

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

2.39 If it is found that 2 or more lists have the equal largest number of remaining votes and the number of those lists exceeds the number of members

remaining to be returned at that stage, the RO must determine the result by drawing lots. The member/members will be returned from the list/lists on which the lot falls. [S 49(11) of the LCO]

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

- (a) Where there is only 1 vacancy to be filled and there are 2 candidates, the candidate who obtains the larger number from 1 to 10 will be the winner. If both candidates have drawn the same number, further draw(s) will be held until a candidate eventually wins. 1 is the smallest number and 10 is the largest number.
- (b) Where there is only 1 vacancy to be filled and there are more than 2 candidates, if in the first draw, the numbers drawn by the candidates are different, then the candidate who draws the largest number will win. If, on the other hand, 2 or more of the candidates have drawn the same larger number and the remaining candidate(s) has/have drawn a smaller number, there must be a second draw. Only those candidates who have obtained the same larger number in the first draw will participate in the second

draw.

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

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

Death or Disqualification of a Candidate for GC

2.42 If, after the RO has decided that a candidate is validly nominated but before the election day, if proof is given to the satisfaction of the RO that the candidate has died or is disqualified from being nominated as a candidate, the RO must, as soon as practicable, publicly declare that the candidate has died or that the RO's earlier decision is varied to the effect that the candidate is not validly nominated. The RO must further declare which candidates are validly nominated for election for the constituency concerned. [Ss 42A and 42B of the LCO]

2.43 On the polling day but before the close of poll for the election, if proof is given to the satisfaction of the RO that a validly nominated candidate has died or is disqualified from being elected, the RO should publicly declare that the proceedings for the election for the constituency are terminated. The declaration is to be made by a notice displayed in a prominent place outside each polling station of the relevant constituency and published in the Gazette as soon as practicable. [S 46A(1) of the LCO and s 97(1) of the EAC (EP) (LC) Reg]

2.44 After the close of poll but before declaring the result of the election, if proof is given to the RO's satisfaction that a candidate/ candidate on a list has died or is disqualified from being elected, the RO should complete the counting of votes. After the counting of votes is finished, if the candidate concerned is successful at the election, and if there is another candidate or there are other candidates on the same list who has not or have not been returned for the constituency, the candidate is to be returned or a candidate is to be returned according to the order of priority on the list in place of the deceased or disqualified candidate. If there is no other candidate on the same list who can be returned, the RO should not declare that candidate as elected and must publicly declare that the election for that constituency has failed or has failed to the extent that the number of candidates returned at the election for the constituency was less than the number of members to be returned for the constituency. [Ss 46A(2), (3), (4), 49(14), (15) and (16) of the LCO and s 83(2)(a), (b)(i) and 97A of the EAC (EP) (LC) Reg]

CHAPTER 3

COMPOSITION, REGISTRATION OF ELECTORS AND VOTING SYSTEM FOR FUNCTIONAL CONSTITUENCIES

PART I : GENERAL

3.1 This chapter describes the voter registration and the electoral procedures of FCs.

3.2 Only registered electors in a FC or authorised representatives (“ARs”) whose names appear on the FR of electors may vote at an election for a FC. Registered electors in a FC may visit the OVIES (www.voterinfo.gov.hk) any time to check their registration particulars. The FR is updated in every voter registration cycle. In a non-DC election year, the deadline for new voter registration is on 2 May and the deadline for change of residential address and other registration particulars is on 2 April, while the deadlines are on 2 July and 2 June respectively in a DC election year.

3.3 True and accurate information must be provided for registration as an elector. Giving false or misleading information knowingly or recklessly for voter registration (commonly known as “vote rigging”) is an offence under the law, no matter whether the elector has subsequently voted or not. Also, notwithstanding that the elector’s name is still on the FR, the elector concerned will commit an offence if he/she votes at the election knowing that he/she is disqualified from being registered as an elector.

3.4 A registered elector for a FC (including an individual elector or an AR of a corporate elector) must be a registered elector for a GC or eligible to be registered for a GC and has made an application to be so registered. Regarding

the details of registration as an elector for a GC, please refer to part 3 of Chapter 2.

3.5 The REO has all along put in place appropriate checking measures. If an elector is suspected to be no longer eligible to be registered in the relevant FC, the statutory inquiry procedure will be initiated under which the elector may be removed from the register. If an elector responds to the inquiry and provides valid proof for his/her eligibility for voter registration by the deadline, his/her name may remain on the register for the relevant FC. If an elector fails to respond to the inquiry and provide the relevant proof for his/her eligibility for voter registration by the deadline, for an individual elector, he/she will be registered as an elector of the DC (second) FC, unless he/she chooses not to be so registered or the inquiry letter sent to him/her was undelivered and returned. Under such circumstances, his/her name will be included in the OL for the relevant FC. As for a corporate elector who fails to respond to the inquiry and provide the relevant proof for its eligibility for voter registration by the deadline, its name will be included in the OL for the relevant FC.

3.6 Before the FR is published, the REO will publish the PR and OL for public inspection. The procedure for objections and claims in respect of eligibility for voter registration will also commence at the same time. Any person who has suspicion on the eligibility of an elector may make an objection and the Revising Officer will make a determination on the case. A person whose name has been included in the OL may make a claim with the Revising Officer. If the grounds for the claim are accepted by the Revising Officer, his/her voter registration can then be maintained. A person who makes an objection or a claim must provide sufficient information on the objection or claim to inform the Revising Officer of the grounds of the case. The person concerned needs to attend the hearing (except for incontrovertible cases); otherwise the Revising Officer may dismiss the objection or claim (for details, please see para. 3.43 below). For a person whose name has been included in the OL and whose registration was not maintained in the end, his/her entry will not be included in

the FR to be published afterwards.

PART II : COMPOSITION

3.7 In the general election for the seventh term of the LegCo, the 29 FCs are to return 35 of the 70 members of the LegCo.

3.8 The electorates of the 28 traditional FCs are from particular professional, industrial or trade groups, etc. The DC (second) FC is composed of persons who are registered as electors for GCs but are not registered as electors for any of the other 28 FCs. Except the Labour FC that is to return 3 members to the LegCo and the DC (second) FC that is to return 5 members to the LegCo, each of the other 27 FCs will return 1 member [s 21 of the LCO]. The FCs and their electors are provided for in ss 20A to 20ZC of and Schedules 1 to 1E to the LCO, and are set out in **Appendix 2**.

PART III : REGISTRATION OF ELECTORS

Eligibility to Vote

3.9 Under the existing voter registration arrangement in Hong Kong, a system of honest declaration is adopted to facilitate eligible persons to register as electors. Applicants must provide true and accurate information for voter registration. Any person who makes a false statement in his/her application for voter registration or change of registration particulars violates s 42 of the EAC (ROE) (FCSEC) Reg, no matter whether he/she subsequently votes at an election or not. If the person votes at an election, he/she contravenes s 16 of the ECICO and will be liable to more serious penalty.

3.10 Only a registered elector has the right to vote in a LegCo election. A registered elector is a person or AR of a corporate elector whose name appears on the FR of FC that is in effect at the time of the election. A registered elector or AR of a corporate elector may only vote at an election in respect of a FC for which the elector is registered in the FR. [S 48 (1) of the LCO]

Qualification for Registration as an Elector

An Elector of the 29 FCs

3.11 A natural person (individual) or a body may be eligible to be registered as a FC elector. A person who is one specified in column 2 of Appendix 2 opposite a FC is eligible to be registered as an elector for that FC. If the person is an individual, he/she must **also** be either registered for a GC or eligible to be registered for a GC and has made an application to be so registered (for qualifications for registration as an elector for a GC, please refer to para. 2.11 of Chapter 2). [S 25(1) of the LCO]

3.12 If a person/body is **already registered** in the FR for a FC and is eligible to do so, and is not disqualified from being registered as an elector for the FC, then he/she/it **needs not apply** to be registered as an elector in a FC again as his/her/its name and principal residential address/ name and business address will appear in the next PR for the relevant FCs. [S 23(1) of the EAC (ROE) (FCSEC) Reg]

3.13 A body specified in item 3, 12, 20, 21(1), 22(2), (4), (5), (10) or (11), 23(1) to (4), 24(4) or (5), 26(13) or 27(1) of Appendix 2 is eligible to be registered as a corporate elector for the relevant FC only if it has been operating for the 12 months immediately before making its application for registration as an elector. [S 25(4) of the LCO]

3.14 A body that is a corporate member of a representative organisation specified in item 2(1), 14 to 19, 21(2), 22(1) or (7) to (9), 23(5), 24(1) or (2), 25 or 26(10), (11)(a) or (12) of Appendix 2 is eligible to be registered as a corporate elector for the relevant FC if it has been a corporate member of the representative organisation and has been operating for the 12 months immediately before making its application for registration as an elector. [S 25(5) of the LCO]

3.15 An individual who is a member of a representative organisation specified in item 14, 17, 18, 22(7) or (9), 23(5), 24(3), 25 or 26(14) or (15) of Appendix 2 is eligible to be registered as an elector for the relevant FC only if the person has been a member of the body for the 12 months immediately before making an application for registration as an elector. [S 25(6) of the LCO]

3.16 No person/body may be registered in 2 or more FCs. If he/she/it is eligible to be registered in 2 or more FCs, he/she/it may choose to be registered in any one of the FCs **unless** he/she/it is eligible in the DC (first) FC and/or any one of the 4 SFCs shown in para. 3.18. [S 25(2) of the LCO]

3.17 If a person is eligible to be registered in the DC (first) FC and any other FC at the same time, he/she has no choice and may only be registered in the DC (first) FC and not in any other FC. [S 25(3)(ca) of the LCO]

3.18 Subject to para. 3.17, if a person/body who/which is eligible to be registered in one of the following 4 SFCs:

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

and if he/she/it wants to be registered as an FC elector, he/she/it has **no choice** but to be registered in that FC although he/she/it may be eligible for any other FC [s 25(3) of the LCO]. The voting system for these 4 SFCs is different from that for the 24 ordinary FCs and the DC (second) FC (see paras. 3.46 to 3.56 below). These 4 SFCs are specified in s 20(1)(a) to (d) of the LCO (items 1 - 4 of Appendix 2).

An Authorised Representative of a Corporate Elector

3.19 A corporate elector is required to appoint an eligible individual to be its AR for the purpose of casting its vote at any election, otherwise it cannot vote (see also s 48(8) of the LCO). An individual is eligible to be appointed as an AR of a corporate elector only if he/she:

- (a) is registered, or eligible to be and has applied to be registered, as an elector of a GC;
- (b) is a member, partner, officer or employee of the corporate elector or has a substantial connection with it;
- (c) is not registered, and has not applied to be registered, as an elector for the same FC of the corporate elector; and
- (d) is not disqualified from being registered or voting under s 31 or 53 of the LCO (see para. 3.22 below).

[S 26(1) and (2) of the LCO]

3.20 An AR of a corporate elector is not eligible to be selected as the AR of another corporate elector. [S 26(3) of the LCO]

3.21 An AR must be registered with the ERO. **A corporate elector is required to give notice of appointment of its AR to the ERO in its application form for registration as a corporate elector.** It may thereafter from time to time appoint a replacement AR by sending a specified form to reach the ERO not later than 14 days before the polling day of its FC. [S 26(4) and (5) of the LCO and S 20(5) of the EAC (ROE) (FCSEC) Reg] If the ERO is satisfied that the AR has died or is seriously ill or physically or mentally incapacitated, the deadline of 14 days for replacement is extended to 3 working days before the relevant polling day [s 20(6) of the EAC (ROE) (FCSEC) Reg].

Disqualifications

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

- (a) has ceased to be eligible to be registered as an elector for the GC (see paras. 2.12 above);
- (b) has ceased to be qualified for the FC (this does not apply to an AR or an elector for a GC) [s 53(1) and (4) of the LCO];
- (c) is found by the Court to be incapable, by reason of mental incapacity, of managing and administering his/her property and affairs under the Mental Health Ordinance (Cap 136) [ss 31(1) and 53(5) of the LCO]⁹; or
- (d) is a member of any armed forces [ss 31(1) and 53(5) of the LCO].

⁹ For other persons whose mental health may be at stake, apart from the situation mentioned in para. 3.22 (c) above, there is no restriction imposed on the voting rights of the persons concerned under the law but the person must cast the vote on his/her own. If the elector concerned has difficulties in marking the ballot paper by himself/herself, he/she may request the PRO or his Deputy to mark the ballot paper on his/her behalf according to his/her voting preference in the presence of a polling officer as witness (for details, please see para. 5.57 below).

3.23 A consular post to which any privilege or immunity is accorded under the Consular Relations Ordinance (Cap 557) and an organisation to which s 2 of the International Organizations and Diplomatic Privileges Ordinance (Cap 190) applies or an international organisation defined in s 2 of the International Organizations (Privileges and Immunities) Ordinance (Cap 558) are disqualified from being registered as a corporate elector. In addition, a body which is a department or an agency of a government of a place outside the People's Republic of China, whether at national, regional or municipal level, is also disqualified from being registered as a corporate elector and, for the purpose of this disqualification requirement, a body will not be regarded as a department or an agency of a government of a place unless the management of the body is appointed by the government and is answerable to the government; the principal function of the body is to advance the interest of the place and the body is non-profit-making. [S 31(3) to (6) of the LCO]

Application for Registration and De-registration

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

3.25 A person (either an individual or a body) may send in his/her/its application for voter registration as an elector on the specified form¹⁰ to the ERO any time in the year. For a person whose voter registration has been removed (e.g. due to failure to respond to the inquiry letter from the REO after moving residence), if he/she/it is eligible for registration as an elector, the person may submit a new application for the FC to register again as an elector.

3.26 An elector may make an application for de-registration from the FC in person at the office of the REO. If the elector chooses to make the

¹⁰ The application forms, "Application By an Individual for Registration in a Functional Constituency and/or an Election Committee Subsector" (REO-41) or "Application By a Body for Registration in a Functional Constituency and/or an Election Committee Subsector / Report on Change of Particulars" (REO-42), are available at the website of the REO (www.reo.gov.hk).

application in writing instead, no specified form is required. The elector may inform the REO by letter, and must provide personal particulars in the letter to be signed by the elector concerned. All applications for de-registration will not take effect immediately. For a written application, upon receipt of the notice, the REO will contact the elector concerned to verify the application. The REO will only include the elector in the OL for the relevant FC after the verification. An elector who has been included in the OL for the FC may inspect his/her/its voter registration particulars starting from the day of publication of the PR and OL till the end of the public inspection period, and if necessary, the elector concerned may lodge a claim accompanied by relevant evidence to request that his/her/its elector status be maintained. The public inspection period is from **1 to 25 June in a non-DC election year** (or from 1 to 25 August in a DC election year). If the REO is unable to complete the verification of the application for de-registration, the name of the elector will remain on the PR of the relevant FC in that year. If the elector's registration is not being removed, the elector concerned may decide whether to vote or not for the relevant FC on the polling day. The application for de-registration submitted earlier by that elector will be handled in the next election cycle.

3.27 Although the application mentioned in paras. 3.25 and 3.26 above could be delivered to the REO at any time, for inclusion/exclusion of his/her/its name in the FR of FC to be published not later than 25 July **in a non-DC election year** (or 25 September in a DC election year), his/her/its application must have been received by the ERO **not later than 2 May** in that year (or 2 July in a DC election year). [S 19 of the EAC (ROE) (FCSEC) Reg]

3.28 The ERO will process the application forms for registration after they have been received. The ERO will send written enquiries to applicants to seek information or proof if the information on their applications is incomplete or incorrect [s 21(2) of the EAC (ROE) (FCSEC) Reg]. An applicant who qualifies for registration will be allocated to the relevant FC, in accordance with his/her qualification and choice (if so entitled) and the REO will notify him/her

of the result by post [s 21(8) of the EAC (ROE) (FCSEC) Reg]. For applicants who are not qualified for registration, the REO will also inform him/her of the relevant result by post [s 21(9) of the EAC (ROE) (FCSEC) Reg].

3.29 The names and principal residential addresses/ names and business addresses (for corporate electors) of all eligible electors will be entered in the registers of electors. The ARs (if appointed) of the corporate electors will also be included in the registers of electors.

Change of Residential Address and Other Personal Particulars

3.30 It will not be necessary for a registered elector (either individual or body) to re-apply for registration every year.

3.31 However, in the case of a registered individual elector, please note the following:

- (a) If he/she has changed his/her principal residential address in the FR, he/she should **notify the ERO of his/her new principal residential address** in Hong Kong to update his/her registration particulars in the next register of electors.
- (b) He/She should notify the ERO of any change of circumstances that may affect his/her eligibility (e.g. his/her connection with a particular FC). Based on such information from the elector, the ERO will decide whether he/she remains eligible to be registered, and if so, in which constituency.
- (c) Apart from his/her principal residential address, any registered elector who has changed his/her other particulars (e.g. name, telephone numbers and email address), should also notify the ERO.

- (d) He/She should notify the ERO of any change of his/her registration particulars on the specified form¹¹ to report the change of particulars. For an application for change of principal residential address recorded in the FR, relevant documentary evidence should be provided to prove that the address stated in the application is his/her principal residential address¹² [s 26A(3) of the EAC (ROE) (FCSEC) Reg]. The address proof must be a document issued within the last three months or any other period as specified by the ERO¹³. In order to allow the alteration of his/her particulars to be effected in the next FR of electors, he/she should notify the ERO as soon as possible and the **latest by 2 April in a non-DC election year** (or 2 June in a DC election year) [s 26A(12) of the EAC (ROE) (FCSEC) Reg]. The ERO will send a notice to an elector who has reported a change of particulars confirming his/her updated electoral record [s 26A(10) of the EAC (ROE) (FCSEC) Reg].
- (e) If the elector has **failed to update the ERO of his/her new address in Hong Kong**, or ceased to be ordinarily resided in Hong Kong, **his/her name and particulars may be removed from the register of electors**.

3.32 In the case of a registered corporate elector, if it has changed its particulars (e.g. name, address, telephone number), it should also notify the ERO

¹¹ The application forms, “Application By a Body for Registration in a Functional Constituency and/or an Election Committee Subsector / Report on Change of Particulars” (REO-42) or “Report on Change of Particulars by an Individual in a Functional Constituency and/or an Election Committee Subsector/De-registration or Non-registration for the District Council (Second) Functional Constituency” (REO-43), are available at the website of the REO (www.reo.gov.hk).

¹² For electors who are the authorised occupants of public rental housing under the Housing Department or registered residents in the tenancy of subsidised housing under the Hong Kong Housing Society applying for change of registered address, if the addresses in the tenancy records match the residential addresses provided by the electors, address proof requirement for such electors may be exempted.

¹³ For details of the acceptable address proofs, please refer to guidance notes of the application form “Application By a Body for Registration in a Functional Constituency and/or an Election Committee Subsector / Report on Change of Particulars” (REO-42).

using the specified form¹⁴. In this regard, para. 3.31 (b) and (d) above apply to a corporate elector in the same way as they apply to an individual elector. For the AR of a corporate elector, para. 3.31 (a), (b), (c) and (e) above apply to change in his/her personal particulars.

3.33 To enhance the accuracy of the register of electors, the REO has put in place suitable checking measures. **If it comes to the knowledge of the ERO or the ERO is satisfied on reasonable grounds that an elector is no longer eligible to be registered in the relevant FC**, the ERO will invoke the statutory inquiry process to ascertain whether the name recorded in the existing register is still eligible to be registered as an elector for the relevant FC [s 22(1) and (2) of the EAC (ROE) (FCSEC) Reg]. For an individual elector who fails to respond to the satisfaction of the ERO during the inquiry process, he/she will be registered as an elector of the DC(second)FC; if he/she chooses not to be so registered or the inquiry letter sent to him/her was undelivered and returned, then the ERO will not register him/her as an elector of the DC (second) FC and his/her name will be included in the OL and may be removed from the next register of electors for the relevant FC. As for a corporate elector who fails to respond to the satisfaction of the ERO during the inquiry process, its name will be included in the OL and may be removed from the next register of electors for the relevant FC [s 24(1) and (3) of the EAC (ROE) (FCSEC) Reg]. Meanwhile, before the publication of the next register, the person remains a registered elector for the FC as recorded in the existing register of electors [s 33 of the LCO]. It is of utmost importance for electors to provide the ERO with true, accurate and updated information for voter registration and it is an offence for a person to knowingly or recklessly give false or misleading information for voter registration no matter whether or not he/she subsequently votes at an election. Offenders will be liable to a fine at level 3 (\$10,000) and to imprisonment for 2

¹⁴ The application forms, “Application By a Body for Registration in a Functional Constituency and/or an Election Committee Subsector / Report on Change of Particulars” (REO-42) or “Report on Change of Particulars by an Individual in a Functional Constituency and/or an Election Committee Subsector/De-registration or Non-registration for the District Council (Second) Functional Constituency” (REO-43), are available at the website of the REO (www.reo.gov.hk).

years. [S 42 of the EAC (ROE) (FCSEC) Reg]

The Provisional Registers and the Omissions List

3.34 The PR for FCs will be published **not later than 1 June in a non-DC election year** (or no later than 1 August in a DC election year). It should include:

- (a) the names and principal residential addresses/ names and business addresses of those electors in the existing FR for that FC updated and corrected by the ERO based on reported or other available information obtained;
- (b) the names and principal residential addresses/ names and business addresses of the eligible new applicants who have applied for registration in the constituency concerned on or before 2 May of that year (or 2 July in a DC election year); and
- (c) the names of the ARs of the corporate electors.

The PR for the 28 traditional FCs will be **available for public inspection** at the REO and certain DOs not later than 25 June in a non-DC election year (or 25 August in a DC election year). The PR for the DC (second) FC is compiled in a PR for the GC by means of notes or indications against the names and principal residential address of the concerned electors. The register so compiled is to be regarded for all purposes as a register compiled under the EAC (ROE) (FCSEC) Reg [s 3(2A) of the EAC (ROE) (FCSEC) Reg]. The PR for the DC (second) FC will be made **available for public inspection** at the REO and certain DOs as described in para. 2.24 above. [Ss 27 and 29 of the EAC (ROE) (FCSEC) Reg]

3.35 A person applying for the registration in a PR for the GC is also regarded as having applied for registration as an elector for the DC (second) FC

unless he/she specifies otherwise [s 19(1A) of the EAC (ROE) (FCSEC) Reg].

3.36 At the same time when the PR for FC are published, the ERO will also publish for public inspection an OL containing the names and principal residential addresses/names and business addresses of persons/bodies formerly registered as FC electors, which are struck out of the PR and proposed to be omitted from the next FR because based on the information available, the ERO is satisfied on reasonable grounds that the persons/bodies concerned do not wish to remain registered in the register of electors; or are no longer eligible to be registered; or have been disqualified [s 32(4)(a) and (b) of the LCO and s 24(1) of the EAC (ROE) (FCSEC) Reg].

3.37 For an imprisoned person who has used his/her last dwelling-place in Hong Kong at which he/she resided or the address last recorded under the Registration of Persons Regulations as the address for registration as an elector, if the ERO is satisfied on reasonable grounds that he/she has served his/her sentence of imprisonment and left the penal institutions without reporting his/her new residential address to the ERO, the ERO shall enter his/her name and principal residential address in the OL according to the procedures prescribed in the relevant legislation. [S 9(2A) of the EAC (ROE) (GC) Reg]

3.38 The names and principal residential addresses/names and business addresses of the persons/bodies included in the OL of a FC will not appear in the PR of the same FC [s 32(4)(a) and (b) of the LCO and ss 24(1) of the EAC (ROE) (FCSEC) Reg]. However, the inclusion of an elector in the OL does not mean that his/her/its registration status will be immediately revoked. If the elector makes a claim to the ERO and the Revising Officer accepts the grounds submitted, his/her/its registration status will be retained (see paras. 3.41 to 3.43 below).

3.39 The time and place where the PR and the OL can be inspected will be published in the Gazette and in newspapers. Publication of the PR is deemed

to be done by publication of that notice. Upon request by a person imprisoned or held in custody by a law enforcement agency, the ERO may make available, at a penal institution or the premises of a law enforcement agency as the case may be, a copy of the PR and OL for inspection by the person concerned if the ERO considers it appropriate to do so. The ERO may require persons who wish to inspect the PR and/or OL to produce an identity document and complete a form furnished by him/her. [Ss 25 and 29 of the EAC (ROE) (FCSEC) Reg]

Online Voter Information Enquiry System

3.40 Registered electors (individual or corporate) and AR may log on to the OVIES (www.voterinfo.gov.hk) any time to check whether they/their corporate's relevant body electors' latest registration particulars including their registered addresses and respective constituencies as well as information on whether they were included in the statutory inquiry .

Appeals – Objections and Claims

3.41 Members of the public (either an individual or the responsible person of a body) may lodge in person with the ERO a notice of objection on the specified form as regards any entry in the relevant PR **not later than 25 June in a non-DC election year** (or 25 August in a DC election year) [s 30(2) of EAC (ROE) (FCSEC) Reg]. The procedures for making claims or objections are provided in the REO website (www.reo.gov.hk) during the public inspection period. On or before the same date, an applicant who claims that he/she/it is entitled to be registered as an elector but whose name has not been recorded in the PR or has been included in the OL or an elector/AR whose particulars have not been correctly recorded in the PR may lodge in person with the ERO a notice of claim on the specified form in respect of the entry or any omission concerning himself/herself/itself [s 31(1), (2) and (7) of the EAC (ROE) (FCSEC) Reg]. To facilitate the making of such an objection or claim by a person imprisoned or held in custody by a law enforcement agency, he/she is allowed to deliver a notice

of objection or claim to the ERO by post [s 31(8A) of the EAC (ROE) (FCSEC) Reg].

3.42 The REO will issue reminding letters to those electors who have been listed on the OL. The envelopes of the letters will be stamped with a reminding message in red, “Immediate action required. Your voting right is at stake.” to remind electors concerned to submit a claim form or to provide valid documentary proof to confirm that he/she/it still qualifies to be registered as an elector in the relevant FC. For an elector who was subject to the statutory inquiry and was then listed on the OL, when the elector logs on to the OVIES to view his/her/its registration particulars, the system will remind him/her to respond to the reminding letter issued by the REO as soon as possible, so as to confirm that he/she/it still qualifies to be registered as an elector in the relevant FC.

3.43 Cases of objections and claims will be referred to the Revising Officer¹⁵ for consideration. The Revising Officer will rule on each objection or claim and decide on the inclusion, exclusion or correction of the entry concerned in the relevant FR. [Ss 34 and 77 of the LCO and Part VI of the EAC (ROE) (FCSEC) Reg] A person who lodges an objection or a claim must provide sufficient information so as to inform the Revising Officer of the grounds of the objection or claim. The person needs to attend the hearing (except for incontrovertible cases¹⁶); otherwise the Revising Officer may dismiss the objection or claim. [Ss 2(5A) and 2B of the Registration of Electors (Appeals) Regulation (Cap 542B)]

¹⁵ The Revising Officer may be any magistrate, former magistrate, retired magistrate or any legal officer within the meaning of the Legal Officers Ordinance (Cap 87), appointed by the Chief Justice [s 77(1) of the LCO].

¹⁶ In accordance with s 2A of the Registration of Electors (Appeals) Regulation, for an incontrovertible objection or claim, including the person who lodges the objection or claim has not provided any ground in his/her notice, the ground(s) submitted by the person are irrelevant to registration eligibilities or the case involves only a clerical error made in compiling or printing a PR, the Revising Officer must direct that the objection or claim be determined without a hearing on the basis of written submissions only.

The Final Register

3.44 The FR for FCs will be published **not later than 25 July in a non-DC election year** (or 25 September in a DC election year) [s 38(1) of the EAC (ROE) (FCSEC) Reg]. It will include the entries in the relevant PR with the updated names and principal residential addresses of electors/names and business addresses of the body who have applied to alter their particulars not later than 2 April of that year (or 2 June in a DC election year), and the names and principal residential addresses/ names and business addresses of those who were subject to a notice of objection or claim as updated or corrected to reflect the decisions of the Revising Officer [s 35(1) of the EAC (ROE) (FCSEC) Reg]. The ERO will also take the opportunity to delete those entries of electors who are known to have died and to correct any mistakes in the relevant PR. The FR may also contain notations to show if a person registered for a GC is also registered in a FC. The FR for FCs shall remain valid until the publication of the next FR in the following year.

3.45 The time and place where the FR can be inspected will be published in the Gazette and in newspapers¹⁷. Publication of the FR is deemed to be done by publication of that notice. Upon request by a person imprisoned or held in custody by a law enforcement agency, the ERO may make available at a penal institution or the premises of a law enforcement agency as the case may be, a copy of the FR for his/her inspection if the ERO considers it appropriate to do so. The ERO may require persons who wish to inspect the FR to produce an identity document and complete a form furnished by him/her. [S 38(3) and (4A) of the EAC (ROE) (FCSEC) Reg]

¹⁷ In view of the judicial review case filed by the Junior Police Officers' Association (HCAL 3024/2019), the Court had issued an interim injunction order prohibiting the REO from making the FR containing the name and the principal residential address of electors available for public inspection as well as providing its extracts or any relevant particulars to the public until the conclusion of the litigation. The arrangement for public inspection of the 2020 FR will be subject to the judgement of the Court.

IMPORTANT :

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

PART IV : THE VOTING SYSTEMS FOR FUNCTIONAL CONSTITUENCIES

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

3.47 Different voting systems apply to elections of different FCs. Details are as follows:

- (a) for the 4 SFCs referred to in para. 3.18 above (items 1 to 4 of Appendix 2), the preferential elimination system of voting [s 50(2)

of the LCO];

- (b) for the DC (second) FC (item 29 of Appendix 2), the list system of proportional representation [s 49(2) of the LCO]; and
- (c) for the 24 ordinary FCs (items 5 to 28 of Appendix 2), the first past the post voting system [s 51(2) of the LCO].

The Preferential Elimination System for the 4 SFCs

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

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

3.49 An elector of each of the 24 ordinary FCs is entitled to vote for as many candidates as there are vacancies and no more. The candidate who obtains the greatest number of votes will be elected, followed by the next candidate who has the next greatest number of votes, and so on, until all the vacancies are filled. [S 51(2), (3) and (4) of the LCO] Out of the 24 ordinary FCs, only the Labour FC has 3 seats to be filled and electors of that ordinary FC can therefore vote for up to 3 candidates. In each of the remaining 23 ordinary FCs, only 1 seat is to be filled and the elector can only vote for 1 candidate. In the event that more than 1 candidate has the equal highest number of votes, the RO will have to draw lots to determine which one of these candidates should be elected to fill the vacancy [s 51(6) of the LCO].

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

- (a) Where there is only 1 vacancy to be filled and there are 2 candidates, the candidate who draws the larger number from 1 to 10 will be the winner. If both candidates have drawn the same number, further draw(s) will be held until a candidate eventually wins. 1 is the smallest number and 10 is the largest number.
- (b) Where there is only 1 vacancy to be filled and there are more than 2 candidates, if in the first draw, the numbers drawn by the

candidates are different, then the candidate who draws the largest number will win. If, on the other hand, 2 or more of the candidates have drawn the same larger number and the remaining candidate(s) has/have drawn a smaller number, there must be a second draw. Only those candidates who have obtained the same larger number in the first draw will participate in the second draw.

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

The List System of Proportional Representation for the DC (second) FC

3.51 The electors of the DC (second) FC must only vote for 1 list of candidates (as shown on the ballot paper) and not for an individual candidate [s 49(3) of the LCO]. The 5 members of the DC (second) FC will be returned by the list system of proportional representation. For details on the voting system of the list system of proportional representation, please refer to Part IV of Chapter 2.

3.52 As soon as practicable after the result of the elections has been obtained, the RO must publicly declare the successful candidates as elected.

Death or Disqualification of a Candidate for FC

3.53 In the case of a FC other than DC (second) FC, paras. 3.54 to 3.56 apply.

3.54 If, after the RO has decided that a candidate is validly nominated but before the election day, if proof is given to the satisfaction of the RO that the candidate has died or is disqualified from being nominated as a candidate, the RO must, as soon as practicable, publicly declare that the proceedings for the election for that constituency are terminated. [S 42C of the LCO]

3.55 On the polling day but before the close of poll for the election, if proof is given to the satisfaction of the RO that a validly nominated candidate has died or is disqualified from being elected, the RO should publicly declare that the proceedings for the election for the constituency are terminated. The declaration is to be made by a notice displayed in a prominent place outside each polling station of the relevant constituency and published in the Gazette as soon as practicable. [S 46A(1) of the LCO and s 97(1) of the EAC (EP) (LC) Reg]

3.56 After the close of poll but before declaring the result of the election, if proof is given to the RO's satisfaction that a candidate for a constituency has died or is disqualified from being elected, the RO should complete the counting of votes. After the counting of votes is finished, if the candidate concerned is found to be successful at the election, the RO should not declare that candidate as elected and must publicly declare that the election for the concerned FC has failed or has failed to the extent that the number of candidates returned at the election for the concerned FC was less than the number of members to be returned. [Ss 46A(2), (3) and 51(8) of the LCO and s 83(2)(a) and (b)(ii) of the EAC (EP) (LC) Reg]

3.57 In the case of DC (second) FC, the relevant arrangement set out in paras. 2.42 to 2.44 for GCs would equally apply.

CHAPTER 4

NOMINATION OF CANDIDATES

PART I : GENERAL

4.1 Candidates nominated for the LegCo election must satisfy the requirements in two parts, namely (1) the eligibility to be nominated as a candidate and (2) the requirements to be complied with by nominated candidates (including making a statutory declaration). Otherwise, he/she is not a validly nominated candidate.

4.2 Regarding the first requirement, the candidate must fulfil the nomination eligibility as set out in s 37 of the LCO and must not be disqualified from being nominated as a candidate or elected as an elected member under the circumstances stipulated in s 39 of the LCO (see Part II of this chapter).

4.3 The second part is mainly concerned with making a statutory declaration in the nomination form. Under the subsisting electoral laws, all candidates of the CE elections, LegCo elections, DC elections and Rural Representative (“RR”) elections are required to make a declaration in the nomination form to the effect that they will uphold the Basic Law and pledge allegiance to the HKSAR. Otherwise, their nominations are invalid. Such requirement in relation to the LegCo election is stipulated in s 40(1)(b)(i) of the LCO. In accordance with s 103 of the EAC (EP) (LC) Reg, a person who makes a false statement in the nomination form commits a criminal offence. Upon conviction, he/she will be liable to the criminal sanction.

4.4 To ensure that all candidates clearly understand the provisions of the Basic Law and the legal requirements and responsibilities involved in the making the declaration, the EAC has prepared a Confirmation Form for signature

by the candidates since the 2016 LegCo General Election, and has adopted the arrangement in the various elections and by-elections (including the LegCo by-elections) held thereafter.

4.5 The Confirmation Form is not part of the nomination form. It is an explanatory document reflecting the requirements under the subsisting law to remind candidates of the relevant legal provisions lest they do commit a criminal offence due to lack of understanding or awareness. Candidates may sign the Confirmation Form on a voluntary basis to confirm that he/she has understood the legal requirements. Regardless of whether the candidate has signed the Confirmation Form, he/she should be bona fide in signing the declaration in the nomination form. Otherwise, his/her nomination is invalid.

4.6 According to the judgment on an election petition in relation to the 2016 LegCo General Election (HCAL 162/2016), the Court stated that “the EAC is entitled and empowered to issue the non-mandatory Confirmation Form requesting a candidate to further the information contained therein to assist the Returning Officer’s decision on the validity of a nomination. As such, the Returning Officer is also entitled to take into account a candidate’s failure to return the Confirmation Form in deciding the validity of the nomination”. Furthermore, the judgement handed down by the High Court on two judicial review cases in relation to the Confirmation Form (HCAL 133/2016 and HCAL 134/2016) reiterated that “it is lawful for the EAC to ask a candidate to submit the Confirmation Form together with the Nomination Form **on voluntary basis but not as a mandatory requirement**, and it is lawful for the Returning Officer to take that into account in determining the substantive validity of the nomination”.

4.7 Under the subsisting law, whether a candidate’s nomination is valid or not is solely determined by the RO. The EAC is neither empowered nor involved in the making of such decision and would not provide any advice on the decision made by the RO. The RO may under ss 10(10) and 11(11) of the

EAC (EP) (LC) Reg request a candidate to provide additional information that he/she considers necessary to satisfy him/her that the candidate is eligible to be nominated as a candidate or that the nomination of the candidate is valid. In accordance with s 19 of the EAC (EP) (LC) Reg, if an RO decides that a nomination is invalid, the RO must endorse on the nomination form his/her decision and the reason(s) for it, which will be made available for public inspection pursuant to s 14 of the EAC (EP) (LC) Reg. If any person is disqualified from being a candidate at an election, he/she may make an election petition to question the result of the election in accordance with s 61 of the LCO.

4.8 A candidate is not required by the law to provide information on his/her political affiliation. However, a candidate may state his/her political affiliation in the nomination form and the Introduction to Candidates. Candidates may also request to print the registered names and/or registered emblems of prescribed bodies (political/non-political) they are affiliated with on the ballot papers. If a candidate chooses to state his/her political affiliation in the nomination form, Introduction to Candidates or ballot papers, the information shown in those documents should not be mutually inconsistent (for example, if the candidate indicates membership of a political party in the nomination form, he/she is not allowed to indicate himself/herself as a non-affiliated candidate on the ballot papers). Moreover, it is an offence for a candidate to make a false statement about his/her political affiliation in an election-related document (including nomination form or ballot papers).

PART II : ELIGIBILITY AND DISQUALIFICATION FOR NOMINATION

Eligibility

4.9 To be eligible for nomination as a candidate at an election for a GC, a person must:

- (a) be 21 years of age or over;
- (b) be both registered and eligible to be registered as an elector for a GC;
- (c) not be disqualified from being elected by virtue of s 39 of the LCO (see para. 4.12 below);
- (d) have ordinarily resided in Hong Kong for the 3 years immediately preceding the date of his/her nomination; and
- (e) be a Chinese citizen who is a permanent resident of Hong Kong with no right of abode in any country other than the People's Republic of China.

[S 37(1) of the LCO]

4.10 To be eligible for nomination as a candidate at an election for a FC, a person must:

- (a) satisfy para. 4.9(a) to (e) above, save that for the following 12 FCs, para. 4.9(e) does not apply, namely,
 - (i) Legal FC,
 - (ii) Accountancy FC,
 - (iii) Engineering FC,
 - (iv) Architectural, Surveying, Planning and Landscape FC,
 - (v) Real Estate and Construction FC,
 - (vi) Tourism FC,
 - (vii) Commercial (first) FC,
 - (viii) Industrial (first) FC,

- (ix) Finance FC,
 - (x) Financial Services FC,
 - (xi) Import and Export FC,
 - (xii) Insurance FC;
- (b) (i) be both registered and eligible to be registered as an elector for the relevant FC (other than the DC (second) FC); or
- (ii) in the case of a FC other than the DC (first) FC and the DC (second) FC, satisfy the RO for the constituency that he/she has a substantial connection with that FC; and
- (c) in the case of the DC (first) FC and the DC (second) FC, is a member of any DC established under the District Councils Ordinance (Cap 547) (“DCO”) who is elected under Part V of that Ordinance.

[S 37(2) and (3) of the LCO]

4.11 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 occasional or temporary 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. In a LegCo general election, a candidate may also seek the advice of the NAC. (see paras. 4.22 to 4.30 below)

Disqualification

4.12 A person is disqualified from being nominated as a candidate at an election, and from being elected as a Member, if he/she:

- (a) is a judicial officer, or a prescribed public officer¹⁸;
- (b) is an officer of the LegCo or a member of staff of The LegCo Commission;
- (c) has, in Hong Kong, or any other place, been sentenced to death or imprisonment (by whatever name called), and has not either served the sentence or any substitute sentence or received a free pardon¹⁹;
- (d) has been convicted of treason;
- (e) on the date of nomination, or of the election, is serving a sentence of imprisonment;

¹⁸ A prescribed public officer means any of the following:

- (a) the Chairman of the Public Service Commission;
- (b) the Commissioner and Deputy Commissioner of the ICAC and the holder of any other office under the ICAC Ordinance (Cap 204);
- (c) the Ombudsman and the holder of any appointment under s 6 of The Ombudsman Ordinance (Cap 397);
- (d) a member of the EAC;
- (e) the chief executive of the Monetary Authority and any member of the senior management of that Authority, including divisional heads, executive directors, managers and counsel employed by that Authority;
- (f) the Privacy Commissioner for Personal Data and any person employed or engaged by him/her under the Personal Data (Privacy) Ordinance (Cap 486);
- (g) the Chairperson of the Equal Opportunities Commission and any person employed or whose services are engaged by the Commission under the Sex Discrimination Ordinance (Cap 480); or any person holding an office, whether permanent or temporary, in a government department or bureau and employed in the department or bureau.

¹⁹ 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 section 39(1)(b) of the LCO (which is similar to para. 4.12(c) above) to be unconstitutional. On 12 July 2012, the Government announced its decision not to appeal against the judgment. The future LegCo Election will be organised in accordance with the prevailing electoral laws. Any person who would like to be nominated as a candidate for LegCo Election and is doubtful about his/her eligibility for nomination may seek independent legal advice, and in a LegCo general election, may also apply to the NAC appointed by the EAC for advice where appropriate.

- (f) is or has been convicted, within 5 years before the polling day,
 - (i) of any offence in Hong Kong or in any other place, the sentence for which is imprisonment (suspended or not) for a term exceeding 3 months without the option of a fine;
 - (ii) of having engaged in corrupt or illegal conduct in contravention of the ECICO;
 - (iii) of any offence against Part II of the Prevention of Bribery Ordinance (Cap 201) (“POBO”); or
 - (iv) of any offence prescribed by the regulations made by the EAC;
- (g) is ineligible or disqualified because of operation of the LCO or any other law;
- (h) is a representative or a salaried functionary of the government of a place outside Hong Kong;
- (i) is a member of any national, regional or municipal legislature, assembly or council of any place outside Hong Kong, other than a people’s congress or people’s consultative body of the People’s Republic of China, whether established at the national level or local level;
- (j) is an undischarged bankrupt or, within the previous 5 years, has either obtained a discharge in bankruptcy or has entered into a voluntary arrangement within the meaning of the Bankruptcy Ordinance (Cap 6) with the person’s creditors, in either case without paying the creditors in full;

- (k) is found to be incapable by reason of mental incapacity, of managing and administering his/her property and affairs under the Mental Health Ordinance (Cap 136); or
- (l) at a by-election, has resigned or was taken to have resigned from office as a Member within the 6 months ending on the date of the by-election and no general election was held after the relevant notice of resignation or notice of non-acceptance took effect.

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

4.13 In respect of traditional FC elections, a person is also disqualified from being elected as a Member for a FC (other than DC (first) FC and DC (second) FC) if, since the end of the nomination period, the person has ceased to have a substantial connection with the constituency [s 39(4) of the LCO].

PART III : WHEN AND HOW TO NOMINATE

When to Nominate

4.14 Nominations may be made during the **nomination period** specified in the notice published in the Gazette [ss 4 and 5 of the EAC (EP) (LC) Reg]. The nomination period for a LegCo election must not be less than 14 days or more than 21 days, and must end not less than 28 days and not more than 42 days before the polling date [s 7 of the EAC (EP) (LC) Reg]. An election timetable in the format of “the Action Checklist for Candidates” at **Appendix 1** will be provided to each candidate by the RO for the relevant GC/FC. The ROs shall receive nominations during the ordinary business hours (i.e. from 9 am to 5 pm on Monday to Friday, and from 9 am to 12 noon on a Saturday) on each working day (i.e. any day other than a general holiday) in the nomination period. **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.

How to Nominate

4.15 Nomination forms specified by the EAC are available from any DO or from the REO, or can be downloaded from the website of the REO (<https://www.reo.gov.hk>).

4.16 The nomination form comprises:

(a) **The Nomination**

- (i) In respect of a **GC** election, the nomination is a list containing either the names of 2 or more persons contesting the election of the particular GC as a group with their names ranked in the order of priority of the group, or the name of a single person intending to contest for that particular election. The nomination must be subscribed by **100 registered electors** (other than the candidates) of that particular GC assenting to the nomination and the number of persons that may subscribe a nomination shall not be more than 200 [s 7(1)(a) and (aa) of the LC Subscribers & Deposit Reg]. An elector may subscribe only 1 nomination as regards a particular GC election [s 7(1)(b) of the LC Subscribers & Deposit Reg]. Under s 38(4A) of the LCO, after a nomination has been submitted to an RO, the order in which the names of nominees appear in the list cannot be altered, no other name of any other person can be added to the list, and names already on the list cannot be deleted. (See, however, para. 4.46 below in the case of withdrawal.)

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

In any of the above cases about traditional FCs, **the subscribing elector must be registered for the GC or the FC concerned**, as the case may be. In other words, **an elector** in respect of a GC and a traditional FC is entitled to **subscribe only 1 nomination regarding his/her own GC, and any number of nominations up to the number of vacancies regarding his/her traditional FC**. Where the number of persons subscribing a nomination has exceeded the required number (i.e. 100 for a GC election and 10 for a FC election), any surplus over the required number of qualified subscribers will be regarded as not having subscribed the nomination concerned [s 7(2C) of the LC Subscribers & Deposit Reg]. In this case, the elector may subscribe another nomination instead. If the nomination subscribed by an elector has been held to be invalid, or the candidate or all the nominees on a nomination list has/have withdrawn his/her/their nomination, the elector may subscribe another one instead before the end of the relevant nomination period, and his/her signature shall not be inoperative on that other nomination form. On the other hand, if he/she subscribes

more than 1 nomination form in contravention of the regulations, his/her signature shall be operative only on the first one delivered [s 7(3)(c) of the LC Subscribers & Deposit Reg].

- (iii) In respect of an election for **the DC (second) FC**, the nomination is a list containing either the names of 2 or more persons contesting the election of the same FC as a group with their names ranked in the order of priority of the group, or the name of a single candidate of that particular election. The nomination must be subscribed by **not less than 15 registered electors** (other than the candidate(s)) **of the DC (first) FC** [s 7(1A)(a) of the LC Subscribers & Deposit Reg]. In accordance with s 7(3A) and (3B) of the LC Subscribers & Deposit Reg, if an elector of the DC (first) FC subscribes the nomination paper of any persons seeking nomination in respect of the DC (first) FC and the DC (second) FC and both the nomination papers of the DC (first) FC and the DC (second) FC have been delivered, his/her signature shall be operative only on the first nomination paper delivered. In other words, an elector of the DC (first) FC shall **subscribe 1 nomination only for either** a candidate of the DC (first) FC election **or** a candidate list of the DC (second) FC election.

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 any of the subscribers be subsequently found not to be qualified as subscribers. A candidate should ensure that the electors subscribing his/her nomination form

are eligible to do so and that the electors have not subscribed another nomination previously. Each elector subscribing a nomination shall sign the nomination form **personally**. A candidate should not sign as a subscriber in his/her nomination form.

No unlawful means shall be used to procure an elector to subscribe or not to subscribe a nomination. Intimidation is an offence under s 24 of the Crimes Ordinance (Cap 200), liable to a fine and to imprisonment for 2 years on summary conviction or imprisonment for 5 years on conviction upon indictment. Bribery is also a corrupt conduct liable to a fine and to imprisonment.

Candidates are also required to observe Data Protection 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 access, processing, erasure, loss or use accidentally or without authorisation.

(b) Consent and Declarations on Nomination Form

According to the LCO, a candidate must complete the nomination form and the declarations, and have it attested by a witness²⁰. The candidate must sign and make the following **declarations** and promissory oath:

- (i) a declaration to the effect that the candidate will uphold the Basic Law and pledge allegiance to the HKSAR;

²⁰ A witness can be any person in possession of an identity document and aged 18 years or over. According to s 3 of the LCO, identity document means:

- (a) an identity card issued to a person under the Registration of Persons Ordinance (Cap 177);
- (b) a document issued by the Commissioner of Registration to a person certifying that the person is exempt, under regulation 25 of the Registration of Persons Regulations (Cap 177A), from being required to register under that Ordinance; or
- (c) any other document issued to a person that is acceptable to the ERO as proof of the person’s identity.

- (ii) a declaration as to the candidate's nationality and as to whether or not he/she has a right of abode in a country other than the People's Republic of China;
- (iii) a promissory oath given by the candidate to the effect that, if elected, he/she will not do anything during his/her term of office that results in his/her disqualification, including mainly those set out in para. 4.12 above, plus becoming a member of any armed forces;
- (iv) a declaration to the effect that the candidate, or each candidate in the case of a list for the GC/DC (second) FC, is eligible to be nominated as a candidate for the GC/FC concerned; is not disqualified from being so nominated; and consents to being so nominated. In the case of a list for the GC/DC (second) FC, each candidate must also declare his/her consent to the order of priority in which the names of candidates appear on the nomination list; and
- (v) a declaration to the effect that the candidate, or each candidate in the case of a list for the GC/DC (second) FC has ordinarily resided in Hong Kong for the 3 years immediately preceding the date of his/her nomination.

Otherwise, he/she is not validly nominated as a candidate.

[Ss 37(d) and 40(1)(b) of the LCO and ss 10(4) and (5) and 11(4) and (5) of the EAC (EP) (LC) Reg]

Any person who makes a statement which he/she knows to be false in a material particular in an election-related document, including

the nomination form and the declarations, or recklessly makes a statement which is incorrect in a material particular in such document, or omits a material particular in such document, commits an offence and shall be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months [s 103 of EAC (EP) (LC) Reg].

To ensure that all candidates clearly understand the relevant provisions of the Basic Law and the legal requirements and responsibilities involved, and are bona fide on such basis in signing the relevant declarations in the nomination form, the EAC has prepared a Confirmation Form for signature by the candidate.

The candidates may sign the Confirmation Form on a voluntary basis. Whether a candidate has signed the Confirmation Form will not directly affect the validity of his/her nomination. By signing the Confirmation Form, it may assist 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. It also enables the candidate to confirm that he/she has understood the above requirements and responsibilities. Candidates are reminded to note that to uphold the Basic Law means to uphold all the provisions of the Basic Law, including Article 1²¹, Article 12²² and Article 159(4)²³.

IMPORTANT :

No person shall be nominated in an election as a candidate for more than 1 GC/FC [s 41 of the LCO]. When a person submits his/her

²¹ Article 1 of the Basic Law provides that “The Hong Kong Special Administrative Region is an inalienable part of the People’s Republic of China.”

²² Article 12 of the Basic Law provides that “The Hong Kong Special Administrative Region shall be a local administrative region of the People’s Republic of China, which shall enjoy a high degree of autonomy and come directly under the Central People’s Government.”

²³ Article 159(4) of the Basic Law provides that “No amendment to this Law shall contravene the established basic policies of the People’s Republic of China regarding Hong Kong.”

nomination form, he/she must have withdrawn all his/her other prior nominations, if any. He/She is required to make a declaration in the nomination form that either he/she has not been nominated before for any other GC/FC in the election, or if he/she has been so, he/she has withdrawn all those prior nominations. Where a candidate stands nominated, any subsequent nominations of his/hers will be rejected as invalid.

4.17 In the nomination form, a candidate may choose to state his/her occupation and/or political affiliation for public information if he/she so prefers. If the candidate mentions the name of any organisation when stating his/her political affiliation, he/she must seek the consent of the organisation concerned beforehand. The candidates should make sure that their nomination forms are properly completed before submission. Information (such as occupation and political affiliation) provided by the candidate in the grid paper for Introduction to Candidates or the specified form for printing of particulars relating to the candidate on a ballot paper²⁴ should not be inconsistent with the information stated in the nomination form (for example, if the candidate indicates membership of a political party in the nomination form, he/she is not allowed to indicate himself/herself as a non-affiliated candidate on the ballot papers).

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

4.19 The completed nomination form must be submitted to the RO for the GC/FC concerned by the candidate, and in case of a list of candidates by one of the candidates, **in person** during ordinary business hours (i.e. 9 am to 5 pm

²⁴ The form is known as (REO/BP/7 and REO/BP/8) Form, i.e. "Request by a Candidate for a Legislative Council Functional Constituency or a Sole Candidate on a Legislative Council Nomination List or by a Candidate for a District Council Constituency for Printing of Particulars Relating to the Candidate on a Ballot Paper" and "Request by Candidates on a Legislative Council Nomination List with More than One Candidate for Printing of Particulars Relating to the Candidates on a Ballot Paper"..

from Monday to Friday, and from 9 am to 12 noon on a Saturday) on a working day (i.e. any other day other than a general holiday) in the nomination period. , The CEO may, in exceptional circumstances, e.g. the candidate's temporary absence from Hong Kong or incapacity due to illness, authorise any other manner of delivery of the nomination form to the RO [s 10(11) and 11(14) of the EAC (EP) (LC) Reg].

4.20 The RO will also make available copies of the nomination forms for public inspection free of charge at designated venue during ordinary business hours until the relevant notice of the election result is published [s 14 of the EAC (EP) (LC) Reg]. Should the RO decide that a nomination is invalid (see Part VI below), he/she is required to endorse on the nomination form his/her decision and the reasons for it [s 19(1) of the EAC (EP) (LC) Reg].

False Declarations

4.21 A candidate who knowingly and wilfully makes a statement which is false in a material particular in the nomination form or makes a false declaration violates s 103 of the EAC (EP) (LC) Reg. The regulation stipulates that a person who makes a statement which he/she knows to be false in a material particular in an election-related document, or recklessly makes a statement which is incorrect in a material particular in such document, or omits a material particular in such document, commits an offence and shall be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months. It also stipulates that an election-related document means a form, declaration, etc. required or used for the purposes of the Regulation. Besides, the person making such a false statement in any document required under any enactment shall also be in breach of s 36 of the Crimes Ordinance and be liable to imprisonment for 2 years and to a fine. A violation against s 103 of the EAC (EP) (LC) Reg is a prescribed offence, with the same disqualification on conviction of a corrupt or illegal conduct under the ECICO (as described in paras. 16.72 and 17.38 of the Guidelines).

PART IV : NOMINATIONS ADVISORY COMMITTEES

4.22 The EAC has the power to appoint NACs to provide advice, on request, to prospective candidates and ROs on the candidates' eligibility for nomination [ss 2 and 3 of the EAC (NAC) (LC) Reg]. Each of these NACs is in the charge of either a Senior Counsel or a legal practitioner of not less than 10 years standing in accordance with established practice who, in the opinion of the EAC, is unconnected to any candidate or political organisation in Hong Kong, independent and impartial.

4.23 The NACs may provide advice to prospective candidates and ROs on whether a prospective candidate is eligible to be, or is disqualified from being, nominated as a candidate. However, any advice given by an NAC or a refusal to give any such advice does not preclude a person from seeking nomination as a candidate in an election or proceeding with a nomination, if he/she so wishes.

4.24 According to s 1(2) of the EAC (NAC) (LC) Reg, the NACs are not empowered to advise on any matter relating to any requirements under s 40 of the LCO (including the candidate's declaration to the effect that he/she will uphold the Basic Law and pledge allegiance to the HKSAR). The advice provided by the NAC on a prospective candidate's eligibility to be nominated as a candidate does not indicate whether his/her nomination is valid or not. The decision on the validity of the nomination remains finally with the RO.

NAC's Service to Prospective Candidates

4.25 NAC's service will be provided to prospective candidates **only at a LegCo general election**. During a period to be specified by the EAC [s 3(4) of the EAC (NAC) (LC) Reg] – which normally ends 1 day before the commencement of the nomination – a prospective candidate may apply, by completing a specified form obtainable from the REO or from any DO, for the advice of the NAC as to whether he/she is eligible to be, or is disqualified from

being, nominated as a candidate at the LegCo general election. He/She may make only 1 application in respect of the GC election and 1 application in respect of a particular FC election [s 5(6) of the EAC (NAC) (LC) Reg]. While a prospective candidate may apply for advice only once in respect of a particular FC, he/she may apply for advice in respect of more than 1 FC [s 5(9) of the EAC (NAC) (LC) Reg].

4.26 The completed application must be:

- (a) sent to the CEO by post or facsimile transmission so as to be received by him/her; or
- (b) served on the CEO personally,

on or before the deadline for application to be specified by the EAC. [S 5(4) of the EAC (NAC) (LC) Reg]

4.27 An NAC may, before giving its advice, request the applicant to make available to it within a specified period any information, particulars and evidence relating to his/her intended candidature. The NAC may also request the applicant to present himself/herself before it at a specified time and place to assist it in the consideration of the application. The applicant may, at the specified time and place, make representations to the NAC personally or through any person authorised by him/her in writing for the purpose. [S 5(12) and (13) of the EAC (NAC) (LC) Reg]

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

- (a) refuse to consider the application or to give any advice on it; or

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

[S 5(14) of the EAC (NAC) (LC) Reg]

4.29 The NAC's advice to an applicant, including a decision to refuse to consider an application or to give advice, will be in writing and will be sent to the applicant not later than a date to be specified by the EAC [s 5(15) of the EAC (NAC) (LC) Reg].

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

NAC's Service to ROs

4.31 NAC's service will be provided to ROs at both LegCo general elections and by-elections during the period specified by the EAC, normally from the commencement until up to 1 day after the end of the nomination period. During the period, ROs may seek the advice of an NAC, where they consider necessary, on the eligibility for nomination of the candidates who have submitted their nominations. According to s 1(2) of the EAC (NAC) (LC) Reg, the Regulation does not empower or require the NAC to advise on any matter relating to any requirements under s 40 of the LCO (see para. 4.24). Such application must be in writing and made to the NAC through the CEO. The NAC

will, not later than a date specified by the EAC, advise the RO concerned as to whether the candidate concerned is eligible to be nominated. [S 6 of the EAC (NAC) (LC) Reg]

4.32 The RO is required, in making a decision as to whether a particular candidate is validly nominated in respect of the GC/FC for which he/she seeks nomination, to have regard to any advice given by an NAC on that candidate [s 17 of the EAC (EP) (LC) Reg and s 6(5) of the EAC (NAC) (LC) Reg]. The decision on the validity of nomination, however, remains with the RO alone [ss 16 and 92(1) and (3)(a) of the EAC (EP) (LC) Reg].

PART V : ELECTION DEPOSIT

Payment of Election Deposit

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

- | | | |
|-----|--|----------|
| (a) | for all the candidates on a GC list | \$50,000 |
| (b) | for a candidate of a traditional FC | \$25,000 |
| (c) | for all the candidates on a list for the DC (second)
FC | \$25,000 |

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

IMPORTANT :

Candidates are encouraged to pay their election deposit by cash or cashier order although they may pay by crossed cheque. In the event that a cheque is dishonoured, the nomination will be ruled invalid unless the sum of deposit is made good before the end of the nomination period. Candidates must note that, in the case of dishonoured cheque, the RO may not be able to advise the candidate(s) concerned in good time to rectify the situation before the end of the nomination period. Therefore, in order to avoid the risk of invalidation of the nomination due to dishonoured cheque, candidates are strongly advised to submit the election deposit in cash or cashier order.

Return of Election Deposit

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

- (a) he/she is not validly nominated (and in the case of a list of candidates, if all the candidates on the list are not validly nominated);
- (b) his/her nomination is withdrawn (and in the case of a list of candidates, if all the candidates on the list have withdrawn their nomination);
- (c) after his/her nomination is confirmed valid for the election, he/she has died or is disqualified from being nominated before the date specified for holding the election (and in the case of a list of candidates, if all the candidates on the list have died or are disqualified from being nominated);

- (d) in the case of a list of candidates, the list is rejected by the RO after he/she has struck out from the list all the names of candidates for any one, or any combination, of the reasons stated in items (a), (b) or (c) above;
- (e) the election is terminated;
- (f) he/she is elected (and in the case of a list of candidates, if the first ranked candidate on the list is elected);
- (g) in the case of a GC or DC (second) FC or one of the ordinary FCs, he/she or the list of candidates secures in his/her/their favour not less than 3% of the total number of ballot papers containing valid votes received in that GC/FC; or
- (h) in the case of one of the 4 SFCs, he/she secures in his/her favour not less than 3% of the total number of ballot papers containing valid first preference votes received in that constituency.

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

(For details, see ss 3 and 4 of the LC Subscribers & Deposit Reg.)

PART VI : VALIDITY OF NOMINATIONS

4.36 Whether the nomination is valid or not is decided by the RO. The RO will make a decision as to the validity of a nomination as soon as practicable after receipt of the nomination form and will publish a notice stating which persons are validly nominated as candidates within 14 days after the end of the nomination period [s 42A of the LCO and s 21(1) of the EAC (EP) (LC) Reg].

4.37 Where the RO has doubts as to whether or not a particular candidate is eligible to be nominated, he/she may apply to an NAC for advice (see para. 4.31 above).

4.38 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 18 of the EAC (EP) (LC) Reg]. For example, if the entitlement of any nominee 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 nominee or re-submission of a nomination form will be accepted after the end of the nomination period.

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

4.40 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 [s10(10) and 11(11) of the EAC (EP) (LC) Reg].

4.41 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 and oath referred to in para. 4.16(b) above.

4.42 Without prejudice to ss 37, 39 and 40 of the LCO²⁵, the RO may decide that a nomination is invalid only where:

- (a) the number or qualifications of the subscribers fall short of the requirements under s 7 of the LC Subscribers & Deposit Reg;

²⁵ Please see paras. 4.9, 4.10, 4.12, 4.16(b) and 4.21 for reference.

- (b) the nomination form, including the nomination and declarations and oath, has not been completed or signed as required by s 40 of the LCO and ss 10 and 11 of the EAC (EP) (LC) Reg;
- (c) he/she is satisfied that the candidate or all the candidates on a list of candidates is/are not eligible to be, or is disqualified from being, nominated as a candidate under the LCO;
- (d) the candidate or all the candidates on a list of candidates has/have been nominated for another GC/FC in the same election and the RO is not satisfied that he/she/they has/have withdrawn that candidature;
- (e) the cheque for the payment of the election deposit of the candidate is dishonoured and has not been made good before the end of the nomination period; or
- (f) he/she is satisfied that the candidate has passed away.

[S 16 of the EAC (EP) (LC) Reg]

4.43 If, having decided that a candidate is validly nominated for election for a GC or the DC (second) FC but before the polling day, proof is given to the satisfaction of the RO that the candidate has died, he/she must publicly declare that the candidate has died and further declare which candidate is or candidates are validly nominated for the relevant GC/FC. The RO does not have to make any such declaration if the candidate who has died is uncontested in the election for the relevant GC/FC and the RO has publicly declared that the candidate was duly elected. [S 42B(1), (2) and (3) of the LCO and s 22A of the EAC (EP) (LC) Reg]

4.44 If, having decided that a candidate is validly nominated for election for a GC or the DC (second) FC but before the polling day, proof is given to the satisfaction of the RO that the candidate is disqualified from being nominated as a candidate, the RO must vary the decision to the effect that the candidate is not validly nominated. He/She must further publicly declare his/her varied decision and which candidate is or candidates are validly nominated for the relevant GC/FC. The RO does not have to vary his/her decision if the candidate who has been disqualified is uncontested for the relevant GC/FC and the RO has publicly declared that the candidate was duly elected [s 42B(4), (5) and (6) of the LCO and s 22B of the EAC (EP) (LC) Reg].

4.45 If, after the end of the nomination period for an election for a traditional FC but before the polling day, proof is given to the satisfaction of the RO that the candidate who is validly nominated has died or is disqualified from being nominated as a candidate for the constituency, he/she must publicly declare that the proceedings for the election for that FC are terminated [s 42C of the LCO].

PART VII : WITHDRAWAL OF CANDIDATURE

4.46 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”. The completed form should be delivered to the RO concerned by the candidate in person or the candidate’s election agent in person [s 42 of the LCO and s 20 of the EAC (EP) (LC) Reg]. Where a candidate in a nomination list for a GC election or the DC (second) FC election has effectively withdrawn his/her candidature, the RO must strike out his/her name from the list and adjust the order of priority in which the names of other candidates appear on the list accordingly [s 38(6) of the LCO]. If, after the RO has determined that a nominee is validly nominated, but before the end of the nomination period, the RO becomes aware that the nominee has died or is

disqualified from being nominated, the RO must strike out his/her name from the list and adjust the order of priority in which the names of other candidates appear on the list accordingly [s 38(6A) of the LCO]. After striking out a name from a list of candidates, the RO must not add the name of any other person to the list [s 38(12) of the LCO]. If no name remains on the list of candidates, the RO must reject the list [s 38(13) of the LCO]. Under the subsisting law, candidates are not allowed to withdraw their candidature after the end of the nomination period and there is no such mechanism of so-called “abandonment of election”. Even if a candidate has publicly announced about his/her so-called “abandonment of election”, his/her name will still be shown on the ballot papers and electors may vote for him/her if they so wish. All candidates must comply with the election-related legislation, including reporting all election expenses.

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.

PART VIII : NOTICE OF VALID NOMINATIONS

4.47 The RO for the GC/FC concerned will publish a notice in the Gazette within 14 days after the end of the nomination period, stating the name and the address of each of all the validly nominated candidates for the GC/FC, together with the number or the letter of the alphabet allocated by the drawing of lots to each candidate/list of candidates (please refer to para. 4.68) and, in the case of a FC, preceded by the code or the abbreviation assigned to the relevant FC as the case may be [s 21 of the EAC (EP) (LC) Reg]. These numbers or letters of the alphabet pertaining to candidates and lists of candidates will also

be shown on the ballot paper. Each validly nominated candidate will be separately informed of the validity of all nominations of the same constituency.

PART IX : PARTICULARS RELATING TO CANDIDATES ON BALLOT PAPERS

4.48 Under the PCBP (LC & DC) Reg, candidates may, **during the nomination period**, request the EAC to print specified particulars relating to candidates on ballot papers for use in LegCo elections. These particulars include registered names (or abbreviation of the names) and emblems of prescribed bodies²⁶, registered emblems of prescribed persons²⁷, words indicating that a candidate is an independent candidate or a non-affiliated candidate, and personal photographs of candidates.

Request to Print Particulars Relating to Candidates on Ballot Papers

Request by candidate for traditional FC or a sole candidate on nomination list in GC and DC (second) FC

4.49 A candidate for a traditional FC or a sole candidate on a nomination list in GC/DC (second) FC may request the EAC to print on a ballot paper his/her personal photograph and a choice of the following particulars –

- (a) the registered names (or abbreviation of the names) and/or registered emblems relating to not more than 3 prescribed bodies (see paras. 4.50 and 4.54 below);
- (b) the registered emblem relating to the relevant candidate; or

²⁶ A prescribed body means a prescribed political body or a prescribed non-political body.

²⁷ A prescribed person means a person that is registered in a FR of electors for GCs as compiled and published in accordance with the LCO and that is not disqualified from being so registered or from voting at an election.

- (c) the registered names (or abbreviation of the names) and/or registered emblems relating to not more than 2 prescribed bodies and the registered emblem relating to the candidate (see para. 4.50 below).

[S 3(2) and (3) of the PCBP (LC & DC) Reg]

In any case, the candidate can also choose the words “Independent Candidate” or “Non-affiliated Candidate” for printing on a ballot paper.

4.50 A request must be made in the specified form and signed by the requestor. Where the subject of the request relates to 1 or more prescribed bodies, it must be accompanied by a written consent given by the body or each of the bodies in relation to the request during the nomination period. Where the subject of the request includes a photograph, it must be accompanied by 2 photographs with the name of the relevant candidate shown on the back of the photograph. [S 3(4) of the PCBP (LC & DC) Reg]

Request by candidate on nomination list in GC/DC (second) FC with more than 1 candidate

4.51 A candidate on a nomination list with more than 1 candidate may request the EAC to print on a ballot paper a personal photograph of any 1 or more of the candidates on the list, and a choice of the following particulars –

- (a) the registered names (or abbreviation of the names) and/or registered emblems relating to not more than 3 prescribed bodies (see para. 4.52 below);
- (b) the registered emblems relating to not more than 3 candidates on the nomination list concerned;

- (c) the registered names (or abbreviation of the names) and/or registered emblems relating to 1 prescribed body and the registered emblem relating to not more than 2 candidates on the nomination list concerned; or
- (d) the registered names (or abbreviation of the names) and/or registered emblems relating to 2 prescribed bodies and the registered emblem relating to one of the candidates on the nomination list concerned.

[S 4(2), (3) and (4) of the PCBP (LC & DC) Reg]

In any case, the candidate(s) can also choose the words “Independent Candidate” or “Non-affiliated Candidate” against the names of the corresponding candidates for printing on a ballot paper.

4.52 A request must be made in the specified form and signed by the requestor and all other candidates on the nomination list concerned. Where the subject of the request relates to 1 or more prescribed bodies, it must be accompanied by a written consent given, during the nomination period, by the body or each of the bodies in relation to the request. Where the subject of the request includes one or more photographs, it must be accompanied by the photograph or 2 photographs with the name of the relevant candidate shown on the back of each photograph. [S 4(5) of the PCBP (LC & DC) Reg]

Application for Registration of Name and Emblem

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

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

4.54 A prescribed body intending to support a candidate in a LegCo election may at any time according to the time frame for application as detailed in para. 4.58, apply to the EAC for the registration of all or any of the following particulars:

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

[S 8(1) of the PCBP (LC & DC) Reg]

4.55 An application must be made in the specified form and signed by the applicant. It should indicate that the applicant is a prescribed political body or a prescribed non-political body and that the applicant intends to consent to the subject of application being printed on a ballot paper as particulars relating to 1 or more persons as candidates. The application must also be accompanied by a copy of the certificate or document issued to the body by an authority or regulatory organisation that regulates the body under the laws of Hong Kong and showing the name of the body. [S 8(2) of the PCBP (LC & DC) Reg]

Application by prescribed person for the registration of his/her emblem

4.56 A prescribed person intending to run in a LegCo election may in accordance with the registration cycle apply to the EAC for the registration of an

emblem of the person [s 9(1) of the PCBP (LC & DC) Reg].

4.57 An application must be made in the specified form and signed by the applicant [s 9(2) of the PCBP (LC & DC) Reg].

Timing of Application

4.58 Applications for registration may be submitted to the EAC for processing and approval. A register containing the particulars in respect of the registered names and emblems of prescribed bodies and registered emblems of prescribed persons, which have been approved by the EAC and published in the Gazette, is maintained by the CEO for public inspection. The register is updated annually to reflect any approved additions/deletions and only the approved particulars may be used by candidates in an election. The relevant cut-off date for the receipt of applications for processing and inclusion in the register in each year is as follows:

- (a) 15 June in a year in which a DC ordinary election is to be held;
and
- (b) 15 April in any other years.

[S 2 of the PCBP (LC & DC) Reg]

Processing of Application

4.59 The EAC will process any application made by a prescribed body or a prescribed person:

- (a) if the application is made on or before the relevant cut-off date in a year, as soon as practicable after that cut-off date, and in any event within that annual registration cycle; or

- (b) if the application is made after the relevant cut-off date in a year, as soon as practicable after the relevant cut-off date of the next following annual registration cycle, and in any event within the next following annual registration cycle.

[S 11 of the PCBP (LC & DC) Reg]

4.60 If the EAC is of the opinion that it may refuse to grant an application made by a prescribed body or a prescribed person, it must give the applicant a notice in writing. The applicant may, within 14 days after the notice is given, vary the application or make representations in writing to the EAC on why it should not refuse to grant the application [ss 12 and 13(1) and (2) of the PCBP (LC & DC) Reg].

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

- (a) specifying the name of the applicant and the subject of the application;
- (b) stating that the EAC may grant the application; and
- (c) inviting any person who objects to the granting of the application to make objection to the EAC in accordance with s 15 of the PCBP (LC & DC) Reg.

[S 14 of the PCBP (LC & DC) Reg]

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

4.63 In the event of an objection, the EAC will conduct a hearing. Under normal circumstances, a hearing will be held in public. However, a hearing may be held in private if it is in the interest of justice to do so. The EAC will make a decision on whether the application should be granted after hearing the representations and examining the relevant materials. [S 17 of the PCBP (LC & DC) Reg]

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

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

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

4.66 The EAC may deregister the name, the abbreviation of the name and the emblem that is registered in relation to a prescribed body on the grounds that:

- (a) no request is made to print the subject of registration on ballot papers:
 - (i) in 2 consecutive LegCo general elections;

- (ii) in 2 consecutive DC ordinary elections, one of which is held between such LegCo general elections; and
- (iii) in any LegCo or DC by-election held between such LegCo general elections or DC ordinary elections;

or

- (b) the body ceases to exist.

[S 21(1) of the PCBP (LC & DC) Reg]

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

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

or

- (b) the person has died.

[S 21(2) of the PCBP (LC & DC) Reg]

PART X : CANDIDATES' BRIEFING AND INTRODUCTION TO CANDIDATES

4.68 The EAC will conduct a briefing for all validly nominated candidates/lists of candidates on important matters related to the election. After the end of the nomination period, the RO will inform each validly nominated candidate/list of candidates of the date and time of the Candidates' Briefing. The RO will conduct a lots drawing session immediately before the briefing to allocate to each candidate/list of candidates a number or a letter of the alphabet to be shown on the ballot paper; and a set of designated spots for displaying EAs (please refer to para. 8.38).

4.69 The REO will publish an **Introduction to Candidates**. The number or the letter of the alphabet of each candidate/list of candidates on the ballot paper allocated to him/her or the list by the drawing of lots will also be shown on the Introduction to Candidates, which will be mailed to the electors together with the poll cards before the polling day. 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.

4.70 Candidates are free to make use of the Introduction to Candidates to promote their elections. Any candidate/list of candidates who so wishes should submit the following to the relevant RO **before the end of the nomination period**:

- (a) a duly completed grid paper affixing 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/list of candidates does not submit the grid paper, the Introduction to Candidates will only show the name(s) and the number or letter allocated in respect of him/her/them, and “Relevant information has not been provided by the candidate/list of candidates” will be printed in the space provided for his/her electoral message.

4.71 The contents, nature and presentation of the candidates’ messages in the Introduction to Candidates are exclusively the idea and work of the candidate(s) himself/herself/themselves. They will not be subject to alteration or editing by the REO unless they are considered to be obscene, immoral, indecent, offensive, defamatory, unlawful or contain information not relating to the promotion of the candidature of the candidate(s) concerned.

4.72 To assist persons with visual impairment to read the contents of the Introduction to Candidates, candidates may provide the REO with typed texts of their messages to enable persons with visual impairment to read the contents of the document with the aid of computer software. The typed texts can be submitted after the end of the nomination period and by the deadline specified by the REO. With these typed texts, the REO would prepare a text version of the Introduction to Candidates for uploading onto the dedicated website of the LegCo general election or the REO’s website in the case of a by-election. If the candidate/list of candidates does not provide the typed text for preparing the text version of the Introduction to Candidates, the website will only show his/her/their name(s) and the number/letter allocated with the remark that the candidate/list of candidates has not provided a text version of his/her/their electoral message. The EAC appeals to all candidates to support this initiative and make use of this text version to convey their electoral messages to persons with visual impairment. As a general principle, candidates should be sensitive to the needs of electors and, in the course of their electioneering campaign, make their utmost efforts to ensure that persons with different needs can have fair access to their electoral messages.

CHAPTER 5

POLLING AND COUNTING ARRANGEMENTS

PART I : GENERAL

5.1 An elector may vote only at the polling station allocated to him/her to avoid repeated vote. In general, the REO will assign an elector to vote at a polling station within his/her constituency close to his/her registered residential address. For the LC election, a polling station for a GC is normally situated within the boundaries of the constituency and seldom outside the constituency. However, whether venues used as polling stations in the past can be made available for use again depends on whether the owners or management concerned can make available the venues for use as polling stations.

5.2 If an elector with mobility difficulty is assigned to a polling station that is not accessible by him/her, he/she may apply to the REO for re-assigning to a barrier-free special polling station. Please see para. 5.25 below for details.

5.3 A No Canvassing Zone (“NCZ”) will be designated outside each polling station to ensure that electors can gain access to the polling station without interference. In addition, a No Staying Zone (“NSZ”) in which no one is allowed to stay or loiter will also be designated immediately outside the entrance/exit of a polling station to avoid any obstruction of entry/exit.

5.4 No canvassing activities are allowed within the NCZ. Regarding buildings within the NCZ, all canvassing activities by candidates and their campaigners are prohibited in the entire building where a polling station is located as well as on the ground floor of other buildings, regardless of whether they are government or private premises, and even if approval from the building

management concerned is obtained. Please see Part III of this chapter for details.

5.5 The poll starts at 7:30 am and ends at 10:30 pm. About 30 minutes before the commencement of polling (or 15 minutes for dedicated polling stations situated in penal institutions), the PRO will admit the candidates, their election agents or polling agents into the polling station to observe the opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes. After the close of poll, ballot boxes will be locked and sealed in the presence of the candidates and their agents, if present. The count will only commence when polling at all polling stations of the same constituency have closed.

5.6 Only electors and designated/authorised persons are allowed entry into a polling station. Electors requiring assistance from others for entering into a polling station may make a request to the PRO for discretionary arrangements as appropriate. Please see Part V of this chapter for details.

5.7 Upon arrival at the polling station, an elector should present the original of his/her Hong Kong Permanent Identity Card (“HKID”) or other prescribed alternative documents to the polling staff at the ballot paper issuing desk before a ballot paper can be issued to him/her. Please see Part VI of this chapter for details.

5.8 The ballot is autonomous and secret. No one may use any force or threaten to use force against a person to vote or not to vote for any particular candidate at an election. Also, no one is obligated to disclose which candidate he/she has voted for or is going to vote for.

5.9 After collecting the ballot paper, an elector should immediately proceed to a voting compartment to cast his/her vote on his/her own. Each voting compartment is to be used by one elector at a time only. Based on the principles of the autonomy of voting and secrecy of votes, it is prohibited under the law to

have anyone (even if he/she is an elector's relative or friend) to accompany or assist the elector to cast his/her vote. An elector who has difficulty in marking the ballot paper by himself/herself may, in accordance with the law, ask the PRO or the PRO's deputy to mark the ballot paper on his/her behalf according to his/her voting preference, in the presence of 1 polling staff as a witness.

5.10 No material containing the name and/or number of a candidate/list of candidates shall be displayed, circulated, shared or be discussed with other persons inside the polling station or the NCZ, otherwise it will constitute an offence. Nevertheless, it is not prohibited by the law for an elector to enter the polling station with a memorandum (such as a leaflet bearing the information of the candidate/list of candidates or a sticker commonly known as "thunder in the palm") containing the name or candidate number of the candidate/list of candidates he/she is going to vote for as a reference for the elector himself/herself to mark his/her ballot paper inside the voting compartment.

5.11 Any act to induce an elector to vote or not to vote for a candidate/candidates by offering advantages, any food, drink or entertainment, or using force or duress against a person, or by a deception violates the ECICO. There are occasions that the electors may require assistance from others or transportation service in accessing the polling station. However, the above acts must not be done deliberately to induce an elector to vote or not to vote for a candidate/candidates.

5.12 Exit polls may be conducted within the NCZ outside polling stations by organisations approved by the REO. Participation in any exit poll is entirely voluntary. Electors need not disclose to the organisations concerned which candidate/list of candidates they have voted for unless they wish to do so. Please see Chapter 15 for matters relating to exit polls.

5.13 Polling stations are classified into four types:

- (a) **Ordinary Polling Stations** – for use by the general electors/ARs to cast their votes. The ordinary polling stations will be converted into counting stations immediately after the close of poll for counting the GC ballot papers. The FC ballot papers will be delivered to the central counting station of FCs for counting.

- (b) **Dedicated Polling Stations** – set up inside penal institutions or other suitable places (e.g. police stations) for registered electors and ARs who are imprisoned or held in custody by the law enforcement agencies on the polling day to cast their votes. Votes cast will not be counted at the dedicated polling stations and the ballot papers will be delivered to the main polling station of the relevant constituency for counting. Since there is only one ballot box at each dedicated polling station for electors of different GCs/FCs to cast their votes, the ballot papers must be first delivered to the ballot paper sorting stations for sorting. Electoral staff in the ballot paper sorting station will open the ballot boxes from each dedicated polling station and place the ballot papers of the same GC in the same receptacle (i.e. an orange document box). The ballot papers will then be delivered to the designated main polling station and mix with the ballot papers of the relevant GC for counting.

- (c) **Special Polling Stations** – for electors with difficulties in mobility originally assigned to a polling station which is not accessible by wheelchair who have applied to be reassigned to a barrier-free polling station. For LegCo election, as there are many polling stations in a constituency, the special polling station will be set up in a barrier-free ordinary polling stations within the same

constituency. The electors of the special polling station will use the same ballot box in the ordinary polling station so located to cast their votes, which will be counted together with the ballot papers of the same constituency in the ballot box.

- (d) **Small Polling Stations** – for polling stations at which less than 500 electors assigned to vote, and they are only designated for polling and votes cast will not be counted there. After the close of poll, ballot papers of the small polling stations will be delivered to the corresponding main polling stations and mixed with the ballot papers in the main counting stations before counting.

PART II: BEFORE THE POLL

5.14 For each of the 5 GCs, a number of polling stations situated within the GC will be designated. Dedicated polling stations will also be set up inside penal institutions or designated police stations. Registered electors and ARs of corporate electors who are imprisoned or held in custody by the law enforcement agencies on polling day will be allocated to vote at dedicated polling stations. The polling stations (including dedicated polling stations) will be used for polling for the GCs and the FCs (a combined polling arrangement (see para. 5.18 below)). Apart from small polling stations, special polling stations (see paras. 5.15 and 5.25 below) and dedicated polling stations, other polling stations will be converted to counting stations for counting the GC ballot papers. A central counting station will be set up for counting the FC ballot papers and any misplaced GC ballot papers found in FC ballot boxes.

5.15 The CEO must designate by notice in the Gazette place(s) as polling stations (including small polling stations and special polling stations),

dedicated polling stations, ballot paper sorting stations²⁸ or counting stations at least 10 days before the polling day. The CEO may also designate the same place as a polling station and a counting station. He/She will designate a polling station at which less than 500 electors are assigned to vote as a **small polling station**. He/She will designate a polling station (other than a small polling station or a dedicated polling station) as a **main counting station** for the purpose of counting the GC votes cast at the designated polling station, the small polling station(s) and/or the dedicated polling station(s). However, the CEO may, before the election, designate another place in addition to or in substitution of a place designated as a polling station, if necessary [ss 2(6), 28(1), (1A), (1B), (1BA), (1C), (4) and 29 of the EAC (EP) (LC) Reg]. The RO must, at least 10 days before the polling day, give notice in writing to each candidate of the place or places at which vote counting and where applicable, at which sorting of ballot papers received from the dedicated polling stations is to take place for the GC/FC contested by the candidates [ss 2(6), 65(3) and (5) of the EAC (EP) (LC) Reg].

5.16 An area outside each polling station will be designated as the NCZ and NSZ, the boundaries of which will be determined by the RO. All candidates of the GC or FC concerned will be notified of these zones before the polling day [s 40 of the EAC (EP) (LC) Reg]. The RO may also authorise the PRO to vary the NCZ or NSZ on the polling day [s 40(11A) of the EAC (EP) (LC) Reg]. (See Chapter 14)

5.17 A polling station for a GC is normally situated within the boundaries of the constituency, but where there are no suitable premises for use within the GC, polling stations may have to be designated in nearby areas outside the constituency. Where circumstances require, temporary structures may be designated as polling stations. The polling stations designated for the 5 GCs will be, as far as practicable, close to the principal residence of electors as shown on

²⁸ A ballot paper sorting station may be set up to sort GC ballot papers received from the dedicated polling stations according to each GC before they are delivered to the respective main counting stations for counting of votes.

the FR, save for registered electors imprisoned or held in custody by the law enforcement agencies who will be assigned to vote at the appropriate dedicated polling stations. [S 30(4) and (4A) of the EAC (EP) (LC) Reg]

The Combined Polling Arrangements

5.18 Combined polling arrangements will be made for the convenience of all electors. Whether an elector is entitled to vote in a GC, a FC, or both GC and FC(s), he/she needs only to attend **1** polling station to cast all his/her votes. There are the following scenarios:

- (a) an elector who is only entitled to cast a GC vote: he/she will be allocated to a polling station designated for that GC or a dedicated polling station as appropriate for casting his/her GC vote;
- (b) a FC elector/AR of a corporate elector of one of the FCs: he/she will be allocated to the polling station designated for his/her GC or a dedicated polling station as appropriate, in which he/she can at the same time cast his/her GC vote and his/her FC elector vote or his/her FC AR vote; and
- (c) an elector of a FC who may be at the same time an AR of another FC: he/she will be allocated to the polling station designated for his/her GC or a dedicated polling station as appropriate, in which he/she can at the same time cast his/her GC vote, his/her FC vote as elector and his/her FC vote as AR.

[S 30(4) and (4A) of the EAC (EP) (LC) Reg]

5.19 Owing to the fact that combined polling arrangements are used, special arrangements regarding poll cards, ballot papers, cardboards and ballot

boxes may be required, so as to help prevent confusion and mistake at polling, avoid breaking the secrecy of the vote, and facilitate sorting of ballot papers at the count.

5.20 The **ballot papers** for each of the 5 GCs and each of the 29 FCs will be made easily distinguishable by way of one or more of the following ways, namely, size, colour, colour pattern and code. This will facilitate the issue of ballot papers at polling and the sorting of ballot papers at the count. The **poll card** (notifying the elector/AR of the polling station he/she must attend to cast his/her vote or votes) sent to the elector/AR shortly before the polling day will bear the same colour as that used for the cardboard referred to in para. 5.22 below, depending on the number and combination of ballot papers he/she is entitled to be issued to him/her in the polling station.

5.21 **Three types of ballot boxes** are provided in a polling station for receiving the GC ballot papers, the DC (second) FC ballot papers and the ordinary FCs/SFCs ballot papers (combined).

5.22 In order to ensure that no elector/AR will leave the polling station with any ballot paper, a **colour cardboard** will be given to him/her at the same time when ballot paper(s) are issued to him/her. The colour of the cardboard will depend on the number and combination of ballot papers that are issued to the elector according to his/her entitlement: **green** for an elector issued with 1 GC ballot paper only, **white** for one issued with 1 GC ballot paper and 1 DC (second) FC ballot paper, **red** for one issued with 1 GC ballot paper and 1 FC (other than DC (second) FC) ballot papers and **blue** for one issued with 1 GC ballot paper and 2 FC ballot papers.

(Please see **Appendix 4** for details of the combined polling arrangements mentioned in the preceding 5 paragraphs.)

5.23 At least 10 days before the polling day, poll cards notifying electors/ARs of corporate electors of contested GCs/FCs the date, time and place of the poll will be sent to their registered address or correspondence address (if applicable). If the CEO decides to change the location of individual polling station after making a risk assessment, the CEO must as soon as practicable inform the relevant electors, RO and PRO in a manner deemed fit. To allow electors and ARs serving a sentence of imprisonment on the polling day to receive the poll cards as early as possible, the REO will send the poll cards to the penal institutions where the electors/ARs are serving their sentences insofar as practicable. [S 31(1), (3A) and (6) of the EAC (EP) (LC) Reg]

5.24 In the case where the number of validly nominated candidates for a GC/FC does not exceed the number of members to be returned, the candidate(s) will be declared elected [s 46(1) of the LCO and s 22(1) and (2) of the EAC (EP) (LC) Reg]. Electors in respect of such a GC/FC do not need to vote, and a notice to that effect will be sent to them.

5.25 An elector/AR **may vote only at the polling station allocated to him/her** by the CEO [s 32 of the EAC (EP) (LC) Reg]. Most of the polling stations are accessible to persons with mobility difficulty. Whether the polling station allocated to an elector/AR is accessible to persons who are wheelchair users or have difficulty in walking will be specified clearly in the location map attached to the poll card sent to each elector/AR. If an elector/AR with mobility difficulty is allocated to a polling station not accessible to him/her, he/she may **at least 5 days before** the polling day apply to the CEO for re-allocation to a special polling station. [S 33(2) of the EAC (EP) (LC) Reg]. If a special polling station is re-allocated to an elector/AR, then he/she can vote only at that polling station [s 32(2) of the EAC (EP) (LC) Reg]. Subject to availability, free Rehabus service may also be arranged to take those electors/ARs to and from the special polling station. In case special circumstances require, the CEO may allocate to an elector/AR an alternative polling station, in addition to or in substitution of

the one originally allocated to him/her [s 30(4A) of the EAC (EP) (LC) Reg]. Electors/ARs concerned can make enquiries with the REO on this subject by telephone or in writing.

5.26 Due to security reasons, there is a need to separate some persons imprisoned or held in custody from others inside the penal institutions. The Commissioner of Correctional Services shall 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. 5.47 below). [S 27(2A), (2B), (3A) and (4A) of the EAC (EP) (LC) Reg]

PART III : OUTSIDE THE POLLING STATION

5.27 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 polling station, or inside a dedicated polling station, to facilitate easy reference by electors.

5.28 The CEO will display a map or plan showing the respective boundaries of the polling station outside the polling station, or inside a dedicated polling station [s 43(1A) of the EAC (EP) (LC) Reg]. An NCZ will be designated outside each polling station to ensure the undisturbed passage of electors into the polling station. An 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 an NCZ will not be allowed (except for static display of EAs that are authorised by the RO, e.g. EAs mounted at designated spots). A notice of the determination of an NCZ and a

map or plan showing the boundary of the area will be put up at or near the polling station [s 40(10) of EAC (EP) (LC) Reg] (see Chapter 14).

5.29 On the polling day, a person must not:

- (a) engage in canvassing votes (including suggesting not to vote for any candidate) within the NCZ other than the door-to-door canvassing activities stated in para. 5.30 below;
- (b) use a sound amplifying system or device for any purpose within the NCZ, except for the performance of duties by officers of the CSD on the polling day at the dedicated polling stations situated in penal institutions;
- (c) use a sound amplifying system or device, or conduct any activity (e.g. lion dance) for canvassing votes, so that the sound emitted by it can be heard in the NCZ;
- (d) display or wear in the NCZ any promotional material, e.g. any badge, emblem, clothing or head-dress (except for static display of EAs authorised by the RO, e.g. EAs mounted at designated spots), which:
 - (i) may promote or prejudice the election of a candidate or candidates at the election; or
 - (ii) makes direct reference to a body any member of which is standing as a candidate in the election or to a prescribed body the registered name or registered emblem of which has been printed on any ballot paper for the election; or

- (e) stay or loiter in the NSZ without the express permission of the PRO;

otherwise he/she commits an offence with a maximum penalty of a fine at level 2 (\$5,000) and to imprisonment for 3 months [ss 40(16), (19) and 45(5) and (7) of the EAC (EP) (LC) Reg].

5.30 No canvassing is allowed on the street level (i.e. ground floor) within the NCZ. Door-to-door canvassing may be allowed on the storeys above or below the street level in any building other than the building in which the polling station is located within an NCZ, provided that permission has been obtained for entry into the building for canvassing votes, that no obstruction is caused to any person, and that no sound amplifying system or device is used. For the purpose of such canvassing, the display or wearing of any promotional material (e.g. badge, emblem, clothing or head-dress which may promote or prejudice the election of any candidate at the election) or any material making direct reference to anybody a member of which is standing as a candidate in the election, or the registered name or emblem of a prescribed body printed on any ballot paper for the election, may be allowed but in no case to appear on the street level within the NCZ. [S 40(16), (17) and (18) of the EAC (EP) (LC) Reg] (See Chapter 14.)

PART IV : POLLING HOURS

5.31 The poll starts at 7:30 am and ends at 10:30 pm. For security reasons, dedicated polling stations situated in penal institutions open from 9:00 am to 4:00 pm. About 30 minutes (or 15 minutes for dedicated polling stations situated in penal institutions) before the commencement of polling, the PRO at a polling station will admit the candidates, their election agents or polling agents into the polling station to observe the opening of the sealed packets of ballot

papers and the locking and sealing of ballot boxes. He/She will show them that the sealed packets are not tampered with before opening them and the ballot boxes are empty before proceeding to lock and seal them. The PRO will also inform and show to such persons the number of ballot papers in his/her possession. For each candidate/ list of candidates, only 1 such person may be present to observe the opening of sealed packets of ballot papers and the locking and sealing of ballot boxes: a candidate, the election agent or a polling agent.

5.32 For dedicated polling station situated in penal institutions, due to security reasons,

- (a) only a maximum of 2 candidates may be present to observe the opening of the sealed packets of ballot papers and locking and 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 opening of the sealed packets of ballot papers and locking and sealing of the ballot boxes at a dedicated polling station situated in a penal institution other than a maximum security prison.

Admission of candidates, election agents or polling agents to the aforesaid dedicated polling stations to observe the opening of the sealed packets of ballot papers and 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 opening of the sealed packets of ballot papers and locking and sealing of ballot boxes will be conducted in the presence of any two of the following persons: police officer, member of the Civil Aid Service (“CAS”), officer of the CSD or polling staff, as the case may be. [See

also Chapter 7 on the procedures for applying for the presence of election agents or polling agents in dedicated polling stations situated in penal institutions]

5.33 For a small polling station where the votes cast will not be counted therein, a notice about the venue for the counting of votes will be displayed by the PRO outside the station [s 39(1A) of the EAC (EP) (LC) Reg]. For a dedicated polling station, a notice providing information on the ballot paper sorting station (if any) and the main counting station will be displayed inside the station [s 39(1B) of the EAC (EP) (LC) Reg].

5.34 In the polling stations, there will be different sets of ballot papers for GC and the different FCs and corresponding ballot boxes. For ballot papers, there will be 30 different sets, 1 for the particular GC for which the polling station is designated and 1 for each of the 29 FCs in an ordinary polling station, whereas there will be 34 different sets, 1 for each of the 5 GCs and the 29 FCs, in a dedicated polling station. There will be 3 different sets of ballot boxes, 1 to hold the ballot papers cast for the GCs, 1 to hold the ballot papers cast for the DC (second) FC and 1 to hold the ballot papers cast for the ordinary FCs/SFCs (combined).

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

PART V : ADMISSION TO THE POLLING STATION

5.36 Other than electors, only the following persons may be admitted to a polling station:

- (a) the PRO and other polling staff;

- (b) the Chief Returning Officer (“CRO”);
- (c) ROs and Assistant Returning Officers (“AROs”) for the relevant constituency;
- (d) members of the EAC;
- (e) the CEO;
- (f) public officers on duty at the polling station, including police officers and members of the CAS;
- (g) officers of CSD and other law enforcement agencies on duty at dedicated polling stations;
- (h) candidates and election agents of the relevant GC/FC subject to para. 5.37;
- (i) polling agent(s) appointed for the polling station (this does not apply to dedicated polling stations situated in maximum security prisons) subject to para. 5.37;
- (j) public officers authorised in writing by the CEO;
- (k) any person authorised in writing by a member of the EAC;
- (l) a person authorised in writing by the RO for liaison purposes; and
- (m) a child who accompanies an elector who enters the polling station for the purpose of voting (if the PRO considers that the child

should not be left unattended while that elector is in the polling station and the child will not disturb or cause inconvenience to any person in the polling station).

[S 44(4), (5) and (13) of the EAC (EP) (LC) Reg]

A notice will be displayed at the entrance to polling stations (other than dedicated polling stations²⁹) to show that only electors and designated/authorised persons may be allowed to enter.

5.37 For the purpose of maintaining order in the polling station, the PRO may regulate the number of electors/ARs, candidates, election agents and polling agents to be admitted to the polling station at any one time: [S 44(2) of the EAC (EP) (LC) Reg]

- (a) PROs may make arrangement to facilitate electors with special needs (e.g. senior citizens aged 70 or above, pregnant women and physically-handicapped persons with mobility difficulties) to vote, or even to vote with priority;
- (b) For each candidate/list of candidates, only 1 of the following persons may be present in the polling station to observe the poll at any one time: a candidate, the election agent or a polling agent [s 44(6), (7), (8) and (9) of the EAC (EP) (LC) Reg];
- (c) A notice will be displayed outside each polling station showing the capacity of the designated area inside the polling station for candidates, their election agents or polling agents to observe the poll [s 44(7) and (8) of the EAC (EP) (LC) Reg];

²⁹ For a dedicated polling station, the notice will be displayed inside the polling station.

- (d) Admission of candidates, election agents and polling agents will be on a **first-come-first-served basis**. In order that as many candidates, election agents and polling agents as possible may have the chance to observe the poll at the polling station, any candidate, election agent and polling agent who has been admitted to the polling station may only stay for 1 hour. He/She must then leave the polling station unless there is no other candidate, election agent and polling agent waiting for admission. He/She may apply for re-admission into the polling station again on a first-come-first served basis;

- (e) As stated in (d) above, to ensure fairness, waiting slots for entering a polling station are all allocated on a first-come-first-served basis. If a candidate or his/her agent seeks admission to a polling station but all the waiting slots are full until the close of poll, no vacant slot can be allocated to the candidate or his/her agent. However, if none of this candidate or his/her agent has earlier entered the polling station to observe the poll on the polling day, the PRO concerned will endeavour to give the candidate/agent an opportunity to enter the polling station to observe the poll before the close of poll under a special arrangement. Under this special arrangement, the person will replace the candidate or his/her agent who has been allocated the last waiting slot for admission to the polling station if this last candidate or any of his/her agents has already been given an earlier slot to observe the poll at that polling station.

The above special arrangement will apply to a list of candidates in a similar way and the reference to a candidate should be construed to mean any candidate on the list;

- (f) Anyone on admission into a polling station has to sign and enter his/her time of entry on a log sheet. A candidate, election agent or polling agent who has to queue outside the polling station for his/her turn to observe the poll at the designated area will be given a number chit that indicates the order of admission. The polling staff will call out the number to admit the holder of the number chit concerned. If the holder concerned is not present at the time, his/her place will be taken over by the person next in line. He/She who has lost his/her place due to his/her absence will have to obtain a new number chit when he/she returns; and
- (g) For security reasons, 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 a maximum of 2 candidates, election agents or polling agents may be admitted to a dedicated polling station situated in a penal institution other than a maximum security prison at any one time. 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).

5.38 Except for an elector/AR, 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 make a **Declaration of Secrecy** on a specified form³⁰ before entering the polling station and observe the provisions governing the secrecy of voting [s 95 of the EAC (EP) (LC) Reg].

³⁰ Declaration can be made before Commissioner for Oaths/member of the EAC/RO/CEO (or a person whose official designation is that of a deputy to the CEO)/Justice of the Peace/solicitor with a practising certificate.

PART VI : CONDUCT INSIDE THE POLLING STATION

5.39 Polling stations are designated for the GCs as well as FCs for the convenience of electors. Inside each polling station, a notice will be displayed to inform electors that polling for the relevant GC and all the FCs is being held concurrently, and that an elector will be issued with 1, 2 or 3 **different ballot papers**, depending on his/her entitlement. **The ballot papers** issued to the elector so entitled **will be issued at the same time**. Such elector who wishes to exercise the right to cast any of his/her votes will have to do so at the **same visit** to the polling station.

5.40 On arrival at the polling station, an elector/AR should show to the polling staff at the ballot paper issuing desk the original of any of the following documents, to the satisfaction of the PRO or polling staff, before a ballot paper can be issued to him/her:

- (a) the original of the elector's HKID;
- (b) alternative documents:
 - (i) a document issued by the Commissioner of Registration to the elector certifying that the elector is exempt, under regulation 25 of the Registration of Persons Regulations (Cap 177A), from being required to register under the Registration of Persons Ordinance (Cap 177);
 - (ii) a document issued by the Commissioner of Registration acknowledging that the elector has applied:
 - (1) to be registered under the Registration of Persons Ordinance; or
 - (2) for a new HKID issued under regulation 13 or 14 of the Registration of Persons Regulations but is awaiting its issuance;

- (iii) a valid HKSAR Passport issued to the elector under the Hong Kong Special Administrative Region Passports Ordinance (Cap 539);
- (iv) a valid HKSAR seaman's identity book issued to the elector under regulation 3 of the Immigration Regulations (Cap 115A);
- (v) a valid document of identity issued to the elector under regulation 3 of the Immigration Regulations; or
- (c) a document evidencing the elector's report to a police officer of the loss or destruction of document referred to in para. 5.40 (a), (b)(i) or (ii) above, together with the original of a valid passport or similar travel document (not being one referred to in para. 5.40(a), (b)(i) to (v) above) issued to him/her showing his/her name and photograph.

[S 50 of the EAC (EP) (LC) Reg]

5.41 For an elector applying for a ballot paper at a dedicated polling station situated in a penal institution, the document to be shown is a document issued by the Commissioner of Correctional Services showing the elector's name, photograph and prisoner registration number allocated by the Commissioner to the elector for identification purpose. [S 50 of the EAC (EP) (LC) Reg]

5.42 The polling staff will check the elector/AR's identity document against the entries on the copy of register of electors to ascertain if the elector/AR is registered in respect of both the GC, and one or two of the 29 FCs. The polling staff will softly call out the name of the elector/AR as stated in the entry in the copy of the register of electors and draw a line in the copy of the register of electors across the name and the identity document number of the elector/AR, the elector/AR may also request to check if a line has been drawn on the above

information thereat. Thereafter, the polling staff will, depending on that elector's/AR's entitlement, issue either 1, 2 or 3 ballot papers to the elector/AR. If an elector/AR is entitled to be issued with 2 or more ballot papers, all the ballot papers must be handed over to him/her at the same time. Polling staff will show electors/ARs that the ballot papers issued to them have not been marked, and request electors/ARs to check the number of ballot papers issued to him/her to ensure that they have been given the correct ballot paper(s). No record will be made as to which particular ballot paper is given to an elector/AR. [S 53 of the EAC (EP) (LC) Reg]

5.43 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 counterfoil number will not be printed/shown on the ballot paper and the polling staff will not record the counterfoil number of the ballot paper issued to the elector/AR. [S 49(15) and 53(8) of the EAC (EP) (LC) Reg] The polling staff will only count the number of ballot papers issued to the electors by the ballot paper issuing desks for compiling statistics on the hourly voter turnout and the cumulative voter turnout. While the relevant statistics on voter turnout will be posted outside polling stations for public information, they are for reference only.

5.44 According to the established procedures, all ballot papers issued by the ballot paper issuing desks will be counted towards the cumulative voter turnout. "TENDERED" ballot papers and ballot papers issued to electors in replacement of "SPOILT" ballot papers must be handled by the PROs in person and issued at the PRO's desk (please see paras. 5.60 and 5.61 below for details).

5.45 If there is reasonable grounds for questioning the bona fides of an elector/AR, 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 FR now in effect for this GC and/or FC (as appropriate), as follows (reads the whole entry as it is recorded about the elector in the register)?
- (b) Have you already voted for this or any other GC and/or FC (as appropriate) in this election?

The person will not be issued with any ballot paper unless he/she has answered the questions to the satisfaction of the PRO. [S 51(3) and (5) of the EAC (EP) (LC) Reg]

5.46 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 52(1), (2) and (2A) of the EAC (EP) (LC) Reg]

5.47 If an elector has been issued with one or more ballot papers but leaves the station without casting any or all of the votes, he/she cannot return to the polling station later to cast the vote(s) not yet cast, except under the following circumstances:

- (a) if, after having been issued with one or more ballot papers, an elector has become incapacitated from voting or completing the voting by physical illness and has left the polling station without marking his/her ballot paper or any or all of the ballot papers, he/she may return to the polling station to cast his/her vote(s) before the close of poll, provided that before he/she leaves the

polling station, his/her ballot paper(s) has been retrieved by the PRO [s 53A(5) of the EAC (EP) (LC) Reg]; or

- (b) for a reason considered justified by the PRO, an elector who has not marked the ballot paper(s) issued to him/her may, with the permission of the PRO, hand back the ballot paper(s) to the PRO and return later to cast his/her vote(s) [s 53A(1) of the EAC (EP) (LC) Reg]; and
- (c) for a dedicated polling station situated in a penal institution, the elector concerned would also need to return to cast his/her vote(s) within the existing or any newly assigned time slot [s 53A(5B) of the EAC (EP) (LC) Reg]

5.48 Under the above circumstances, for a polling station other than a dedicated polling station, the following procedures must be taken by the PRO:

- (a) the PRO must keep the ballot paper(s) in his/her custody and re-issue such ballot paper(s), in the presence of a police officer to the elector in question when the latter returns before the close of poll to cast his/her vote(s) [s 53A(3) of the EAC (EP) (LC) Reg]; and
- (b) if at the close of poll, the elector has not returned, the PRO shall endorse the ballot paper(s) with the words “**UNUSED**” and “**未用**”; and show it to each candidate or his/her election agent or polling agent who is present at the time; such ballot paper(s) shall not be put into a ballot box and will not be counted at the counting of votes [ss 61 and 80 of the EAC (EP) (LC) Reg].

5.49 For a dedicated polling station, the following procedures 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(s) in his/her custody and return such ballot paper(s), in the presence of an officer of the CSD or any law enforcement agency, to the elector in question when the latter returns before the close of poll to cast his/her vote [s 53A(3) and (6) of the EAC (EP) (LC) Reg];
- (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 penal institution a new time slot during the polling hours appointed for the polling station and notify the elector of the time slot [s 53A(2A) and (5A) of the EAC (EP) (LC) Reg]; and
- (c) if at the close of poll, the elector has not returned, the PRO shall endorse the ballot paper(s) with the words “**UNUSED**” and “**未用**” and show it to each candidate or his/her election agent or polling agent who is present at the time; such ballot paper(s) shall not be put into a ballot box and will not be counted at the counting of votes [ss 61 and 80(1)(d) of the EAC (EP) (LC) Reg]

5.50 The PRO would only need to keep the ballot paper(s) left in the polling station in his/her custody in the circumstances described in para. 5.47 above when he/she knows which elector had left the ballot paper(s) behind. Otherwise, a ballot paper found to be left in the polling station should be endorsed as “**UNUSED**” and “**未用**” and would not be counted [ss 61 and 80(1)(d) of the EAC (EP) (LC) Reg].

5.51 When issued with the ballot paper(s), an elector/AR will also be provided with a cardboard of different colours to which a chop with a tick “✓”

is attached (as well as a pen supplied for marking the SFC ballot papers if applicable):

- (a) Persons who are supplied with 1 GC ballot paper only will be required to carry **green** cardboard;
- (b) Persons who are supplied with 1 GC ballot paper and 1 DC (second) FC ballot paper will be required to carry a **white** cardboard;
- (c) Persons who are supplied with 1 GC ballot paper and 1 FC other than DC (second) FC ballot paper will be required to carry a **red** cardboard; or
- (d) Persons who are issued with 1 GC ballot paper and 2 FC ballot papers will be required to carry a **blue** cardboard.

This arrangement is to facilitate the polling staff manning the ballot boxes to ensure that an elector has cast all his/her vote(s) (1, 2 or 3) before leaving the polling station and also to prevent any person from taking away any ballot paper from the polling station. The cardboard will be collected by the polling staff after the elector/AR has inserted his/her ballot paper(s) into the ballot box(es) before leaving the polling station.

5.52 After being issued with the ballot paper(s) and the cardboard to which a chop with a tick “✓” is attached (as well as a pen for marking the SFC ballot papers as applicable), the elector/AR should immediately proceed to one of the voting compartments where he/she would mark his/her ballot paper(s) to indicate his/her choice of the candidate(s)/list of candidate(s). The manner in which a ballot paper should be marked for the GC, the DC (second) FC, the other 24 ordinary FCs and the 4 SFCs are different, depending on the applicable voting system. An elector/AR should read carefully the instructions given on the ballot paper and follow the instructions in marking his/her choice of candidate(s)/list of candidate(s). One compartment may be used only by one elector at one time.

5.53 Briefly speaking, the ballot paper(s) should be marked in the following way –

- (a) In respect of a ballot paper for the GC and the DC (second) FC election to which the list system of proportional representation is applicable, the elector has only one vote and he/she must affix the chop supplied in the polling station to mark a single “✓” against the list containing one or more candidates’ names of his/her choice in the circle provided (as opposed to each individual candidate’s name).
- (b) In respect of a ballot paper for the 24 ordinary FCs to which the first past the post voting system is applicable, the elector/AR is entitled to cast 1 vote and must indicate his/her choice of candidate of the relevant FC by marking a single “✓” against the candidate of his/her choice in the circle provided, save in the Labour FC which has 3 vacancies to fill, then the elector may mark a “✓” against the names of up to 3 candidates.
- (c) The ballot paper for the 4 SFCs to which the preferential elimination voting system is applicable will have all the candidates’ names printed on it with corresponding circles against each name for the elector/AR to mark his/her preferential choices. He/She must use the pen supplied in the polling station to indicate his/her preference, by writing **Arabic numerals** (1, 2, 3, etc.) in the circle opposite the names of the candidates, in descending order of preference, i.e.:
 - (i) writing “1” in the circle opposite the name of the candidate of his/her first preference (“first preference vote”);

- (ii) writing “2” in the circle opposite the name of the candidate of his/her second preference;

and so on. **An elector/AR must mark a first preference vote** for validity of the vote, he/she may, if he/she wishes, mark the second, third and subsequent preferences for as many candidates as are indicated on his/her ballot paper. [Ss 55, 56 and 57 of the EAC (EP) (LC) Reg] As it is an offence for any person to undertake photographing, filming and video or audio recording within a polling station, electors/ARs must not take photos of their marked ballot papers (please refer to para. 5.66 below).

5.54 For an elector of the GC or the DC (second) FC, after he/she has marked the ballot paper(s) to indicate his/her choice of the list of candidates, he/she should **fold the ballot paper(s) so that the marked side is inside**. For an elector/AR of the ordinary FCs/SFCs, he/she must **not fold his/her ballot paper** before inserting it face down into the ballot box. [S 54(3) and (3A) of the EAC (EP) (LC) Reg]

5.55 Immediately after an elector/AR comes out of the voting compartment, he/she should put his/her marked ballot paper(s), folded or unfolded as the case may be, into the ballot box(es) as directed by the polling staff. An elector should insert the GC ballot paper into the ballot box designated for the GC ballot papers. If he/she is an elector of the DC (second) FC, he/she should insert the ballot paper into the ballot box designated for the DC (second) FC. For an elector/AR of the ordinary FCs/SFCs, he/she should insert the ordinary FC/SFC ballot paper(s) facing down into the ballot boxes designated for the ordinary FCs/SFCs. The elector/AR should then return the cardboard with the chop (and the pen for marking the SFC ballot papers as the case may be) to the polling staff and leave the polling station without undue delay. [S 54 of the EAC (EP) (LC) Reg]

NOTE :

After collecting the ballot paper, an elector must proceed to a voting compartment to mark the ballot paper immediately without undue delay. A person who fails to obey any order of the PRO or misconducts himself/herself commits an offence. The PRO may seek assistance from the police officer and order the person to leave the polling station immediately [s 46(2) and (3) of the EAC (EP) (LC) Reg].

If an elector deliberately makes an error in marking the ballot paper and asks the PRO to issue a new ballot paper to him/her repeatedly, the PRO may reject his/her request. Where there is a reasonable cause to believe that a person impersonates another elector to apply for a ballot paper, the PRO may request the police officer to arrest that person [s 52(2) and (2A) of the EAC (EP) (LC) Reg]. A person engages in corrupt conduct if he/she, directly or indirectly, by a deception, induces another person not to vote at the election, obstructs or prevents another person from voting at the election [s 14 of the ECICO]. It is an offence for a person to take away a ballot paper from a polling station. It will be a corrupt conduct if any person, without lawful authority, destroys, defaces, takes or otherwise interferes with a ballot paper in use, or that has been used, at the election [s 17 of the ECICO].

Candidates/their agents and electors should make a complaint to the PROs, ROs, law enforcement agencies or EAC in the case of any possible contravention of the electoral law. All complaints will be treated in strict confidence. The EAC will refer any complaints of suspected violation of the law to the law enforcement agencies for follow-up actions.

5.56 An elector with visual impairment who so requests will be provided with a **braille template** to facilitate his/her marking of the ballot paper by himself/herself [s 59(3) of the EAC (EP) (LC) Reg]. The template should be returned to the polling staff after use (for details about the template, see para. 7.42 of Chapter 7).

5.57 An elector/AR who is unable to mark a ballot paper by himself/herself to indicate the choice of candidate (e.g. being unable to read or incapacitated by visual deficiency or other physical cause) may ask the PRO, Deputy PRO or Assistant PRO to mark the ballot paper on his/her behalf. The marking of the ballot paper will be made in the presence of one of the polling officers as a witness [s 59(1) and (2) of the EAC (EP) (LC) Reg].

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

5.59 For the protection of the secrecy of voting of the elector/AR, no one shall, at any time, disclose whether an elector/AR has or has not applied for a ballot paper or voted; or disclose the identity of an elector/AR at a dedicated polling station. Anyone who makes such disclosure, unless otherwise permitted by law, commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months. [S 96(1), (1A), (2) and (10) of the EAC (EP) (LC)

Reg]

5.60 Any elector/AR who has inadvertently torn or damaged any ballot paper or has made an error in marking any ballot paper issued to him/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/AR in exchange for the spoilt ballot paper. Such spoilt ballot papers will be endorsed on the front with the word “**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 62 and 80(1)(c) of the EAC (EP) (LC) Reg]

5.61 Where a person, claiming to be a particular elector/AR entered on the register, applies for a ballot paper after a person has already been issued with a ballot paper as such an elector/AR, the PRO may issue a tendered ballot paper to the latter elector/AR 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. 5.45 to the satisfaction of the PRO. The PRO may 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 60(1) and 80(1)(b) of the EAC (EP) (LC) Reg]

5.62 Any person who discovers ballot papers which have been issued (whether marked or unmarked) may sometimes be abandoned or found left behind in the voting compartments or other areas inside the polling station is required to hand it to the PRO. Such a ballot paper will be endorsed on the front with the word “**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 61 and 80(1)(d) of the EAC (EP) (LC) Reg]

5.63 Subject to para. 5.64, no person including an elector/AR should interfere with or attempt to influence any other elector/AR, especially no one shall:

- (a) speak to or communicate with any other elector/AR contrary to a direction of the RO, ARO, PRO or any polling officer not to do so;
- (b) attempt to obtain information, or disclose any knowledge acquired, concerning the vote of another elector/AR;
- (c) exhibit or distribute any campaign material;
- (d) display or wear any promotional material, e.g. any badge, emblem, clothing or head-dress, which:
 - (i) may promote or prejudice the election of a candidate or candidates at the election; or
 - (ii) makes direct reference to a body any member of which is standing as a candidate in the election or to a prescribed body the registered name or registered emblem of which has been printed on any ballot paper for the election; or
- (e) use a mobile telephone or any telephone or paging machine or any other form of electronic communication device contrary to a direction of the RO, ARO, PRO or any polling officer not to do so.

If a person contravenes any of the above prohibitions, he/she commits an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 3 or 6 months, as the case may be. [Ss 45 and 96 of the EAC (EP) (LC) Reg]

5.64 Only the following persons may speak to or communicate with electors/ARs, and use a mobile telephone, paging machine or any other form of electronic communication device within a polling station:

- (a) the PRO and other polling staff;
- (b) the ROs and AROs for the relevant constituency;
- (c) members of the EAC;
- (d) the CEO;
- (e) police officers and members of the 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 ROs for liaison purposes; and
- (h) any person authorised in writing by a member of the EAC.

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

5.65 A person who misconducts himself/herself at a polling station or its vicinity or fails to obey any lawful order of the RO or the PRO commits an offence and will be liable to a fine and to imprisonment and may be ordered by such officer to leave the polling station or the vicinity of the polling station. A person misconducts himself/herself if he/she disrupts the poll or disturbs or causes inconvenience to any person in the polling station. An elector/AR must cast his/her vote without undue delay. If an elector/AR 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 not a dedicated polling station;
- (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 the PRO to remove him/her.

The person so removed may not re-enter the polling station on that day except with the permission of the RO or the PRO. Nevertheless, the RO or the PRO shall not exercise their powers to order an elector to leave or remove an elector from the polling station so as to prevent him/her from voting at the polling station allocated to that person.

[S 46(2), (2A), (3),(4) and (5) of the EAC (EP) (LC) Reg]

5.66 Any person who undertakes photographing, filming and video or audio recording within a polling station without the express permission of the PRO, the RO for the constituency or constituencies for which the polling station is used 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 [s 45(2) and (7)(a) of the EAC (EP) (LC) Reg]. Normally such permission is only granted to government photographers for publicity purposes.

PART VII : CLOSE OF POLL

5.67 Electors who intend to vote but are not already at the door of their designated polling station by the close of poll will not be allowed in afterwards. When nearing the close of poll at 10:30 pm, if there is a queue of electors waiting to cast votes outside a polling station, the PRO may arrange a polling staff to hold a signboard to direct electors to proceed to the end of the queue. If there are still electors queuing up outside the entrance of the polling station at 10:30 pm, polling staff will stop latecomers from joining the queue and arrange electors already in the queue to enter the polling station as far as practicable in order to close the entrance of the polling station. If there are too many electors in the queue and arrangement cannot be made for all of them to enter the polling station, polling staff holding a signboard will stand at the end of the queue to show that no latecomers will be allowed to join the queue.

5.68 In short, all electors who have arrived and queued up before the close of poll may enter the polling station to cast their votes. However, for polling stations that are located at a place inside a building and, even the electors have arrived at the building but have not already reached the entrance of the place where the polling station is located or queued up outside the entrance by the close of poll, they will not be allowed to enter the polling station to cast their votes. Not until all electors who have arrived at the entrance of the polling station or queued up outside the entrance of the polling station before the close of poll have entered the polling station will the PRO close the entrance of the polling station.

A Polling Station which is also a Counting Station

5.69 Except for small polling stations and dedicated polling stations, all other polling stations will be designated as counting stations for the counting of GC votes. At the close of poll, a notice will be displayed by the PRO outside these polling stations to inform the public that the poll has been closed and that

the station is being arranged for the counting of votes and will be open to them when such arrangements are completed. A candidate, and his/her election agent, a counting agent and a polling agent may stay inside the polling station while it is closed for the preparation for the counting of votes. The ballot boxes will be locked and sealed by the PRO in the presence of the candidates and their agents, if they are present. The PRO will also inform them of the numbers of unissued ballot papers, spoilt ballot papers and unused ballot papers in his/her possession. All such ballot papers will then be made up into separate sealed packets for the respective constituencies and the marked copies of registers will also be made up into sealed packets separately. [S 63(1), (1A), (2) and (3) of the EAC (EP) (LC) Reg]

5.70 The locked and sealed ballot boxes referred to in para. 5.69 above will be kept by the PRO until the counting of the GC votes begins, when all GC ballot boxes will be opened and all ballot papers inside will be put on the counting table (GC sealed packets will be kept in PRO's safe custody until delivery to the RO). For the counting of FC votes, the sealed ballot boxes and the sealed packets referred to in para. 5.69, together with any FC ballot papers found to have been misplaced in GC ballot boxes (see para. 5.90 below), will be delivered to the central counting station. Up to 2 persons being candidates competing in the FCs (or their respective agents), if they so wish, will be allowed to accompany the Deputy PRO/Assistant PRO in the delivery of the ballot boxes from the polling station to the central counting station under police escort. Where there are more than 2 such persons wishing to accompany in the delivery, the PRO will draw lots to determine which 2 persons will be allowed. FC candidates and their agents are allowed to remain in the polling station until they see that the police escort for the delivery is available. Thereafter, all of them shall leave the polling station. They may enter the counting station to observe the count of the GC votes in the public area.

A Polling Station which is not a Counting Station

5.71 Small polling stations and dedicated polling stations will not be converted into a counting station after the close of poll. For small polling station, a notice will be displayed by the PRO outside the polling station to inform the public that the poll has been closed. After the close of poll, a candidate, his/her election and polling agent may stay in the polling station to observe the process of locking and sealing of ballot boxes. For dedicated polling station, the following persons may stay behind to observe the process:

- (a) a candidate, his/her election agent and a polling agent may stay in a dedicated polling station not situated in a penal institution;
- (b) a maximum of 2 candidates, election agents or polling agents may stay in a dedicated polling station situated in a penal institution other than a maximum security prison; and
- (c) a maximum of 2 candidates may stay in a dedicated polling station situated in a maximum security prison.

[S 63A(2) and (2A) of the EAC (EP) (LC) Reg]

In the presence of the candidates and/or their agents, if any, the ballot boxes will be locked and sealed by the PRO. The PRO will also inform them of the numbers of unissued ballot papers, spoilt ballot papers and unused ballot papers in his/her possession. All such ballot papers and the marked copies of the register will then be made up into separate sealed packets. [S 63A(1) of the EAC (EP) (LC) Reg]

NOTE :

Under the principle of secrecy of the ballot, given the relatively

small number of votes cast at the small polling stations and dedicated polling stations, votes cast will not be counted therein. For the small polling stations, after the close of poll, the GC ballot box (locked and sealed) will be delivered to the corresponding main counting stations and mixed with the ballot papers at the main counting stations before counting. The FC ballot box will be delivered to the central counting station of FCs for counting of votes. For the dedicated polling stations, the GC ballot box (locked and sealed) will first be delivered to the ballot paper sorting stations for sorting of ballot papers as per GCs. The sorted ballot papers will then be transported to the corresponding main counting stations for mixing with those of the main counting stations before counting. The FC ballot box will be delivered directly to the central counting station of FCs for counting of votes. Please refer to paras. 5.74 to 5.81 below for the sorting of ballot papers and delivery arrangement of the ballot paper sorting stations and paras. 5.92, 5.108 and 5.110 on how the ballot papers transported to the main counting stations/counting station of FCs will be handled.

5.72 For the small polling stations, the ballot boxes (locked and sealed), the sealed packets of relevant electoral documents and the ballot paper accounts for the GCs and FCs will be first delivered to the main counting station by the PRO/Deputy PRO under police escort. The PRO of a dedicated polling station will deliver the ballot boxes (locked and sealed), the sealed packets of relevant electoral documents and the ballot paper accounts for the GCs and FCs under police escort to:

- (a) the PRO of the ballot paper sorting station concerned in the case of a LegCo general election or by-election in which such a ballot paper sorting station has been set up;

- (b) the PRO of the main counting station concerned in the case of a LegCo by-election in respect of a GC in which no ballot paper sorting station has been set up; or
- (c) the RO of the counting station concerned in the case of a LegCo by-election in respect of a FC.

[S 63A(3) and (4) of the EAC (EP) (LC) Reg]

The FC ballot boxes at the main counting stations and the ballot paper sorting stations, together with any misplaced FC ballot papers found inside the GC ballot boxes, will then be delivered to the central counting station for counting (see paras. 5.90 and 5.100 below for details).

5.73 Not more than 2 candidates and/or their agents, if they so wish, will be allowed to accompany the PRO in the delivery of the locked and sealed ballot boxes, the sealed packets of relevant electoral documents and the ballot paper account prepared by the PRO, from the polling station to the relevant ballot paper sorting station/main counting station/FC counting station, as the case may be, under police escort. Where there are more than 2 of them wishing to accompany in the delivery, the PRO will draw lots to determine which 2 persons will be allowed. Candidates and their agents are allowed to remain in the polling station only until they see that the police escort for the delivery is available, and thereafter all of them, except those 2 persons who are to accompany in the delivery, must leave the polling station.

PART VIII : SORTING OF BALLOT PAPERS

Conduct at the Ballot Paper Sorting Station

5.74 In a LegCo general election or, where the CEO considers it appropriate in a LegCo by-election, ballot paper sorting station(s) will be set up for sorting GC ballot papers received from dedicated polling stations according to each GC before the GC ballot papers are delivered to the respective main counting stations for the counting of votes. The PRO of a ballot paper sorting station may determine the time at which the sorting of ballot papers is to begin, which must be a time after the poll has closed at all the dedicated polling stations situated in penal institutions and may be a time before the poll has closed at all the other polling station(s). Before the polling day, candidates will be informed of the expected time of the commencement of the sorting of ballot papers at the ballot paper sorting station(s). [Ss 2(6), 28(1)(c), 63A(4) and 65(2A) of the EAC (EP) (LC) Reg]

5.75 Only the following persons may be present at the sorting of ballot papers:

- (a) the ROs, AROs, PROs, Deputy PROs, Assistant PROs and counting staff for the relevant constituencies;
- (b) the CRO;
- (c) members of the EAC;
- (d) the CEO;
- (e) candidates and their election agents and counting agents of the relevant GCs/FCs;

- (f) police officers and members of the CAS on duty at the ballot paper sorting station;
- (g) public officers authorised in writing by the CEO;
- (h) any person authorised by the CRO, the RO or the PRO; and
- (i) any person authorised in writing by a member of the EAC.

The PRO will designate a restricted area where the counting staff will sort the ballot papers. Candidates and their agents must not go into the restricted area. Any member of the public may observe the sorting of ballot papers from the public area designated by the PRO unless the PRO considers that his/her presence may:

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

[Ss 2(6) and 68(1) and (2) of the EAC (EP) (LC) Reg]

5.76 Before entry, every person authorised to be present at a ballot paper sorting station, other than the police officers and members of the CAS on duty, must make a **Declaration of Secrecy** on a specified form³¹ and observe the provisions governing the secrecy of voting [ss 2(6) and 95 of the EAC (EP) (LC) Reg]. Members of the public present within the public area will not be required to make a Declaration of Secrecy.

³¹ Declaration can be made before Commissioner for Oaths/member of the EAC/RO/CEO (or a person whose official designation is that of a deputy to the CEO)/Justice of the Peace/solicitor with a practising certificate.

5.77 Except with the express permission of the relevant PRO, the CRO, or the RO for the constituency or constituencies for which the ballot paper sorting station is used or a member of the EAC as the case may be, any person who undertakes photographing, filming and video or audio recording within the restricted area of a ballot paper sorting station during the period commencing from the time at which the sorting of GC ballot papers is to begin and ending upon the completion of the sorting commits an offence [ss 2(6), 68A(1) and (2) of the EAC (EP) (LC) Reg].

5.78 A person who misconducts himself/herself in or in the vicinity of a ballot paper sorting station or fails to obey any lawful order of the PRO 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 PRO to leave the area immediately. A person misconducts himself/herself if he/she disrupts the sorting of GC ballot paper or disturbs or causes inconvenience to any person in the sorting station. The PRO may also order a person to leave the ballot paper sorting station if the person behaves himself/herself in such 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 ballot paper sorting 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 PRO to remove him/her. The person so removed may not re-enter the ballot paper sorting station on that day except with the permission of the PRO [ss 2(6), 68A and 69 of the EAC (EP) (LC) Reg].

Sorting of Ballot Papers

5.79 The PRO of a ballot paper sorting station will sort the GC ballot papers, delivered from dedicated polling station(s), in the presence of the candidates, their election or counting agents, if they are present. The PRO will check whether GC ballot boxes and sealed packets are properly sealed. The seal on the ballot box will be broken by the PRO in the presence of the candidates,

their election or counting agents, if they are present at the time. The PRO will then open the ballot box and empty the contents onto a sorting table. After the PRO has opened the ballot box, the candidates, their election or counting agents may request to inspect any papers, other than the marked ballot papers, taken out from the ballot boxes before they are disposed of. **At no time should a candidate, his/her election agent or counting agent touch any ballot papers.**

5.80 The PRO of a ballot paper sorting station shall:

- (a) open the GC ballot boxes received from dedicated polling stations;
- (b) sort the GC ballot papers in each ballot box according to each GC;
- (c) count and record the number of GC ballot papers for each GC in each GC ballot box;
- (d) verify the ballot paper account by comparing it with the number of GC ballot papers recorded under para. 5.80(c) above;
- (e) prepare a statement in writing as to the result of the verification;
- (f) prepare a statement in writing as to the number of GC ballot papers recorded under para. 5.80(c) above;
- (g) make into separate bundles the sorted GC ballot papers together with the relevant statement prepared under para. 5.80(f) above;
- (h) place each bundle in a separate orange document box and seal it in the presence of those present at the counting zone;

- (i) arrange the orange document boxes to be delivered to the PROs of the respective main counting stations of the relevant GCs³²;
- (j) send to the CEO the ballot paper accounts, verification of the ballot paper accounts and the sealed packets made up under para. 5.69 above; and
- (k) deliver, or arrange to deliver, to the central counting station the FC ballot box(es), the sealed packets of unissued FC ballot papers etc. and the relevant ballot paper accounts received from the dedicated polling stations.

[Ss 70 and 74AA of the EAC (EP) (LC) Reg]

5.81 If the PRO of a ballot paper sorting station finds any FC ballot paper in a GC ballot box, he/she must:

- (a) sort the FC ballot paper(s) according to each FC;
- (b) count and record the number of FC ballot paper(s) for each FC in the GC ballot box concerned;
- (c) prepare a statement in writing as to the number of ballot paper(s) recorded for each FC under para. 5.81(b) above;
- (d) make into separate bundles the sorted FC ballot paper(s) together with the relevant statement prepared under para. 5.81(c) above ;

³² If no electors of a constituency have cast vote in the dedicated polling station(s), no receptacles will be delivered to the relevant main counting station. In that case, the PRO of the main counting station will be notified accordingly.

- (e) place each bundle in a separate orange document box and seal it in the presence of those present at the counting zone of the ballot paper sorting station;
- (f) give the orange document boxes into the charge of an Assistant PRO in attendance at the counting zone of the ballot paper sorting station; and
- (g) the assistant PRO shall deliver the orange document box to the central counting station and hand over the orange document boxes to the RO for the relevant FC.

[S 74AB(2) of the EAC (EP) (LC) Reg]

PART IX : THE COUNT

Conversion of Polling Station into Counting Station

5.82 A polling station, other than a small polling station or a dedicated polling station, will be converted to a counting station for the purpose of conducting the count for GC votes and making known the counting results to the candidates and their agents present. Where the same place is designated as both a polling station and a counting station, the PRO of the polling station is to be regarded as the PRO of the counting station [s 34(4) of the EAC (EP) (LC) Reg]. The PRO, assisted by his/her Deputy PROs, Assistant PROs and counting staff, will be responsible for the conversion and the conduct of the count. Before the counting of votes begins, a notice will be displayed outside the counting station to inform the public the time that the station is expected to be open to them to observe the counting of votes [s 65(5A) of the EAC (EP) (LC) Reg]. The telephone number of the counting station should also be shown on such a notice to facilitate communication between the candidates/agents and the counting staff.

Central Counting Station

5.83 For FC votes, a central counting station will be set up to conduct the count and announce the election results. The RO for each FC, assisted by his/her AROs and counting staff will be responsible for the conduct of the count.

5.84 An RO will be designated for each of the 5 GCs. The 5 ROs will be stationed at the central counting station. Each RO will be assisted by a number of AROs to compile the final election results of the respective GC by adding up counting results from polling stations under his/her charge.

Conduct at the Counting Station and Central Counting Station

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

- (a) the ROs, AROs, PROs, Deputy PROs, Assistant PROs and counting staff for the relevant constituencies;
- (b) the CRO;
- (c) members of the EAC;
- (d) the CEO;
- (e) police officers and members of the CAS on duty at the counting station;
- (f) candidates and their election agents and counting agents of the relevant constituencies;

- (g) public officers authorised in writing by the CEO;
- (h) any person authorised by the CRO, the RO or the PRO; and
- (i) any person authorised in writing by a member of the EAC.

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

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

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

5.86 Members of the public and the media have the rights to observe the count at the counting station. To maintain the law and order inside counting stations, a notice will be displayed outside each counting station and the central counting station by the PRO and the CRO setting out the seating capacity of the public area. At the same time, the PRO and the CRO may take down the name and number of HKID/passport/travel document of the members of the public before they enter the public area for record purpose.

5.87 Every person authorised to be present at a counting zone, other than the police officers and members of the CAS on duty, must make a

Declaration of Secrecy on a specified form³³ before entering the counting zone and observe the provisions governing the secrecy of voting [s 95 of the EAC (EP) (LC) Reg]. Members of the public present within the public area will not be required to make a Declaration of Secrecy.

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

5.89 A person who misconducts himself/herself in or in the vicinity of a counting station or fails to obey any lawful order of the PRO (for counting stations other than the central counting station) or the CRO/RO (for the central counting station) 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 PRO, or the CRO or the RO as applicable to leave the area immediately. A person misconducts himself/herself if he/she disrupts the counting of votes or disturbs or causes inconvenience to any person in the counting station. The PRO or the CRO or the RO may also order a person to leave the counting station immediately 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 PRO or the CRO or the RO to remove him/her. The person so removed may not re-enter the counting station on that day except with the permission of the PRO or the CRO or the RO [ss 68A and 69 of the EAC (EP) (LC) Reg].

³³ Declaration can be made before Commissioner for Oaths/member of the EAC/RO/CEO (or a person whose official designation is that of a deputy to the CEO)/Justice of the Peace/solicitor with a practising certificate.

(a) **Counting of GC votes**

5.90 The PRO of a counting station will conduct counting of the GC ballot papers in the presence of the candidates, their election agents or counting agents, if they are present. The PRO will check whether all the ballot boxes and sealed packets are properly sealed. The seal on each GC ballot box will be broken by the PRO in the presence of the candidates, their election agents or counting agents, if they are present at the time. All GC ballot boxes will then be opened by the PRO and the contents will be emptied onto the counting table(s). After the PRO has opened the ballot box, the candidates, their election agents or counting agents may request to inspect any papers other than ballot papers taken out from the ballot boxes before they are disposed of [s 73A of the EAC (EP) (LC) Reg]. If the PRO identifies any misplaced FC ballot papers, the PRO will seal the misplaced FC ballot papers and then arrange to deliver them, together with the sealed FC ballot boxes, to the relevant RO of the central counting station for counting. **At no time should a candidate, his/her election agent or counting agent touch any ballot paper.** [S 73A of the EAC (EP) (LC) Reg]

5.91 The PRO who is not a PRO of a main counting station, a small polling station, a dedicated polling station or a ballot paper sorting station shall:

- (a) sort the ballot papers according to the choices marked by the electors on the ballot papers and place them in separate plastic and transparent boxes on the table;
- (b) separate and put aside the invalid and questionable ballot papers, if any;
- (c) determine the validity of questionable ballot papers;
- (d) count the valid votes obtained by each candidate;

- (e) verify the ballot paper account and prepare a statement in writing as to the result of the verification; and
- (f) compile the final counting results.

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

5.92 The PRO of a main counting station shall:

- (a) count and record the number of GC ballot papers in the orange document box(es) received from a ballot paper sorting station (which will be set up in a LegCo general election or, where the CEO considers it appropriate in a LegCo by-election) and verify the respective ballot paper account(s);
- (b) count and record the number of GC ballot papers in the ballot box(es) from designated small polling stations and dedicated polling stations (in the case of a LegCo by-election in which no ballot paper sorting station has been set up) and verify the respective ballot paper accounts;
- (c) prepare a statement in writing as to the respective result of the verification in (a) and (b) above;
- (d) mix the ballot papers in at least one of the ballot boxes at the polling station designated as the main counting station together with the ballot papers that have been delivered from the small polling stations and ballot paper sorting stations or dedicated polling stations as the case may be;

- (e) sort the ballot papers according to the choices marked by the electors on the ballot papers and place them in separate plastic and transparent boxes on the table;
- (f) separate and put aside the invalid and questionable ballot papers, if any;
- (g) determine the validity of questionable ballot papers;
- (h) count the valid votes obtained by each candidate;
- (i) verify the ballot paper account in respect of the main counting station concerned and prepare a statement in writing as to the result of the verification; and
- (j) compile the final counting results.

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

5.93 The cumulative voter turnout is only an estimate and is not necessarily be the same as the number of counted ballot papers from the ballot box. The former is calculated based on the number of ballot papers issued to the electors at the ballot paper issuing desks by the polling officers (see para. 5.44 above). It does not include the ballot papers issued at the PRO's desk which are endorsed with the word "TENDERED"³⁴ or issued in replacement of the "SPOILT"³⁵ ballot papers (see paras. 5.60 and 5.61 above). After adding the number of "TENDERED" ballot papers and deducting the number of "UNUSED"³⁶ ballot papers from the cumulative voter turnout, the total should

³⁴ "TENDERED" ballot papers are issued at the PRO's desk which are not included in the cumulative voter turnout but are put into the ballot box and included in the number of ballot papers actually counted from the ballot box.

³⁵ "SPOILT" ballot papers are kept by the PRO and are not put into the ballot box.

³⁶ Not all ballot papers issued at the ballot paper issuing desks (included in the cumulative voter turnout)

tally with the number of ballot papers actually counted unless some ballot papers are carried away by the electors and consequently not put into the ballot box. In any event, the counting results will base on the number of ballot papers actually counted, while the cumulative voter turnout is for reference only.

Invalid Ballot Papers

5.94 A ballot paper is invalid if:

- (a) no vote has been marked on it;
- (b) it is not marked with the chop provided at the polling station;
- (c) it is endorsed on the front with the word “**SPOILT**” and “損壞”;
- (d) it is endorsed on the front with the word “**TENDERED**” and “重複” ;
- (e) it is endorsed on the front with the word “**UNUSED**” and “未用” ; or
- (f) For a GC election,
 - (i) on which the vote recorded is for a single candidate list, and the vote is for a deceased or disqualified candidate where the name of, and other information relating to, the candidate on the list are crossed out under s 37(2) of the EAC (EP) (LC) Reg;

will be put into the ballot box. For instance, electors may, for various reasons, return the ballot papers to the PRO without putting them into the ballot box. Polling staff may also occasionally discover ballot papers abandoned or left behind by electors inside the polling station. The PRO will endorse such ballot papers with the word “UNUSED” and keep them in his/her custody.

- (ii) on which the vote recorded is for a multiple candidates list and the vote is for a deceased or disqualified candidate included in the list of candidates where the names of, and other information relating to, all the candidates on the list are crossed out under s 37(2) of the EAC (EP) (LC) Reg; or
- (g) votes are given for more than 1 list of candidates for a GC (e.g. by marking a “✓” each against 2 lists of candidates).

[S 80(1) of the EAC (EP) (LC) Reg]

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 PRO concerning these ballot papers [s 80(4) of the EAC (EP) (LC) Reg].

Questionable Ballot Papers

5.95 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 PRO:

- (a) it has any writing or mark by which the elector can possibly be identified;
- (b) it is not marked in accordance with s 55(2) of the EAC (EP) (LC) Reg, i.e. not marked by affixing the chop to give a single “✓” in the circle opposite the list of candidates of the elector’s choice on the ballot paper, and the elector’s intention is unclear. However, the PRO may count that ballot paper if he/she is satisfied that the

elector's intention is clear, notwithstanding the "✓" mark is not placed inside the circle;

- (c) it is substantially mutilated; or
- (d) it is void for uncertainty.

Questionable ballot papers must be separated and forwarded to the RO or the PRO (as appropriate) to decide whether the vote is to be counted [s75(7)(a) of the EAC (EP) (LC) Reg]. When deciding on the validity of the ballot papers in (a) above, the PRO will make reference to the judgment made by the Court on an election petition case (HCAL 127/2003). In that case, the Court ruled that the handwritten tick found on the ballot paper in question in the said election petition was considered a mark by which the elector could possibly be identified. The validity of ballot papers with any other writing or mark will remain to be determined by the PRO on a case-by-case basis [s 81 (1), (2) and (3) of the EAC (EP) (LC) Reg].

5.96 The validity of all questionable ballot papers shall be decided by the PRO [s 81(2) of the EAC (EP) (LC) Reg]. The PRO will invite the candidates, their election or counting agents present to participate in the determination process of questionable ballot papers.

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

- (a) The PRO will inform the candidates and their agents 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 papers [s 81(1) of the EAC (EP) (LC) Reg];

- (b) The PRO will then consider their representations and make his/her final decision on the validity of the questionable ballot paper (see para. 5.98 below) [s 81(2) of the EAC (EP) (LC) Reg];
- (c) If the PRO decides that a questionable ballot paper is invalid and, therefore, not to be counted, he/she must endorse the words “不獲接納” and “rejected” on the front of it. In that case, if a candidate, an election agent or a counting agent objects to the PRO’s final decision, the PRO must also endorse the words “反對此選票不獲接納” and “rejection objected to” on that ballot paper [s 81(4) of the EAC (EP) (LC) Reg];
- (d) If a candidate, an election agent or a counting agent objects to the decision of the PRO to count a questionable ballot paper, the PRO must endorse the words “反對此選票獲接納” and “acceptance objected to” on that ballot paper [s 81(5) of the EAC (EP) (LC) Reg]; and
- (e) The PRO shall prepare a statement to record his/her decisions made in respect of all questionable ballot papers [s 81(6) of the EAC (EP) (LC) Reg].

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

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

5.100 When vote counting is completed at any one of the counting stations for the constituency, the relevant PRO will inform the candidates or their election or counting agents present of the counting results. Any such candidate or his/her election agent or his/her counting agent may request the PRO to re-count the votes and the PRO shall comply with the request unless in his/her opinion it is unreasonably made. Where there is no request for a re-count or where the request for a re-count is rejected or the re-count is completed and there is no request for a further re-count or the request for a further re-count has been rejected by the PRO, the PRO shall report to an ARO for the constituency at the central counting station of the counting results. Any misplaced GC ballot papers found in FC ballot boxes at the central counting station and delivered to the relevant RO will be counted by the RO. The validity of any questionable ballot papers will be determined by the RO. Candidates, their election agents or counting agents present may raise objection to the acceptance or rejection of a questionable ballot paper. The RO's decision on the validity of the ballot paper is final [s 82 of the EAC (EP) (LC) Reg]. The counting arrangement as set out in paras. 5.94 to 5.98 above will be followed by the RO [s 79A of the EAC (EP) (LC) Reg].

5.101 After the ARO has been notified of the results of the counting of votes of all the counting stations in the constituency in his/her charge, he/she shall inform the RO for the constituency of the results who shall then inform the candidates or their election agents or counting agents at the central counting station of the results. If a candidate or his/her election agent at the central counting station requests the RO to re-count all the votes of all the counting stations for the constituency, the RO will decide whether the request should be acceded to. If he/she decides that such a re-count is reasonable in the circumstances, he/she will inform the PROs of all the counting stations for the constituency to conduct a re-count at their respective counting stations. [S 79A(5) and (6) of the EAC (EP) (LC) Reg]

5.102 When the RO makes known to the candidates or their election agents or counting agents the counting results of all the counting stations for the GC, he/she must also make known to them the estimated number of GC ballot papers estimated to be misplaced in FC ballot boxes (the estimated number will be based on the information in the ballot paper account). Candidates and their election agents may at that point request a re-count of the votes of all counting stations for a GC without having to wait for the counting results of any misplaced GC ballot papers [see para. 5.101 above] [s 79A(7) of the EAC (EP) (LC) Reg]. Alternatively, they may at that point request a re-count of the votes of all the counting stations together with the votes of the misplaced GC ballot papers after the latter votes are counted. The RO will not entertain the alternative request if the estimated number of misplaced GC ballot papers is **less** than the difference between the remaining numbers of votes cast for any two lists of candidates (in which case the counting results of the misplaced GC ballot papers will not affect the overall election results of the GC in question) [s 79A(14) of the EAC (EP) (LC) Reg].

5.103 The PRO of each of the counting stations will make known the result of the re-count at his/her counting station to the candidates or their election agents or counting agents present at that counting station and shall report the same to the ARO for the constituency at the central counting station who shall inform the RO for the constituency of the results of the re-count of all the counting stations in his/her charge [s 79A(10) of the EAC (EP) (LC) Reg]. The RO shall add such results and the result of the counting of the votes recorded on the misplaced GC ballot papers found in FC ballot boxes, and shall inform the candidates or their election agents or counting agents present at the central counting station of the aggregate result. If a candidate or his/her election agent requests the RO for a re-count of the votes of the misplaced GC ballot papers, the RO shall comply with the request unless in his/her opinion, it is unreasonably made [s 79A(12) of the EAC (EP) (LC) Reg].

5.104 If at any time, it appears to the EAC that a counting station (“first counting station”) assigned for the counting of votes cast at a polling station (“polling station concerned”) in respect of a GC is no longer available or suitable for the counting to take place or continue to take place for reasons other than those referred to in s 2(3) of Schedule 2 to the EAC (EP) (LC) Reg, (i.e. the occurrences of a typhoon or other climatic condition of a serious nature; riot, open violence or any danger to public health and safety; or an occurrence which appears to the EAC to be a material irregularity relating to the election, the poll or count), the EAC may direct that the counting is to take place or continue to take place at another counting station (“new counting station”) specified by the CEO [s 75A(1) of the EAC (EP) (LC) Reg]. The RO must give notice to the candidate ranking first in priority on each list of candidates for the constituency of the time and place at which the counting is to take place or continue to take place [s 65(7A) of the EAC (EP) (LC) Reg]. Where such direction is given by the EAC, the PRO of that counting station must arrange the ballot boxes (whether opened or un-opened) and receptacles, if any, together with the ballot papers (whether counted or not), any un-issued ballot papers, tendered ballot papers, ballot paper account, verification of a ballot paper account or re-verification of a ballot paper account, and any other relevant election materials to be transferred to the new counting station [s 75A(3) of the EAC (EP) (LC) Reg]. Any person who is entitled to be present at the first counting station or polling station concerned may also be present with the PRO when the PRO makes any of the aforesaid arrangement [s 75A(4) of the EAC (EP) (LC) Reg].

(b) Counting of FC votes

5.105 The DC (second) FC ballot boxes and the ordinary FC/SFC ballot boxes will be delivered to the central counting station, together with any FC ballot papers found to have been misplaced in GC ballot boxes, and will be given into the charge of the relevant RO [ss 70(1) and 72(1) of the EAC (EP) (LC) Reg]. Each ballot box will then be checked to see if it is properly sealed. The

seal on the ballot box will be broken by the relevant RO (or the RO/AROs for the DC (second) FC) in the presence of the relevant candidates or their election agents or counting agents, if they are present at the time [s 73(1) and 92(4) of the EAC (EP) (LC) Reg]. All the ballot boxes will then be opened and the contents emptied onto a counting table. Any misplaced ballot papers (whether GCs, DC (second) FC or other FCs) found will be sealed and then delivered to the RO of the relevant FC and GC for counting. The candidates, their election agents or counting agents may request to inspect any papers, other than ballot papers, taken out from the ballot boxes before they are disposed of. **At no time should a candidate, his/her election agent or counting agent touch any ballot paper.** [S 73(2) of the EAC (EP) (LC) Reg]

5.106 There will be a large number of sorting/counting zones for the FCs. Other than a ballot paper for the DC (second) FC (the counting procedure of which is described in paras. 5.109 and 5.110 below), the ballot papers for the ordinary FCs/SFCs from each of the polling stations will first be sorted, counted and recorded for verification of the ballot paper accounts by the counting staff. Such sorted ballot papers will then be separately bundled with the respective verified ballot paper account. [S 74(1) of the EAC (EP) (LC) Reg]

5.107 As described above, the ordinary FC/SFC ballot papers in each of the sorting/counting zones will be sorted to make up separate bundles for each constituency. Each bundle of ballot papers which is required to be delivered to another sorting/counting zone will be placed in a separate receptacle and sealed under observation by candidates or agents, if any, present at the counting station. Bundles belonging to the same constituency will be allocated to the AROs and their staff for transferring them to the counting zones in respect of the relevant constituency for the counting of votes marked on them under the supervision of the RO of the ordinary FC/SFC. The ballot papers for the same ordinary FC/SFC from not less than 2 of the polling stations will first be mixed before counting [ss 74(1), 74(8), 76(3) and 77(3) of the EAC (EP) (LC) Reg].

5.108 The RO of an ordinary FC/SFC, with assistance of the counting staff, at the counting zone will:

- (a) (i) For SFC
sort the first preference votes marked by the electors on the ballot papers and place them in separate plastic and transparent boxes on the counting table; or
- (ii) For ordinary FC returning 1 member
sort the votes according to the choices marked by the electors on the ballot papers and place them in separate plastic and transparent boxes on the counting table; or
- (iii) For ordinary FC returning more than 1 member
record the votes as given to the choices marked by the electors on the ballot papers;
- (b) separate and put aside the invalid and questionable ballot papers, if any;
- (c) determine the validity of questionable ballot papers (by RO);
- (d) (i) For SFC
count the valid votes on the ballot papers in accordance with the preferential elimination system of voting described in s 50 of the LCO; or
- (ii) For ordinary FC
count the valid votes obtained by each candidate in accordance with the first past the post voting system described in s 51 of the LCO; and

- (e) compile the final counting results.

(Please see **Appendix 3** for details of the preferential elimination system of voting mentioned in the preceding para. 5.108(d).) [Ss 76 and 77 of the EAC (EP) (LC) Reg]

5.109 For DC (second) FC, the votes marked on ballot papers will be counted at the counting zones under the supervision of the RO or AROs of the DC (second) FC.

5.110 The AROs of the DC (second) FC, with assistance of the counting staff at counting zones, will:

- (a) for any small polling station or dedicated polling station, count and record the number of DC (second) FC ballot papers and verify with the respective ballot paper accounts first [s 74AAA(2)(a) of the EAC (EP) (LC) Reg];
- (b) mix those ballot papers from any small polling station or dedicated polling station with the ballot papers in at least one of the ballot boxes from a polling station (other than a small polling station or dedicated polling station) [s 77A(1A) of the EAC (EP) (LC) Reg];
- (c) sort the ballot papers according to the choices marked by the electors on the ballot papers and place them in separate plastic and transparent boxes on the counting tables; separate and put aside the invalid and questionable ballot papers, if any;
- (d) determine the validity of questionable ballot papers (by RO or ARO) [s 77A(4) of the EAC (EP) (LC) Reg];

- (e) count the valid votes obtained by each candidate list;
- (f) verify the number of the DC (second) FC ballot papers recorded in the counting process by comparing the number with the ballot paper account of each polling station (other than a small polling station or a dedicated polling station which is dealt with under (a) above) after the counting of votes [s 74AAA(2)(b) of the EAC (EP) (LC) Reg];
- (g) prepare a statement in writing as to the respective result of the verification in (a) and (f) above [s 74AAA(2)(c) of the EAC (EP) (LC) Reg]; and
- (h) compile the final counting results.

[Ss 74AAA and 77A of the EAC (EP) (LC) Reg]

Invalid Ballot Papers

5.111 A ballot paper is invalid if:

- (a) no vote has been marked on it;
- (b) it is endorsed on the front with the word “**TENDERED**” and “重複”;
- (c) it is endorsed on the front with the word “**SPOILT**” and “損壞”;
- (d) it is endorsed on the front with the word “**UNUSED**” and “未用”;

- (e) in respect of an ordinary FC and the DC (second) FC ballot paper, it is not marked with the chop provided at the polling station;
- (f) for an ordinary FC, votes are marked for more than the number of vacancies to be filled (in respect of the Labour FC, a ballot paper is invalid if more than 3 votes are marked on it; in respect of the other 23 FCs, a ballot paper is invalid if more than 1 vote is marked on it);
- (g) For a DC (second) FC election,
 - (i) on which the vote recorded is for a single candidate list, and the vote is for a deceased or disqualified candidate where the name of, and other information relating to, the candidate on the list are crossed out under s 37(2) of the EAC (EP) (LC) Reg; or
 - (ii) on which the vote recorded is for a multiple candidates list and the vote is for a deceased or disqualified candidate included in the list of candidates where the names of, and other information relating to, all the candidates on the list are crossed out under s 37(2) of the EAC (EP) (LC) Reg;
- (h) for the DC (second) FC, votes are given for more than 1 list of candidates (e.g. by marking a “✓” each against 2 lists of candidates);
- (i) in respect of a SFC ballot paper, it is not marked by writing Arabic numerals (1, 2, 3 and so on) to indicate his/her preference in descending order of preference;
- (j) for a SFC, votes are marked with a first preference for 2 or more

candidates (whether or not the elector marks second, third or subsequent preferences); or

- (k) for a SFC, votes are not marked with a first preference (whether or not the elector marks second, third or subsequent preferences).

[S 80(1) of the EAC (EP) (LC) Reg]

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 80(4) of the EAC (EP) (LC) Reg].

Questionable Ballot Papers

5.112 Other 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/AR can possibly be identified;
- (b) for an ordinary FC/DC (second) FC, the vote is not marked by affixing the chop to mark a single “✓” in the circle opposite the name of the candidate/list of candidates in respect of the DC (second) FC of the elector’s/AR’s choice on the ballot paper, and the elector’s/AR’s intention is unclear [s 57(2) of EAC (EP) (LC) Reg]. For a SFC, the Arabic numeral is not entered in the circle opposite the name of the candidate of the elector’s/AR’s choice on the ballot papers and the elector’s/AR’s intention is unclear [s 56(2A) of the EAC (EP) (LC) Reg]. However, the RO may count

that ballot paper if he/she is satisfied that the elector's/AR's intention is clear, notwithstanding the "✓" mark or the Arabic numeral are not placed inside the circle;

- (c) it is substantially mutilated; or
- (d) it is void for uncertainty.

Regarding the validity of the ballot papers in (a) above, please also refer to the court judgment on an elector petition case (HCAL 127/2003) referred to in para. 5.95 above [s 81(2) and (3) of the EAC (EP) (LC) Reg].

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

5.114 The validity of all questionable ballot papers shall be decided by the RO of the relevant constituency. The RO will invite the candidates, their election or counting agents present to participate in the determination process of questionable ballot papers.

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

- (a) the RO will inform the candidates and their agents of his/her initial decision on the validity of each questionable ballot paper. A candidate, an election agent or a counting agent if present at the counting zone, may inspect and make representations concerning any questionable ballot paper [s 81(1) of the EAC (EP) (LC) 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. 5.116 below) [s 81(2) of the EAC (EP) (LC) Reg];
- (c) if the RO decides that a questionable ballot paper is invalid and, therefore, not to be counted, he/she must endorse the word “不獲接納” and “rejected” on the front of it. In that case, if a candidate, an election agent or a counting agent objects to the RO’s final decision, the RO must also endorse the words “反對此選票不獲授納” and “rejection objected to” on that ballot paper [s 81(4) of the EAC (EP) (LC) 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 “反對此選票獲接納” and “acceptance objected to” on that ballot paper [s 81(5) of the EAC (EP) (LC) Reg]; and
- (e) the RO shall prepare a statement to record his/her decisions made in respect of all questionable ballot papers [s 81(6) of the EAC (EP) (LC) Reg].

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

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

5.118 When vote counting is completed for the relevant constituency of the FC, the relevant RO will inform the candidates, their election or counting agents present of the counting result [s 79(1) of the EAC (EP) (LC) Reg]. Any such candidate or his/her election agent may request the RO to re-count the votes and the RO shall comply with the request unless in his/her opinion it is unreasonably made [s 79(2) of the EAC (EP) (LC) Reg]. Where there is no request for a re-count or where the request for a re-count is rejected or the re-count is completed and there is no request for a further re-count or the request for a further re-count has been rejected by the RO, the RO will inform the candidates and their agents of the counting results [s 79 of the EAC (EP) (LC) Reg].

Counting arrangements for the by-election in respect of the DC (second) FC

5.119 If the polling day of a by-election held for DC (second) FC does not fall on the polling day of a by-election held for any GC, the same arrangement for counting the GC ballot papers for a LegCo by-election in which no ballot paper sorting station has been set up as set out in paras. 5.69 to 5.73 and paras. 5.82 to 5.104 above will be adopted to count the ballot papers of the aforesaid DC (second) FC. Under such circumstances, the polling stations (except small polling stations and dedicated polling stations) will be converted into counting stations for counting of votes. The relevant PROs will supervise the count and determine the validity of the ballot papers. If a by-election for the DC (second) FC and that for any GC are to be held on the same day, the ballot papers of the DC (second) FC would be delivered to the central counting station for counting as in the LegCo general election. [Ss 77B and 92 of the EAC (EP) (LC) Reg]

PART X : DECLARATION OF RESULT

(a) For GCs and the DC (second) FC

5.120 Where the count is to be conducted at individual polling stations (as in the case for a GC election or a DC (second) FC by-election), the PRO of each of the counting stations shall report to an ARO for the constituency the final counting or re-count result of his/her counting station; where the count is to be conducted at a central counting station (as in the case of a DC (second) FC election), the Counting Supervisor of each of the counting zone in the central counting station shall report to the ARO of the constituency. After tallying the total of the final counting or re-count results with all the final counting or re-count results reported from individual counting stations/counting zones for the GC/FC, the RO shall apply the list system of proportional representation and accordingly declare the successful candidates as elected [s 83 of the EAC (EP) (LC) Reg].

5.121 In the event that 2 or more lists have the equal largest number of remaining votes and the number of those lists exceeds the number of vacancies to be filled, the RO shall determine the result of the election by drawing lots at the central counting station. He/She shall use the means of contact of such candidates provided in their nomination forms to request them to be present at the central counting station for conducting the drawing of lots and such list of candidates shall arrive once invited. If the RO fails to contact such a list of candidates, the RO may draw lots on behalf of the list of candidates (see para. 2.40 for detailed procedures for drawing of lots). He/She shall declare the candidate on whose list the lot falls as elected. He/She shall display a notice of the result of the election at a prominent place outside the central counting station and publish the notice in the Gazette within 10 days of the declaration of the result [ss 83 and 84 of the EAC (EP) (LC) Reg].

(b) For Ordinary FCs/SFCs

5.122 When the counting of votes and re-counts, if any, are completed and a result is obtained, the RO for the relevant constituency shall declare the successful candidate(s) elected for the constituency concerned. In respect of the ordinary FCs, in the event that a vacancy is still to be filled for a constituency and the most successful candidates have an equal number of votes, the RO will determine the result of the election by drawing lots at the central counting station. For the SFC, if the remaining candidates after the final stage of counting have an equal number of votes, the RO will determine the result of the election by drawing lots at the central counting station (see para. 2.40 for detailed procedures for drawing of lots). He/She shall declare the candidate on which the lot falls as elected. The RO for the relevant constituency shall display a notice of result of the election of the constituency in a prominent place outside the central counting station. The result of the election will also be published in the Gazette within 10 days of the declaration of the result [ss 83 and 84 of the EAC (EP) (LC) Reg].

PART XI : DISPOSAL OF DOCUMENTS

5.123 As soon as practicable after the RO/PRO has ascertained the result of the poll in an election, he/she shall seal all the relevant documents and ballot papers into packets. Candidates and their agents may observe the packaging [s 85(1) and (3) of the EAC (EP) (LC) Reg].

5.124 These sealed packets together with other documents including the nomination forms, notices of appointment of agents, etc. will then be deposited with the CEO for safe custody for at least 6 months from the date of the election to which they relate before they are destroyed. [Ss 86(1) and 88 of the EAC (EP) (LC) Reg]

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

PART XII : POSTPONEMENT OR ADJOURNMENT OF THE ELECTION, THE POLLING OR THE COUNTING OF VOTES

5.126 The LCO and EAC (EP) (LC) Reg stipulate the provisions on the postponement or adjournment of the election, the polling or counting of votes of a LegCo general election as a whole, or in respect of an individual GC/FC or an individual polling/counting station.

5.127 Regarding the postponement or adjournment of a **general election as a whole and the poll at all polling stations and/or the count at all counting stations**, if, before the holding of the general election or during the polling or counting of votes in respect of a general election, the CE is of the opinion that the election, the polling or counting of votes is likely to be or is being obstructed, disrupted, undermined or seriously affected by riot, open violence or any danger to public health or safety, the CE may, by order, direct the postponement or adjournment of a general election, or the polling or counting of votes in respect of a general election. Besides, if, it appears to the EAC that the election is likely to be obstructed, disrupted, undermined or seriously affected by the occurrences of (a) a typhoon or other climatic condition of a serious nature; or (b) an occurrence which appears to the EAC to be a material irregularity relating to the election, the poll or count, the EAC may postpone or adjourn the holding of the election, or the polling or counting of votes in respect of the election. [S 44(1) and (2) of the LCO and s 1 of the Schedule 2 of the EAC (EP) (LC) Reg]

5.128 In respect of a **particular GC/FC**, if, during or before a general election or by-election, or at any time during a poll or count in respect of the election, it appears to the EAC that the election, the poll at all the polling stations or the count at all the counting stations for a particular GC/FC is likely to be obstructed, disrupted, undermined or seriously affected by the prescribed occurrences including (a) a typhoon or other climatic condition of a serious nature; (b) riot, open violence or any danger to public health or safety; or (c) an occurrence which appears to the EAC to be a material irregularity relating to the election, the poll or count, the EAC may adjourn the election or by-election, the poll at all the polling stations or the count at all the counting stations for that GC/FC. [S 2 of the Schedule 2 of the EAC (EP) (LC) Reg]

5.129 For the **poll or count at a particular polling/counting station**, if, at any time during polling or counting at a general election or by-election, it appears to the PRO that the poll at the polling station, or the count at the counting station is likely to be obstructed, disrupted, undermined or seriously affected by a prescribed occurrence as mentioned in para. 5.128 above, the PRO may adjourn the poll at that polling station or the count at that counting station. [S 3 of the Schedule 2 of the EAC (EP) (LC) Reg]

5.130 If a general election or by-election, the poll or count has to be postponed or adjourned in accordance with section 44 of the LCO or Schedule 2 of the EAC (EP) (LC) Reg, the CE or the EAC is to appoint a date for holding the election, the poll or count as soon as practicable after the postponement or adjournment of the election, the poll or count. The date appointed must not be later than 14 days after the date originally scheduled. Pursuant to the established contingency measures of the EAC, the election, the poll or count will usually be postponed or adjourned to the fallback polling day on the following Sunday. The relevant electoral ordinance and regulation do not provide that the election, the poll or count once postponed or adjourned can be further postponed or adjourned. [S 44(4) of the LCO and s 7 of the Schedule 2 of the EAC (EP) (LC) Reg]

PART XIII : THE CONDUCT OF LEGISLATIVE COUNCIL BY-ELECTION

5.131 For a LegCo by-election, the EAC must, in accordance with regulations in force under the LCO, arrange for a by-election to be held in the following circumstances and not otherwise –

- (a) on the making of a declaration as to the existence of a vacancy in the membership of the LegCo;
- (b) on the making of a declaration that the proceedings for the election for a GC/FC have been terminated/failed;
- (c) the Court of First Instance (“CFI”)’s making a determination that a person whose election is questioned was not duly elected and that no other person was duly elected instead; and
- (d) if an appeal against the CFI’s determination is lodged to the CFI and the Court of Final Appeal (“CFA”) determined that a person whose election is questioned was not duly elected and that no other person was duly elected instead or on the termination of the appeal proceedings in other circumstances.

[S 36 of the LCO]

5.132 If a general election, the poll or count has to be postponed or adjourned because of the circumstances mentioned in paras. 5.127 to 5.129 above and could not be held within the 14 days as stipulated in the law, there is no provisions in the subsisting law to conduct a by-election for the LegCo general election.

CHAPTER 6

ELECTION PETITIONS

PART I : GROUNDS FOR LODGING AN ELECTION PETITION

6.1 Pursuant to s 61 of the LCO, the result of the LegCo election may be questioned only by an election petition made on the following grounds:

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

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

6.2 An election petition may be lodged, in the case of an election for a GC/FC:

- (a) by 10 or more electors entitled to vote at the election for the GC/FC; or
- (b) by a person claiming to have been a candidate in the election for the GC/FC.

[S 62(1) of the LCO]

6.3 An election petition questioning an election may be lodged with the CFI only during the period of 2 months following the date on which the RO has published the result of the election in the Gazette [s 65(1) of the LCO]. If the office of the CFI is closed on the last day of the deadline for lodging election petitions, the relevant deadline will be extended to the date that the office resumes operation [s 71(1A)(a) of the Interpretation and General Clauses Ordinance (Cap 1)].

6.4 An election petition is triable in open court and before a judge. At the end of the trial of an election petition, the CFI must determine questions of the validity of a nomination or whether the person was or was not duly elected, as appropriate. The CFI must announce its determination by means of a written judgment. [Ss 64(2) and 67(1), (2) and (3) of the LCO]

6.5 An appeal against the decision of the CFI may be lodged to the CFA direct, subject to leave being granted by the Appeal Committee of the CFA. Notice of a motion for applying for leave to the CFA to appeal must be filed within 14 working days after the date on which the written judgment of the CFI

to be appealed against is handed down, and the applicant must give the opposite party 3 days' notice of his/her intended application at any time during the period of 14 working days. At the end of the hearing of an appeal against the determination of the CFI, the CFA must determine questions of the validity of a nomination or whether the person was or was not duly elected, as appropriate. The CFA must announce its determination by means of a written judgment. [Ss 65(2) and 70B of the LCO]

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. Each candidate may appoint 4 types of agents, namely election agent, election expense agent, polling agent and counting agent. If a candidate intends to send the notice of appointment of polling agents and counting agents by hand, by electronic mail, by facsimile transmission or by post, the notice must be delivered to the RO or the CEO at least 7 days before the polling day so as to enable timely delivery of the information to the relevant PRO. After the said deadline, the candidate or his/her election agent must deliver in person the notice to the relevant PRO on the polling day. The REO will remind all candidates of the deadline for the appointment of agents about 10 days before the polling day and will also provide all candidates with name lists of election agents, polling agents and counting agents received by the REO for their reference 3 days before the polling day.

7.2 The aggregate amount of election expenses incurred by a candidate and his/her election expense agents must not exceed the maximum amount as prescribed by the law. An election expense agent must not incur election expenses in excess of the maximum amount specified by the candidate in the agent's authorisation.

7.3 The law and guidelines referred to in this chapter apply to candidates/candidates on lists of candidates in a GC/DC (second) FC election as

they apply to candidates in a traditional FC election. Wherever there are special features applicable only to a **list of candidates**, they will be expressed in the relevant context.

7.4 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

7.5 A candidate/list of candidates may appoint the following agents to assist him/her/them in an election:

- (a) **1** election agent [s 23(1), (2) and (3) of the EAC (EP) (LC) Reg];
- (b) **any number** of election expense agents;
- (c) a maximum of **2** polling agents for **each polling station** other than a dedicated polling station situated in a penal institution in respect of the GC, the ordinary FC, the DC(second)FC or SFC for which he/she is nominated [s 42(3), (4), (5) and (8A) of the EAC (EP) (LC) Reg];
- (d) 1 polling agent for **each dedicated polling station** situated in a penal institution other than a maximum security prison [s 42(8A)(a) and (c) of the EAC (EP) (LC) Reg]; and

(Only candidates themselves may enter maximum security prison (see para. 7.27 below). For arrangements regarding admission of election agents or polling agents to dedicated polling stations

situated in penal institutions, please refer to paras. 7.14 to 7.17 and paras. 7.26 to 7.28 below.)

- (e) not more than such number of counting agents as will be specified by the EAC³⁷ [s 66(2) of the EAC (EP) (LC) Reg].

PART III : QUALIFICATIONS OF AGENTS

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

PART IV : CIVIL SERVANTS ACTING AS AGENTS

7.7 Civil servants, other than directorate officers, Administrative Officers, Information Officers, 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 the CRO, ROs, 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 work in a GC/FC or have extensive contacts with the public in a GC/FC are strongly advised not to accept appointment by a candidate in that GC/FC to be his/her agent and/or participate in electioneering activities in the GC/FC concerned. Civil servants who participate in electioneering activities, including the seeking of election

³⁷ The number of counting agents to be specified by the EAC will be stated in the specified form for the appointment of counting agents

donations, for any candidates 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.

PART V : ELECTION AGENT

Appointment

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

7.9 The candidate must give notice of such appointment to the RO for the relevant GC or FC for which the candidate is nominated [s 23(6) of the EAC (EP) (LC) Reg]. The notice must be in the specified form, signed by both the candidate and the agent, and delivered by hand, by electronic mail, by facsimile transmission or by post to the RO (in the case of a list of candidates, the notice must be signed by all the candidates on the list and be given to the RO by any one of the candidates on the list). If the notice of appointment is given on the polling day, it should not be delivered to the RO by post. [S 23(6), (9) and (16) of the EAC (EP) (LC) Reg] The appointment will not be effective until the notice of appointment is received by the RO [s 23(7) of the EAC (EP) (LC) Reg].

7.10 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. Expenses incurred by any purported agent before the notice of appointment is received by the RO 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].

Revocation

7.11 The appointment of an election agent may be revoked by the candidate (or in the case of a list of candidates, all the candidates on the list) at any time. The candidate must also 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. In the case of a list of candidates, a notice of revocation must be signed by all the candidates on the list and be given to the RO by any one of the candidates on the list. If the notice of revocation is given on the polling day, it should not be delivered to the RO by post. A revocation of an appointment of an election agent will not be effective until such notice is received by the RO. [S 23(9), (11), (12), (13) and (16) of the EAC (EP) (LC) Reg]

7.12 If an election agent passes away 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. 7.9 above. In the case of a list of candidates, all the candidates on the list may jointly appoint a replacement. [S 23(14), (15) and (16) of the EAC (EP) (LC) Reg] Like other election agents, the new election agent has to follow the arrangements set out in paras. 7.14 to 7.17 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 penal institution (other than a maximum security prison).

Notification

7.13 Not later than 10 days after the end of the nomination period, and thereafter as required, each validly nominated candidate/list of candidates or

his/her/their election agent will receive from the RO a notice containing the particulars of all the election agents (such as names and correspondence addresses) appointed by all candidates for the GC/FC concerned. In the case of a list of candidates, the RO must send the notice to the candidate ranking first in priority on the list or the election agent of the list [s 24(1), (2) and (5) of the EAC (EP) (LC) Reg]. The RO must also display outside his/her office a notice of the particulars of the election agents [s 24(7) of the EAC (EP) (LC) Reg].

Role of an Election Agent

7.14 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 EAC (EP) (LC) Reg for the purposes of the election **except**:

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

[S 23(17) and (18) of the EAC (EP) (LC) Reg]

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 or his/her list's 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 authorised as an election expense agent by a candidate to incur election expenses. If so authorised, the election agent becomes also an election expense agent (see Part VI of this chapter).

7.15 Candidates and their election agents are normally allowed admission to all polling stations in respect of the GC/FC concerned and are entitled to be present at the counting of the votes. 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 penal institution 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, any candidate on the list of candidates or the election agent as soon as practicable. [S 23(18) and (21) of the EAC (EP) (LC) Reg]

7.16 The Commissioner of Correctional Services may, on an application delivered to the CEO during the week before the polling day, give consent if he/she is satisfied that a person imprisoned or held in custody by the CSD, who is entitled to vote for the relevant GC/FC at the dedicated polling station concerned, is admitted or transferred to the penal institution concerned during that week and the application is made without undue delay after the admission or transfer [s 23(20) of the EAC (EP) (LC) Reg]. The REO will post and update on its website the number of registered electors who are imprisoned or held in custody in individual penal institutions 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.

7.17 No election agent may be present at a dedicated polling station situated in a penal institution if a polling agent has already been appointed by the same candidate or the same list of candidates for that polling station [s 23(19) of the EAC (EP) (LC) Reg].

7.18 The PRO of a polling station may regulate the number of candidates and their agents to be admitted to the polling station at any one time, for the purpose of maintaining order in the polling station and ensuring that polling is conducted smoothly [s 44(2) of the EAC (EP) (LC) Reg]. **Whilst inside a polling station, a counting station or a ballot paper sorting station, the provisions to be observed by polling agents and counting agents are also applicable to candidates and their election agents.** They are therefore advised to familiarise themselves also with the guidelines set out in Parts VII and VIII of this chapter.

PART VI : ELECTION EXPENSE AGENTS

Authorisation

7.19 A candidate may authorise **any number** of election expense agents to incur election expenses on his/her behalf in an election. The authorisation will remain in force until the end of the election period, i.e. the end of the polling day or the last polling day if there is more than 1 polling day, unless it is revoked earlier [ss 2 and 23 of the ECICO]. All the candidates on a GC/DC(second)FC list must jointly authorise the election expense agent to incur election expenses on behalf of the list, for any expenditure incurred for promoting the election of any candidate on the GC/DC(second)FC list or for prejudicing the election of another candidate/list of candidates must necessarily be incurred for the promotion or benefit of all candidates on the whole list [s 25(8) of the EAC (EP) (LC) Reg]. Each candidate on the GC/DC (second) FC list must mutually authorise the other fellow candidate(s) on the same list as his/her election expense agent(s), or otherwise none of the other fellow candidates can lawfully incur election expenses for him/her, or for the whole list which includes him/her [s 23(2) of the ECICO]. For details of the special features applicable to a list of candidates, see Part VIII of Chapter 16.

7.20 The authorisation shall be in writing on a specified form and state the name, identity document number and residential address of the election expense agent, and must specify the maximum amount of election expenses the agent may incur [s 25(6) and (7) of the EAC (EP) (LC) Reg]. It should be signed by both the candidate (in the case of a list of candidates, by all the candidates on the list) and the election expense agent [s 25(8) of the EAC (EP) (LC) Reg]. A copy of the authorisation must be delivered by hand, by post, by electronic mail or by facsimile transmission to the RO for the relevant GC/FC, or the CEO if the RO has not been appointed [s 25(9) and (10) of the EAC (EP) (LC) Reg].

7.21 The authorisation is not effective until it has been received by the relevant RO or the CEO as the case may be [s 25(11) of the EAC (EP) (LC) Reg]. Before the authorisation is received, no election expenses should be incurred by a person purporting to be authorised 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 his/her 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.

Revocation

7.22 The authorisation of an election expense agent may be revoked by a candidate (or in the case of a list of candidates, by all the candidates on the list) 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 post, by electronic mail or by facsimile transmission to the relevant RO, or the CEO if the RO has not been appointed. In the case of a list of candidates, the notice must be signed by all the candidates on the list and be given by any one of the candidates on the list. [S 25(14), (15) and (15A) of the EAC (EP) (LC) Reg] The revocation will only be effective when the relevant RO or the CEO, as the case may be, receives the notice [s 25(16) of the EAC (EP) (LC) Reg]. The election expenses already incurred before the RO or PRO receives the notice will still be counted as election expenses of the candidate/list of candidates.

Role of Election Expense Agents

7.23 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 agent's authorisation; 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

7.24 Every candidate, whether elected or not, or who was returned uncontested, or who has withdrawn the candidature before the close of nominations, or has been decided by the RO as not validly nominated, or has not incurred any election expenses, 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 60 days after the election is settled in relation to the GC/FC concerned (and in relation to all the GCs/FCs concerned if the election is held for 2 or more GCs/FCs) or within such extended period as may be allowed by the CFI under the relevant law. An election is settled in relation to a GC/FC on the date on which any of the following events occurs:

- (a) the result of the election is notified in the Gazette;
- (b) the proceedings for the election are declared to have been terminated;
- (c) the election is declared to have failed.

[S 37(1), (1B), (1C) and (1N) of the ECICO and Part V of Chapter 16]

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 \$500 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 for the donation issued to the donor (in a standard form signed by the candidate). 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.

Public Inspection of Authorisation of Election Expense Agents

7.25 The RO or the CEO, as the case may be, will make available for public inspection all copies of authorisations 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 60th 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 26 of the EAC (EP) (LC) Reg]

PART VII : POLLING AGENTS

Appointment

7.26 A candidate/list of candidates may appoint **a maximum of 2 polling agents** for each polling station, other than a dedicated polling station

situated in a penal institution, in respect of the GC/FC for which he/she is nominated [s 42(3), (4), (5) and (8A) of the EAC (EP) (LC) Reg]. The notice of appointment must be in writing, in the specified form, signed by the candidate and delivered by hand, by post, by electronic mail or by facsimile transmission to the CEO, at least **7 days** before the polling day. In the case of a list of candidates, the notice must be signed by all the candidates on the list and be given to the CEO by any one of the candidates on the list. [S 42(8), (8AA) and (11) of the EAC (EP) (LC) Reg] 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 of the polling station for which that agent has been appointed. Such a notice must be given by the candidate (or in the case of a list of candidates, any one of the candidates on the list) or the election agent **in person** by delivering the notice of appointment to the PRO at the relevant polling station on the polling day [s 42(9) of the EAC (EP) (LC) Reg]. The appointment will not be effective until the notice of appointment is received by the CEO or the PRO, as the case may be [s 42(10) of the EAC (EP) (LC) Reg].

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

- (a) only the candidate or any one of the candidates on a list of candidates is allowed to be present in a dedicated polling station situated at a maximum security prison [s 42(8A)(c) of the EAC (EP) (LC) Reg];
- (b) only 1 polling agent may be appointed for a dedicated polling station situated in a penal institution which is not a maximum security prison and the Commissioner of Correctional Services has given consent to the presence of the agent. The appointment is effective only when an application made in a 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. In the case of a list of candidates, the notice must be signed by all the candidates on the list and be given to the CEO by any one of the candidates on the list [s 42(8), (8AA), (8A) and (11) of the EAC (EP) (LC) Reg]; and

- (c) for a dedicated polling station situated in a penal institution 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/list of candidates at that polling station [s 42(8A)(b) of the EAC (EP) (LC) Reg].

7.28 If the Commissioner of Correctional Services refuses to give consent to the application received, he/she will notify the candidate, any candidate on the list of candidates or the election agent as soon as practicable [s 42(8C) of the EAC (EP) (LC) Reg]. 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 for the relevant GC/FC at the polling station concerned, is admitted or transferred to the penal institution concerned during that week and that the notice of appointment is given without undue delay after the admission or transfer [s 42(8B) of the EAC (EP) (LC) Reg]. The REO will post and update on its website the number of registered electors who are imprisoned or held in custody in individual penal institutions 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.

Revocation

7.29 The appointment of a polling agent may be revoked by the candidate (or in the case of a list of candidates, by all the candidates on the list) at any time. The candidate (or in the case of a list of candidates, any one of the candidates on the list) 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). In the case of a list of candidates, the notice must be signed by all the candidates on the list. If the notice of revocation of appointment 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 penal institution, such notice must be delivered to the relevant PRO by either the candidate (or in the case of a list of candidates, by any candidate on the list) or the election agent **in person**;
- (b) for a polling agent appointed for a dedicated polling station situated in a penal institution, such notice must be delivered to the CEO by hand, by electronic mail or by facsimile transmission.

[S 42(13), (14) and (14A) of the EAC (EP) (LC) Reg]

7.30 A revocation of an 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 42(15) of the EAC (EP) (LC) Reg]. If a replacement of polling agent is appointed and he/she wishes to observe the poll at a dedicated polling station in a penal institution (other than a maximum security prison), he/she is required to follow the arrangements set out in paras. 7.26 to 7.28 above.

Role of Polling Agents

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

Provisions which the Polling Agents should be Aware of

7.32 On behalf of each candidate/list of candidates, only 1 polling agent may be admitted at any one time to the polling station for which he/she has been appointed [s 44(6) of the EAC (EP) (LC) Reg]. He/She is required to stay and keep his/her movements within the area designated for observation of the poll and not outside. Where a candidate or his/her election agent is present within a polling station, a polling agent of that candidate/list of candidates will not be allowed to be present at the same time within the polling station [s 44(7) and (8) of the EAC (EP) (LC) Reg]. (See also Part V of Chapter 5 regarding the admission of candidates, election agents and polling agents to the polling station.)

7.33 Before entering a polling station, every person, other than an elector/AR, 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 in the presence of a witness and observe the provisions governing the secrecy of voting [s 95(1), (2) and (5) of the EAC (EP) (LC) Reg]. This is to make sure that, subject to penalty of making a false declaration, all persons inside a polling station will observe the secrecy of the vote of the elector and, in particular, not to divulge which elector/AR has voted for which candidate and/or list of candidates.

7.34 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 [s 44(10) of the EAC (EP) (LC) Reg].

7.35 The following procedures shall apply on the polling day:

(a) Before the poll

- (i) About 30 minutes before the commencement of the poll, the PRO will inform the candidates or their agents (either election agent or polling agent) if they are present, of the number of ballot papers in the PRO's possession, opening the sealed packets of ballot papers and showing them the books of ballot papers not yet issued to any elector/AR (**"UNISSUED ballot papers"**).
- (ii) About 15 minutes before the commencement of the poll, 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/AR entered on the register, applies for a ballot paper after a person has already been issued with a ballot paper under the name of such an elector/AR, the PRO may issue a tendered ballot paper to the latter elector/AR **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. 5.45 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 60(1) and 80(1)(b) of the EAC (EP) (LC) Reg].

- (ii) Any elector/AR who has inadvertently torn or damaged any ballot paper or has made an error in marking any ballot paper issued to him/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/AR in exchange for the spoilt one and shall endorse on the front of it 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 62 and 80(1)(c) of the EAC (EP) (LC) Reg].
- (iii) The PRO shall endorse on the front of any ballot papers which have been issued and abandoned or found left behind 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 61 and 80(1)(d) of the EAC (EP) (LC) 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 flap of the inserting slot of the ballot boxes 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 [s 63(2) of the EAC (EP) (LC) Reg].

- (ii) For GCs, candidates, their election agents, polling and counting agents, if present, may stay inside the polling station to observe the conversion of the venue into a counting station [s 63(1A) of the EAC (EP) (LC) Reg]. The count will commence upon the completion of the conversion.
- (iii) For FCs, up to 2 persons being candidates competing in the FCs (or their respective agents), if they so wish, will be allowed to accompany the Deputy PRO(s)/Assistant PRO(s) in the delivery of the ballot boxes from the polling station to the central counting station under police escort. Where there are more than 2 persons with such intention remaining at the polling station, the PRO will draw lots to determine which 2 candidates or their respective agents will participate in the delivery. Other FC candidates and their agents are allowed to remain in the polling station only until they see that the police escort for the delivery is available. Thereafter, all of them shall leave the polling station. They may enter the counting station to observe the count of the GC votes in the public area.

7.36 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**:

- (a) observe the opening of sealed packets of ballot papers and 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;

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. Candidates are advised to keep a list of their own polling agents to facilitate checking when the sealing certificate is broken at the counting station.

- (b) leave the polling station at any time within the 1-hour slot after he/she is admitted to the polling station in which case his/her place may be taken by the relevant candidate, election agent or another polling agent (representing the same candidate/list of candidates) appointed to attend at the polling station (see para. 7.32 above);
- (c) subject to para. 7.37(b) below, observe the issue of ballot papers to electors/ARs and the crossing out of entries from the copy of the register of electors, subject to the condition that they cannot interfere with the work of the polling staff;
- (d) where there is reasonable ground for questioning the bona fides of an elector/AR, ask the PRO to put the following prescribed questions (subject to necessary modifications having regard to whether the ballot paper applied for is a GC ballot paper or an FC ballot paper) 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 FR now in effect for this GC and/or FC (as appropriate), as follows (reads the whole entry as it is recorded about the elector in the register)?
 - (ii) Have you already voted for this or any other GC and/or FC

(as appropriate) in this 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 51(3), (4) and (5) of the EAC (EP) (LC) Reg]

- (e) where there is reasonable cause to believe that a person who has applied for a ballot paper has engaged in 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 52(1) of the EAC (EP) (LC) Reg]

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

- (a) interfere with or attempt to influence any elector/AR;
- (b) speak to or communicate with any elector/AR, or interfere with or attempt to interfere with any ballot boxes, ballot papers, the marked copy of the register of electors or other relevant election materials. In this regard, a polling agent should station within the designated area demarcated by red adhesive tape, and must not enter, or move close to, the restricted zone delineated with yellow tapes about 1 metre, or 2 metres (depending on the configuration), around the voting compartments. Moreover, it is most improper for a polling agent to ask an elector/AR about his/her identity card number, let alone check an elector/AR's identity card;

- (c) attempt to obtain information, or disclose any knowledge acquired, concerning the vote of any elector/AR. A polling agent should read and observe carefully the provisions governing the secrecy of voting issued with the form of Declaration of Secrecy;
- (d) exhibit or leave or distribute any campaign material;
- (e) display or wear any promotional material, e.g. any badge, emblem, clothing or head-dress which:
 - (i) may promote or prejudice the election of a candidate or candidates at the election; or
 - (ii) makes direct reference to a body any member of which is standing as a candidate in the election or to a prescribed body the registered name or registered emblem of which has been printed on any ballot paper for the election; or
- (f) use a mobile telephone or any telephone or paging machine or any other form of electronic communication device.

[Ss 45 and 96 of the EAC (EP) (LC) Reg]

7.38 A polling agent must not misconduct himself/herself in or in the vicinity of a polling station or fail to obey any lawful order 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;

- (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 [s 46(2), (3) and (4) of the EAC (EP) (LC) Reg].

Other Useful Information for Polling Agents

7.39 Polling staff, candidates, their election agents and polling agents will be required to wear an identification device issued by the RO or the PRO for identification. If in doubt, a polling agent may enquire with the PRO as to the identities of the persons inside the polling station. No attempt, however, should be made to obtain information as to the identity of any elector/AR who is about to vote or has voted [s 96(8) of the EAC (EP) (LC) Reg].

7.40 Electors with mobility difficulty may be permitted to vote in a special polling station designated for that purpose. Candidates or their agents can make inquiries with the RO for information.

7.41 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/AR to mark a ballot paper if he/she claims that he/she is unable to read or is incapacitated from casting his/her vote by himself/herself due to visual impairment or other physical cause [s 59(1) and (2) of the EAC (EP) (LC) Reg]. The responsible officer should inform the candidates or their agents who are present when such a request for assistance is received. A candidate or his/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, Deputy PRO or 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.

7.42 In each polling station designated for an election in respect of a GC or a FC, subject to practicability of production, a number of **braille templates** are made available for the use of persons with visual impairment, if they so choose, to facilitate them to mark their vote on the ballot paper [s 59(3) of the EAC (EP) (LC) Reg]. The basic features of the template are as follows:

- (a) the template for each GC/FC 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/list of candidates of the GC/FC 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 over the ballot paper, each braille number corresponds with the candidate number or the number of a list of candidates in the GC/FC; and each of the holes on the template corresponds with the circle on the ballot paper against the candidate/list number. The number of holes equals the number of candidates/lists in the GC/FC.

In the case of an election in respect of a GC/DC (second) FC which adopts the “list system of proportional representation” or an ordinary FC which adopts “first

past the post voting system”, an elector with visual impairment should affix chop provided at the polling station to give a single “✓” in the circle through the holes on the templates against the candidate/list number. In the case of an election for one of the 4 SFCs which adopts the “preferential elimination system”, the elector with visual impairment should mark numbers starting from 1 on the ballot paper through the hole against the candidate numbers of his/her choice, in descending order of preference. Whenever it is necessary, the polling staff will help the elector with visual impairment to identify the different ballot papers before the elector proceeds to mark his/her choice.

7.43 No person may canvass, display or wear any promotional material relating to any candidate/list of candidates or the election within a polling station. Candidates and 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. [Ss 40(16) and 41(1) of the EAC (EP) (LC) Reg] 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 penal institution for the performance of his/her duties on the polling day [ss 40(19) and 41 (1A) of the EAC (EP) (LC) Reg]. Also, a person must not stay or loiter in the NSZ without the express permission of the PRO [s 41(1)(d) of the EAC (EP) (LC) Reg]. Any person who undertakes photographing, filming and video or audio recording within a polling station without the express permission of the PRO, the RO for the GC/FC, 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 [s 45(2) and (7) of the EAC (EP) (LC) Reg]. Normally such permission is only granted to government photographers for publicity purposes. Polling agents should also read Parts II to VII of Chapter 5 on all matters relating to polling and in particular, paras. 5.63 to 5.66 for activities that are prohibited, and the consequences of conducting such activities, in a

polling station.

7.44 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 the Guidelines.

PART VIII : COUNTING AGENTS

Appointment

7.45 A candidate/list of candidates may appoint not more than such number of counting agents as will be specified by the EAC to attend at the count at a counting station and to observe the sorting of ballot papers received from dedicated polling stations at each ballot paper sorting station [ss 2(6), 66(1) and (2) of the EAC (EP) (LC) Reg]. The same persons may, but need not, be appointed also as polling agents.

7.46 The notice of appointment must be in writing, in the specified form signed by the candidate (in the case of a list of candidates, the notice of appointment must be signed jointly by all the candidates on the list) and delivered by hand, by post, by electronic mail or by facsimile transmission to the relevant RO at least **7 days** before the polling day [ss 2(6), 66(3), (5), (5A) and (7) of the EAC (EP) (LC) Reg]. Where a candidate wishes to appoint a counting agent after the above deadline, the notice of the appointment must be delivered by the candidate (or in the case of a candidate list, any one of the candidates on the list) or the election agent **in person** to the PRO for the relevant counting station (or the RO in the central counting station) on the polling day during the period from the commencement of the poll to the conclusion of the count (for counting stations) or the completion of the sorting of ballot paper (for ballot paper sorting stations) [ss 2(6) and 66(6) of the EAC (EP) (LC) Reg]. The appointment is only effective when the notice of such appointment is received by the RO or the PRO,

as the case may be [ss 2(6) and 66(8) of the EAC (EP) (LC) Reg].

Revocation

7.47 The appointment of a counting agent may be revoked by the candidate (or in the case of a list of candidates, all the candidates on the list) at any time. The candidate (or in the case of a list of candidates, any one of the candidates on the list) 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) [ss 2(6) and 66(9), (10) and (10A) of the EAC (EP) (LC) Reg]. In the case of a list of candidates, a notice of revocation must be signed by all the candidates on the list [s 66(7) of the EAC (EP) (LC) Reg]. If the notice of revocation is given on the polling day, such notice must be delivered by the candidate (or in the case of a list of candidates, any one of the candidates on the list) or his/her election agent **in person** to the PRO for the relevant counting station (or the RO in the central counting station) [ss 2(6) and 66(11) of the EAC (EP) (LC) Reg]. A revocation of an appointment of a counting agent is not effective until notice thereof is received by the RO or the PRO, as the case may be [ss 2(6) and 66(12) of the EAC (EP) (LC) Reg].

Role of Counting Agents

7.48 Counting agents are appointed to attend at:

- (a) the counting stations to observe the breaking of the seals on the ballot boxes, the sorting, separation and counting of ballot papers and the counting of votes recorded on the valid ballot papers; or
- (b) the ballot paper sorting stations to observe the breaking of the seals on the ballot boxes received from dedicated polling stations and the sorting of the GC ballot papers cast at the dedicated polling

station.

This arrangement ensures the transparency of the sorting and counting process and is conducive to openness and fairness (see Parts VIII and IX of Chapter 5).

Provisions which the Counting Agents should be aware of

7.49 Before the counting of votes or sorting of ballot papers commences, every person authorised to be present at a counting station or a ballot paper sorting station, other than police officers and members 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 95(2) of the EAC (EP) (LC) Reg]. This is to make sure that, subject to penalty of making a false declaration, all persons inside a counting station or a ballot paper sorting station will observe the secrecy of the vote of the elector and, in particular, not to divulge which elector has voted for which candidate and/or list of candidates. Members of the public present within the area designated by the PRO or the CRO or the RO will not be required to make a Declaration of Secrecy.

7.50 On attending the counting station or the ballot paper sorting station, a counting agent shall report to the relevant RO or PRO, as appropriate and produce his/her identity card and the Declaration of Secrecy completed by him/her for inspection [ss 2(6) and 68(4) of the EAC (EP) (LC) Reg].

7.51 Counting agents are entitled to be present throughout the count to observe the relevant counting proceedings. They will be allowed by the RO or the PRO to stay close to, and round the counting tables to observe 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 for the relevant GC/FC by the RO/AROs/PRO;

- (b) inspect any papers other than ballot papers taken from the ballot boxes before they are disposed of;
- (c) observe the conduct of the count by counting officers including how ballot papers relating to a GC/FC are separated from those relating to other GCs/FCs and how individual votes are counted;
- (d) observe the determination of questionable ballot papers by the PRO or the RO and make representations on behalf of the candidate/list of candidates concerned [s 81(7) of EAC (EP) (LC) Reg]; and
- (e) observe, where he/she wishes, the packing of ballot papers by the counting officers and the RO or the PRO, as the case may be, at the conclusion of the count.

7.52 A counting agent in a ballot paper sorting station **may**:

- (a) observe the opening of the GC ballot boxes received from dedicated polling stations;
- (b) inspect any papers other than the ballot papers taken from the ballot boxes before they are disposed of;
- (c) observe the counting of the GC ballot papers in each ballot box;
- (d) observe the sorting of the aforesaid GC ballot papers according to each GC; and
- (e) observe the sealing of the receptacles containing the sorted GC ballot papers before they are delivered to the PRO of the respective main counting stations of the relevant GCs.

7.53 A counting agent **must not**:

- (a) touch, handle, separate or arrange ballot papers; and
- (b) misconduct in or in the vicinity of a counting station or a ballot paper sorting station, or fail to obey any lawful order of the CRO/RO/PRO, as the case may be, 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 CRO/RO/PRO to leave the area [s 68A(3) and (4) of the EAC (EP)(LC) Reg]. If he/she fails to leave immediately, he/she may be removed by a police officer or by other person authorised in writing by the CRO/RO/PRO to remove him/her. The person so removed may not re-enter the counting station or the ballot paper sorting station during that day except with the permission of the CRO/RO/PRO, as the case may be. [Ss 2(6) and 69 of the EAC (EP) (LC) Reg]

7.54 Counting agents should read Part VIII and Part IX of Chapter 5 on all matters relating to sorting of ballot papers and counting of votes and in particular, paras. 5.74 to 5.78 and paras. 5.82 to 5.89 for activities that are prohibited, and the consequences of conducting such activities, within the ballot paper sorting station and counting station.

CHAPTER 8

ELECTION ADVERTISEMENTS

PART I : GENERAL

8.1 Election expenses are regulated by the law to ensure that the candidates compete on a level playing field within a reasonable level of expenditures. For the regulation of election expenses, please refer to Chapter 16.

8.2 EAs account for a major portion of election expenses. Given that only candidates and their election expense agents are permitted to incur election expenses (also see chapter 7), they are the only persons allowed to incur election expenses because of the publication of EAs. It is, therefore, necessary to set down statutory regulations for EAs.

8.3 EAs refer to any publicity materials which are published for the purpose of promoting or prejudicing the election of a candidate or candidates. As to whether an individual statement will be construed as an EA, the overall circumstances, including the background, time of publication (e.g. whether the candidate(s) has publicly declared his/her/their intention to stand for the election or during the election period), the expenses incurred etc., must be taken into account so as to infer whether there is any intention to promote or prejudice the election of a candidate. If the statement is simply for expression of views or comments based on the facts without any intention to promote or prejudice the election of a candidate, then it is not to be treated as an EA.

8.4 A candidate is required under the law to post a copy of any EA he/she has published as well as the relevant information and documents onto an

open platform³⁸ maintained by the CEO or a person authorised by the CEO (“Central Platform”) or an open platform maintained by the candidate(s) or a person authorised by the candidate(s) (“Candidate’s Platform”), or submit a copy of the EA to the RO for public inspection within 1 working day after publication of the EA. This is not to restrict the contents of EAs, rather it keeps track of candidates’ publication of EAs for the purpose of regulating his/her/their election expenses. If any false statement is contained in EAs, it will be regulated by other provisions under the subsisting law (see para. 8.22 below).

8.5 Interactive EAs published on Internet platforms can be updated constantly. The law permits candidates to upload the relevant hyperlinks onto the Candidate’s Platform or Central Platform showing the publication of the EAs concerned and allowing public inspection of the EA contents.

8.6 With the proliferation of the Internet, online platforms are widely used to publish election-related opinions. As such opinions may sometimes constitute EAs, if the publication involves incur of election expenses, the publisher may have committed offences relating to election expenses if he/she is not a candidate or an election expense agent. Hence, legislative amendments have been made that where such person has published information constituting EAs, he/she will be exempted from criminal liability for incurring election expenses not in the capacity of an election expense agent if the only expenses incurred are either electricity charges and/or charges necessary for accessing the Internet. However, **it must be noted that** the exemption only applies to third parties who are neither candidates nor election expense agents (for details, please refer to para. 8.10 below).

³⁸ An 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.

PART II : WHAT CONSTITUTES AN ELECTION ADVERTISEMENT

8.7 EA, in relation to the LegCo election, means:

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

published for the purpose of promoting or prejudicing the election of a candidate or candidates at the election. [S 2 of the ECICO and s 2 of the EAC (EP) (LC) Reg]

IMPORTANT :

“Candidate” includes a person who has publicly declared an intention to stand for an 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 and s 2(2) of the EAC (EP) (LC) Reg]. The reference of “candidate” in this chapter includes a list of candidates in a GC/DC (second) FC to which the list system of proportional representation applies.

“Publish” means print, display, exhibit, distribute, post up, publicly announce or make publicly known by any other means, and includes continue to publish [s 104(1) of the EAC (EP) (LC) Reg].

If any candidate has authorised the publication of an EA by another person, that EA is taken to have been published that candidate [s 104(2) of the EAC (EP) (LC) Reg].

8.8 **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, name card, letter paper bearing the name and/or logo of the candidate, image or picture and any article, thing or material;
- (b) audio/video cassette tapes, discs, diskettes, electronic messages (e.g. messages published through social media, mobile messaging apps, communication network, etc.), 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/list of candidates or advertising the platform or services

of such an organisation with reference to a candidate or list(s) of candidates/candidates/ by name or photograph or in any other form or manner.

8.9 As stated in para. 8.7 above, EA is defined to include any messages published for the purpose of promoting or prejudicing the election of a candidate or candidates at an election under s 2 of the ECICO. Any publicity 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 certain candidates 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 when read in their whole context (e.g. the materials concerned may be capable of being reasonably understood by an elector as referring to certain identified candidate(s) or group(s) of candidates). Materials issued through the press with the intent to promote or prejudice the election of a candidate or candidates at an election may also be regarded as EAs. 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, and such expenses are not accounted for as election expenses, the candidate will also violate the law.

8.10 In accordance with s 23(1A) of the ECICO, a person (other than candidates or election expense agents) is exempted from the relevant criminal liability under s 23(1) of the ECICO if the person publishes an EA on the Internet, and the only election expenses incurred by the person for the purpose of publishing the EA are either or both of electricity charges and charges necessary for accessing the Internet. However, if a candidate, a candidate's

election expense agent, or a person who is authorised by a candidate or his/her/their election expense agent publishes an EA of the candidate on the Internet, any costs incurred, even though the costs only involve electricity charges and charges necessary for accessing the Internet, will have to be included in the election expenses of the candidate/list of candidates. The candidate(s) should also observe fully the requirements relating to publication of EAs as set out in para. 8.58 below.

8.11 Any publicity materials containing the name or photograph of a candidate/list of candidates 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 the RO is required to make relevant declaration in accordance with ss 42C (see para. 3.54 above) or 46 (see paras. 2.36 and 3.46 above) of the LCO or s 22C³⁹ of the EAC (EP) (LC) Reg) may also be regarded as EAs if they are published for the purpose of publicity with the intent to promote the election of the candidate/list of candidates.

8.12 Under s 104(1) of the EAC (EP) (LC) Reg, the definition of “publish” includes “continue to publish”. In this regard, if any person who intends to stand as a candidate at the election, including but not limited to an incumbent member of the 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), continues to

³⁹ According to s 22C of the EAC (EP) (LC) Reg, if the following circumstances arise after the death or disqualification of candidate for a GC or DC (second) FC, the RO must declare that no poll is to be held for the GC concerned or DC (second) FC:

- (a) the number of candidates remaining validly nominated is equal to the number of members to be returned for that GC or DC (second) FC;
- (b) no candidate remains validly nominated; or
- (c) the number of candidates remaining validly nominated is less than the number of members to be returned for that GC or DC (second) FC.

display the publicity materials published in the constituency concerned⁴⁰ (prior to the election period) after he/she has been nominated as a candidate or has publicly declared an intention to stand as a candidate at the election, such publicity materials **may** be regarded as EAs. Particular attention should be drawn to posters or banners bearing that person's name or photograph displayed at a public place or at the common parts of a building, with an intent to promote his/her election. For the sake of prudence, the person concerned should remove all the published publicity materials before he/she is nominated as a candidate or has publicly declared an intention to run for the election.

8.13 Under s 104(4) of the EAC (EP) (LC) Reg, a document published by a candidate **during** an election period that gives details of the work done by the candidate in the capacity of:

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

is also regarded as an EA.

⁴⁰ In the case of an election for the FC, the constituency concerned would be construed in the context of the provision to mean the whole territory of Hong Kong.

8.14 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. 8.13 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 paragraph and para. 8.13 above must comply with all the requirements for an EA and the expenditure so incurred be accounted for as election expenses.

8.15 If a person publishes a document before he/she submits his/her nomination form or publicly declares 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. 8.13 above without promoting or prejudicing the election of a candidate or candidates 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.

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

Election Advertisements Prejudicing the Election of a Candidate

8.17 There are occasions that candidates or a third party may publish EAs for the purpose of prejudicing the election of a candidate at the election. The concept of “promoting” and “prejudicing” the election of someone can be relative. For any publication with the intent to persuade electors not to vote for one candidate or candidates would have the effect of improving the chances of success of other candidate(s) and could therefore be said to have the purpose of promoting 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 authorisation 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 authorisation of candidate A, that third party will be breaching s 23 of the ECICO (except for the exemption under s 23(1A) as mentioned in para. 8.10 above) 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.

8.18 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.

8.19 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).

8.20 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 amounts allowed for the elections of GCs and FCs are specified in the Maximum Amount of Election Expenses (Legislative Council Election) Regulation (Cap 554D) (for details, see para. 16.16 of Chapter 16).

8.21 The costs incurred for the display of EAs must be counted as election expenses and a candidate must not incur election expenses in excess of the prescribed maximum amount, otherwise, he/she will commit an offence. Also, if a candidate **has incurred** election expenses in excess of the prescribed maximum amount and applied to the CFI for a relief order according to the relevant legislation, and where the CFI is satisfied that the illegal conduct caused by the act was due to inadvertence, an accidental miscalculation or any other reasonable cause and was not due to bad faith, and considers that the candidate should not be subjected to corresponding penalties/punishments under the principle of justice, the CFI may make an order relieving the candidate from consequences of the illegal conduct [s 31 of the ECICO]. Any person who, because of any reason not due to bad faith, may need to incur election expenses in excess of the prescribed maximum amount should seek independent legal advice to ascertain whether the statutory requirements for applying a court relief order may be fulfilled before incurring such election expenses.

8.22 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. If

a candidate has any question about the legal requirements on EAs and election expenses, he/she should seek independent legal advice. (For criminal sanctions, see ss 25, 26 and 27 of the ECICO)

PART III : PERIOD AND AREA OF DISPLAY

8.23 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)]

8.24 Display spots are classified into 2 types:

- (a) **designated spots** which are spots on government land/property and sometimes even in the premises owned or occupied privately but have been made available to the Government for allocation to candidates of the 5 GCs and the 29 FCs; and
- (b) **private spots** which are spots on private land/property in respect of which written permission or authorisation for display has been obtained from the owner or occupier concerned by the candidate himself/herself.

Government or Private Land/Property - Designated Spots

8.25 Allocation of designated spots for the use of **contested** GC/DC (second) FC candidates to display their EAs will be made by the RO for the relevant GC/DC (second) FC. 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 for the relevant GC/DC (second) FC may designate spots on such allocated land/property in coordination with the said authorities. For GC/DC (second) FC, the designated spots will be allocated to candidates by reference to and on the basis of lists. **Each list of candidates competing in the same constituency will be allocated the same number of designated spots.**

8.26 Designated spots for traditional FCs will be allocated by the relevant ROs in the similar way. There may be certain places on government or private land/property where candidates of the traditional FCs may wish to display their EAs, because those places are frequented by members of their electorate. Where considered appropriate, the respective ROs will identify and designate suitable display spots in these places for allocation to candidates.

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

NOTE :

Suggestions under para. 8.27 should reach the CEO **not later than 8 weeks before the polling day.**

Other Land/Property - Private Spots

8.28 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. 8.58 below. (Please also see para. 8.34 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. 16.30 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.

8.29 For the display of EAs at the common parts of private land/property (those parts to which exclusive rights of use or occupation do not belong to a particular owner or tenant), the EAC appeals to owners or occupiers of private land/property concerned to give all candidates/lists of candidates

competing in the same constituency **fair and equal treatment**. (For details, please see Chapter 9)

8.30 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.

Allocation of Designated Spots

8.31 In principle, available designated spots will be allocated among the different constituencies in the following manner:

<u>Constituency</u>	<u>Percentage of total</u>
GCs	50-60
DC (second) FC	30
other FCs	10-20

No designated spot will be provided to a candidate who is returned uncontested.

8.32 The RO for each GC/FC will allocate the designated spots to candidates of his/her GC/FC 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/lists of candidates in each GC/FC will have been ascertained. **No display of EAs will be allowed on any designated spots before the allocation** (Also see the requirements in para. 8.38 and Part VII 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/list of candidates will be provided with a list of the designated spots

allocated to him/her/it, together with a set of maps to help identify the locations.

8.33 Candidates/lists of candidates using the designated spots are required to read and comply with all the requirements and conditions stipulated in the “Conditions for Display of Election Advertisements at Designated Spots”, which will be provided to each candidate in the candidate’s folder and uploaded onto the EAC’s webpage. 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.

Written Permission or Authorisation

8.34 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 of the constituency concerned (see Part IV below). For any display in private land/property, 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 at level 3 (\$10,000) and, where the offence is a continuing offence, 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(2) 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. 8.58 below. All candidates are also reminded that if

carrying out of building works (including erection of signboard) in private premises is involved for the display of an 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.

No Canvassing Zone

8.35 No EA may be displayed within the boundaries of a polling station (including all floors and the outer walls of the premises) or within **NCZ** on the polling day (see Chapter 14), but except for static displays of EAs that are authorised by the RO (e.g. EAs mounted at designated spots). Where there are premises situated within the NCZ, the ROs should issue a notice in advance to all the candidates in the constituencies concerned asking them to remove all of their EAs, posted up at the premises within the NCZ before the polling day. The exhibition of portable displays of EAs on vehicles (whether in motion or parked within the NCZ), or held or carried by persons is also regarded as a canvassing activity which is forbidden within an NCZ. Therefore, candidates should arrange removal of EAs on the windows or bodywork of any public service vehicles (e.g. public light buses, taxis, etc.) before the polling day if those vehicles will pass through or be parked within the NCZ on the polling day. If the candidates fail to remove the EAs as requested by the ROs, the ROs may issue a warning to them to remove the offending EAs immediately. If the candidate/list of candidates fails to do so, the EAC may issue a censure or reprimand. The RO for the relevant GC/FC for which a candidate/list of candidates stands will provide each candidate/list of candidates of that GC/FC with 1 set of sketch maps or plans showing the

boundaries of all polling stations in respect of the relevant GC/FC and all NCZs outside those polling stations.

PART IV : ALLOCATION OF DESIGNATED SPOTS

8.36 A candidate/list of candidates of a GC/FC can obtain the following information from the RO for that GC/FC at the time of submitting the nomination form:

- (a) the general locations of the designated spots, which may include unleased government land and property managed by the Housing Department, and occasionally private land/property (if any) available for allocation to the candidates. The number and size of spots for allocation will be finalised by the RO, taking into account the number of contested candidates in the GC/FC, **after** the end of the nomination period. In order to allow all contested candidates to display their EAs at all locations, particularly popular ones, the size of each spot may vary from location to location; and
- (b) the date and time for conducting the allocation of designated spots would normally be held within 5 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.

8.37 The RO for the constituency will need to know the exact number of candidates/lists of candidates who wish to display EAs at designated spots

within a particular GC area, so that they can finalise the number of designated spots and their size for allocation. Therefore, candidates/lists of candidates who wish to display EAs at designated spots **must register their interest in writing by filing a completed form to the relevant RO within the nomination period. Only candidates of contested constituencies will be allocated with designated spots.**

8.38 The principle of allocation of designated spots is that candidates/lists of candidates contesting in the same constituency should each be allocated the same number of designated spots and an equal area of space for mounting EAs. Designated spots are allocated by agreement of the representatives of all the contested candidates/lists of candidates of a GC/FC or by drawing of lots. 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 VII, the candidate/list of candidates may display EAs at such spots.

8.39 A copy of the permissions or authorisations obtained by a candidate himself/herself, as opposed to those provided to him/her by the RO, must be provided in the manner as set out in para. 8.58 below [s 105 of the EAC (EP) (LC) Reg].

8.40 Subject to para. 8.42, designated spots allocated are neither transferable nor exchangeable with other spots. Where a candidate of a particular GC/FC no longer wishes to use one or more designated spots allocated to him/her, he/she should inform the RO of that GC/FC in writing within 1 week after the allocation of those spots. At a contested election, upon request by any other candidate of the same GC/FC, the RO, if he/she considers appropriate, will re-allocate by agreement or by the drawing of lots the designated spots among all other candidates who are eligible to be allocated

with designated spots of the same GC/FC. In such a case, paras. 8.38 and 8.39 above apply.

8.41 Candidates/Lists of candidates of a GC will not in principle be allocated designated spots outside the constituency in which they stand for election. This is especially the case for a general election. In the case of a by-election, as the spots available for use may be used for other purposes in the relevant constituency, the number of designated spots that could be assigned to the candidates contesting in the by-election may be insufficient. Under such circumstances, the RO may include designated spots outside the constituency of the by-election to ensure that a reasonable number of designed spots can be made available for allocation to the candidates concerned.

8.42 An EA advertising 2 or more candidates/lists of candidates of the same or different constituencies jointly is allowed to be displayed at the designated spots allocated to the candidates/lists of candidates. Nevertheless, it is important to ensure that, for each one of the joint candidates/lists of candidates, the total area of all the spaces actually occupied for advertising the candidate/list of candidates on all his/her/their EAs, including the joint EAs, mounted at the designated spots (as measured by the dimension of EAs) does not exceed the total area of the designated spots allocated to the candidates/lists of candidates. A joint EA is also subject to the size restrictions specified in para. 8.46 below. Through joint advertisement, the candidates concerned promote themselves at the election, and so each of the candidates would benefit from the joint advertisement. The expenses incurred for the joint EAs will therefore have to be borne by the candidates concerned in equal or proportional shares as their respective election expenses, to be calculated by the proportion of the size of the portion advertising each. In this connection, it is important to note that only a candidate himself/herself or his/her election expense agent may incur election expenses on his/her behalf [s 23 of the ECICO]. In order to comply with the requirement stipulated in s 27 of the ECICO, the candidates

concerned also have to seek prior written consent of support from each other before publishing the joint EA. (See also paras. 7.19 to 7.21 of Chapter 7 and para. 18.12 of Chapter 18)

PART V : CONDITIONS AND LIMITATIONS ON DISPLAY

Name of the Constituency

8.43 To avoid possible confusion to electors, EAs of all candidates of the GCs and FCs must bear the name of the constituency for which the candidate concerned is standing. Similarly, in respect of joint EAs, the name of the GC/FC should be stated clearly in relation to each of the candidates advertised. Either the full name of the GC/FC or its abbreviated name (to be advised by the RO for the GC/FC) may be used, dependent on the choice of the candidate for the GC/FC. In the case of a breach for EAs displayed at designated spots, the approval for the use of the designated spots in question may be revoked.

8.44 Likewise, all candidates should make known to the electors the name of their respective GCs/FCs when they conduct joint canvassing activities.

Re-use of Old Publicity Boards

8.45 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, name of GC/FC, party affiliation and names of persons who supported the candidate at that election, should be fully obliterated before any old publicity board is re-used. This would not only avoid confusion to electors but would also help the candidate to avoid laying himself/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.

Size

8.46 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 the 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. 8.33 above). For the rules on display of joint advertisements, see para. 8.42 above.

Mounting and Installation

8.47 The EAs must be firmly and separately fastened. The mounting and display of EAs must not cause any risk to injuries or property damages.

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

8.49 Use "tie-on" posters (rather than "stick-on" posters or metallic wires) to facilitate subsequent removal.

8.50 Use of wire for fixing the flags onto any highway structure, and railing, barrier, fence, post or any other street furniture, is strictly prohibited.

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

8.52 Do not excavate or erect any structure on public pavements, e.g. nailing boards to the ground.

8.53 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

8.54 All candidates should remove all their EAs displayed on government land/property **within 10 days** following an election. Failure to do so may result in prosecution being brought against the offending candidate and such EAs 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 results have been published in the Gazette (normally the first Friday after the polling day). 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.

PART VI : APPLICATION FOR TEMPORARY OCCUPATION OF GOVERNMENT LAND AT PUBLIC PLACE FOR HOLDING ELECTIONEERING ACTIVITIES

8.55 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 EA which may include banners, roll up banners and vertical flying poster or bunting), candidates/lists of 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/lists of candidates while applications from uncontested candidates/lists of candidates will not be considered. Approved occupation should not exceed 2 m² in area and 2 m in height. The respective DLO will consult the government departments concerned in considering the applications.

8.56 The Lands Department will issue detailed guidelines for candidates/lists of 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.

8.57 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.

PART VII :REQUIREMENTS RELATING TO PUBLICATION OF ELECTION ADVERTISEMENTS

Copies for Public Inspection

8.58 A candidate must make available a copy of each of his/her EAs, and the relevant information/documents (see **Appendix 5**) 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 and 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 the Central Platform in accordance with the procedures set out in **Appendix 5**;
- (b) posting an electronic copy each of all his/her EAs and the relevant information/documents onto the Candidate's Platform and provide the **electronic address** of the platform to the CEO **at least 3 working days before publication of the first EA (For details, please see Appendix 5)**;
- (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 5**. In this case, if the hyperlink of the EA has already been posted onto the Candidate's

Platform or the Central Platform, there is no requirement for candidates to file each and every comment separately;

- (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 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 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 their EAs and the relevant information/documents with the CEO in the same manner as stated in (d) or (e) above.

[S 105(2) and (3) of the EAC (EP) (LC) Reg]

Publication Details

8.59 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 5**) [s 105(4) and (6) of the EAC (EP) (LC) Reg]. A candidate must ensure the accuracy of all the information provided.

8.60 Where the information uploaded onto the Candidate's Platform or Central Platform or provided to the RO as set out in para. 8.59 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 a 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 3 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. 8.58 and 8.59 above should be complied with, except the addition of the number or the letter of the alphabet of each candidate/list of candidates allocated at the Candidates' Briefing onto a published EA, 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.

8.61 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 VII.

8.62 A candidate must not display his/her EAs other than at the places permitted or authorised.

8.63 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. Given that the copies of speeches provided to the audience are regarded as printed EAs, the candidates concerned are required to comply with the requirements in this Chapter as applicable to EAs in the distribution of the copies and for public inspection.

8.64 In the circumstances where candidates contesting different GCs/FCs use identical copies of an EA, each candidate/list of candidates concerned should each post an electronic copy of the EA and the relevant information/documents onto his/her/their Candidate's Platform or the Central Platform or deposit 2 copies of the EA and 1 copy of the relevant information/documents with the RO(s) concerned. [S 105(2) and (3) of the EAC (EP) (LC) Reg]

8.65 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 60th day before the first anniversary of the date of deadline for lodging the relevant election return (see para. 7.24 below) [s 41(6) of the ECICO and s 105(2) and (7) of the EAC (EP) (LC) Reg]. A candidate electing to comply with para. 8.58(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 105(2)(b) of the EAC (EP) (LC) 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. 8.58(d) or (e) above, the RO concerned will make available a copy of the EAs and the relevant information/documents for public inspection at a specified address as soon as practicable after copies of such EAs and information/documents have been furnished till the end of the aforesaid inspection period [s 105(7) of the EAC (EP) (LC) Reg].

PART VIII :REQUIREMENTS RELATING TO PRINTED ELECTION MATERIALS

Printing Details

8.66 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. using 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 105(4), (5) and (6) of the EAC (EP) (LC) Reg]

Election Advertisements Placed in Print Media

8.67 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

8.68 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 relevant RO **not later than 7 days after** the publication of the offending EA [s 105(6) of the EAC (EP) (LC) Reg]. Having taken this remedial step, he/she will not be prosecuted for contravention of s 105(4) of the EAC (EP) (LC) Reg. The statutory declaration will be made available for public inspection by the relevant RO till the end of the period for which copies of election return are available for inspection under s 41(6) of the ECICO [s 105(7) of the EAC (EP) (LC) Reg].

PART IX : NON-COMPLIANCE WITH THE LAW AND THE CONSEQUENCES

Enforcement and Penalties

8.69 A candidate who fails to comply with the requirements set out in Parts VII and VIII above commits an offence and is liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months [s 105(9) of the EAC (EP) (LC) Reg].

8.70 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 requirements will be removed and seized. 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.

8.71 Any unauthorised or offending EAs displayed may be seized, disposed of, destroyed, obliterated or covered by the RO or any person authorised by him/her as he/she thinks fit [s 107 of the EAC (EP) (LC) 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 105(9) of the EAC (EP) (LC) Reg]. The cost of removal, being a civil debt, will be counted as election expenses. Such civil debt must be reported 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]

8.72 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.

8.73 Complaints should be made to the relevant RO. Upon complaints being received, the EAC may also issue public statements in such manner as it deems fit to 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.

Relief for Election Advertisements

8.74 A person, who publishes an EA without complying with the requirements as set out in paras. 8.58 (except that related to the submission of permission/authorisation document under s 104A(1) of the PHMSO), 8.59, 8.60, and 8.66 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 106 of the EAC (EP) (LC) Reg]

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

8.75 Any thing or material published by any organisation, including political organisation, professional or trade organisation, owners' corporation, MAC, tenants' association, owners' committee, etc., which advertises its platform or services **with reference to a 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 and with the intent to promote the election of the candidate may be treated as an 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. A candidate should be responsible for election expense incurred by himself/herself or his/her authorised election expense agents but not those without his/her knowledge and consent. 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.

8.76 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 of the ECICO].

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

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

- (a) the expenses incurred will be treated as the candidate's own election expenses;
- (b) the officer-in-charge of the organisation needs to be authorised in writing by the candidate to be the candidate's election expense agent prior to incurring any election expenses, 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 105 of the EAC (EP) (LC) Reg; and
- (d) such advertisement can only be displayed at the spots with the relevant written permission or authorisation.

PART XI : FREE POSTAGE FOR ELECTION ADVERTISEMENTS

Conditions for Free Postage

8.79 A list of candidates for a GC/DC (second) FC or any other FC 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 **1** letter to each elector of the GC/FC for which a candidate/list of candidates is validly nominated [s 43(1), (2) and (4) of the LCO]. However, before the publication of the notice of valid nominations in the Gazette, a candidate/list of candidates wishing to exercise his/her/their 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/their name(s) is not subsequently shown in the notice of valid nominations. In the case of joint election mail, a candidate whose letters contain information on any other candidates/lists of candidates is liable for payment of postage for all letters if the name of any of the other candidates is not subsequently shown in the notice of valid nominations. In this situation, the security payment made by the candidate will not be refunded and the relevant joint election mail will not be regarded as the candidate's letter sent free of postage. The remaining candidate(s) who is/are validly nominated is/are still entitled to exercise his/her/their right to free postage. [s 6(2)(a) of the Post Office Regulations (Cap 98A)].

8.80 The purpose of the free postage is to enable the candidate or candidates on the list to mail EAs to promote or advertise himself/herself/themselves and in relation to that election to electors in the relevant GC/FC. 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. In this regard, EAs sent by a candidate through free postage should not contain any unlawful content.**

8.81 A candidate/list of candidates, who/which is validly nominated for a GC, the DC (second) FC and the Labour FC, may choose to send joint election mails to electors [s 101A of the EAC (EP) (LC) Reg and s 43(4A), (4B) and (4C) of the LCO] in the manner as described in paras. 8.82 to 8.84 below.

8.82 The letter sent by a list of candidates validly nominated for the GC may contain information on:

- (a) any number of list of candidates which is also validly nominated for that GC;
- (b) 1 single list of candidates which is validly nominated for the DC (second) FC; or
- (c) 1 single list of candidates which is validly nominated for the DC (second) FC and any number of list of candidates which is also validly nominated for that GC.

[S 43(4A) of the LCO]

8.83 In the case of the DC (second) FC, the letter sent by a list of candidates may contain information on any number of list of candidates which is also validly nominated for 1 single GC. [S 43(4B) of the LCO]

8.84 In the case of the Labour FC, the letter may contain information on any other candidate who is also validly nominated for that constituency. [S 43(4C) of the LCO]

8.85 The letter as described in paras. 8.82 to 8.84 above will not be regarded as the letter sent by that other candidate/list of candidates. This means that other candidates/lists of candidates are still entitled to each send free of postage 1 letter addressed to each elector of the constituency concerned. [S 43(4D) of the LCO]

8.86 Specifically, the letter must:

- (a) be posted to an address in Hong Kong;
- (b) contain materials relating only to the candidature of the candidate/candidates on the list at the election concerned;
- (c) not exceed 50 grams in weight;
- (d) be not larger than 165 mm x 245 mm and not smaller than 90 mm x 140 mm in size;
- (e) not exceed 5 mm in thickness; and
- (f) not contain any obscene, immoral, indecent, offensive or libellous writing, picture or other thing.

[S 101A(1) of the EAC (EP) (LC) Reg and s 32(1)(f) of the Post Office Ordinance (Cap 98)]

IMPORTANT :

Under s 101A(3)(a) of the EAC (EP) (LC) Reg, the candidate/all the candidates on the list sending postage-free mail items to electors in bulk is or are liable for payment of postage for all items in that bulk if any item in the bulk does not meet the requirements (a) - (e) above. Besides, according to s 32(1)(f) of the Post Office Ordinance, item (f) above refers to prohibited articles

In the case of joint election mails, candidates concerned should comply with the following requirements regarding (i) prior written authorisation to act as election expense agent; (ii) the sharing of expenditure in respect of the joint election mails among the candidates concerned for the purpose of submission of election return; and (iii) the obtaining of written consent of support from each other before sending the joint election mails (see paras. 18.10 and 18.12 of Chapter 18).

Postal Requirements Stipulated by Hongkong Post

Make-up

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

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

8.89 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

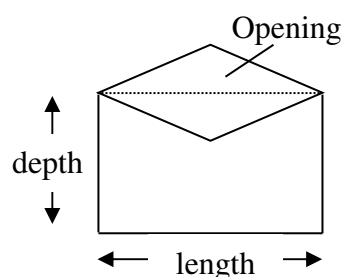
paper fasteners with sharp edges or points, but they may be closed by means of an adhesive flap or tape.

8.90 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

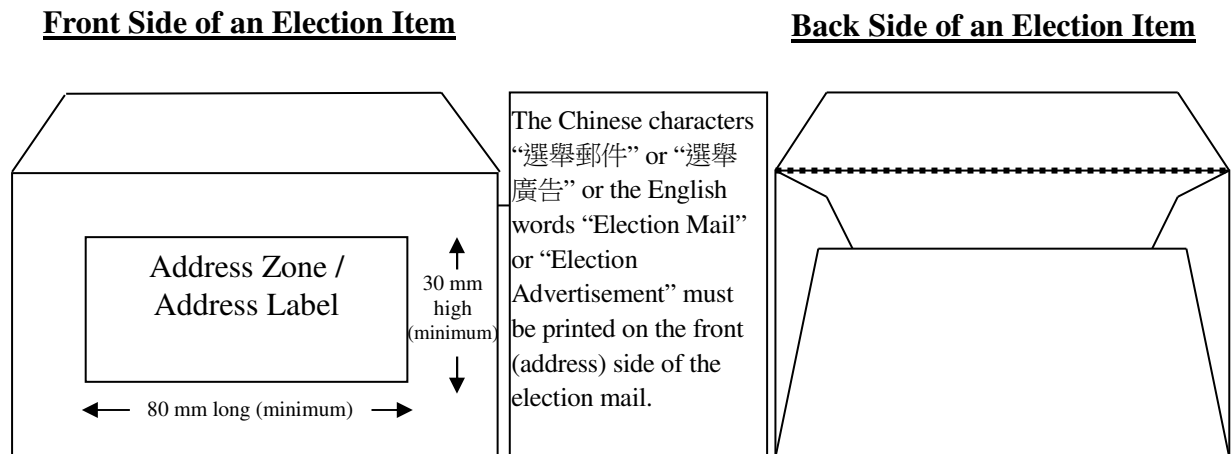
Not over 100 mm in depth – opening
not over 140 mm in length

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



8.91 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 6**.

8.92 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:



Addressing

8.93 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

8.94 Addressing slips may be used for the mailing of EAs provided that they are legible and **securely pasted** onto the election items.

IMPORTANT :

For the purpose of posting of election mails, candidates may request the REO to provide one set of mailing labels in respect of

the electors of the relevant constituencies and/or a “Candidate Mailing Label System” (CMLS) DVD-ROM. To protect the environment and respect the wish of electors, no mailing labels will be provided for electors who have provided their e-mail addresses to receive EAs and who have indicated that they do not wish to receive any EA.

8.95 The name(s) of the candidate(s) and other propaganda slogans, including photographs, should appear on the back or the front (address) side of the item. An address zone of at least 80 mm long and 30 mm high, preferably at the right-hand half or at the centre of the front (address) side for the address of an elector, should be reserved exclusively for the address. If an adhesive address label is used, it should not be less than 80 mm long and 30 mm high. The address label should only contain the name and address of elector(s) and be affixed to the address zone. The whole address zone and address label should be free of advertisement and should appear on the front side of the item. The address zone and address label should be in white background colour while the characters of the postal address should be in black. (Please refer to para. 8.92 for better illustration)

8.96 No postage-free EA bearing an address outside Hong Kong will be accepted. Specifically, **only 1 address should be shown on the postage-free election mail to electors.**

Posting Arrangements

8.97 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 the electors before the polling day.

8.98 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 posting 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.

8.99 To save time, 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 designated manager(s) 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 Hongkong Post to process each set of specimens and postings should only be made after receipt of official approval from Hongkong Post. As a large number of EA specimens may have to be processed at the same time, there is no guarantee that the EA specimens will necessarily be approved in 2 working days immediately after their submission. Candidates who wish to post joint election mails should indicate their intention in the Notice of Posting of Election Mail which should be signed jointly by all the candidates/election agents concerned. The specimens of joint election mails should be submitted to the designated manager(s) of Hongkong Post for approval as well.

8.100 To save time, candidates/list of candidates may consider submitting their EA specimens before being assigned with candidate number or

letter of alphabet or confirming the printing details of the election mail. Once the specimens concerned have been approved in writing by Hongkong Post, candidates may insert the candidate number or letter of alphabet or printing details into the election mail **without altering the approved design and text of the election mail**. There is no need for candidates/list of candidates to re-submit the revised specimens to Hongkong Post for approval.

8.101 To comply with the relevant requirements, the candidate should attach the translations in Chinese or English together with the “Notice of Posting of Election Mail” if the specimens contain languages other than Chinese and English.

8.102 Candidates should post their postage-free mail at the respective post 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 manager(s) of the designated post offices for record purpose.

8.103 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. To facilitate handling of a huge volume of postings within a tight time schedule, **candidates of GCs and the DC (second) FC** must sort their election mail according to the DC Constituency Areas when making postings at the designated post offices.

8.104 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 in the case of joint election mails at the election concerned each packet contains material relating only to the information as set out in paras. 8.82 to 8.84 above, as the case may be; is identical to the unsealed specimens submitted by the candidate/list of candidates or his/her/its election agent for inspection and approval; and
- (d) declaring that not more than 1 postage-free mail will be sent to any of the electors.

It is important to note that under s 101A(3)(b) of the EAC (EP) (LC) Reg, a candidate/candidates on the list sending postage-free mail items to electors in bulk is liable for payment of postage for all the items in that bulk if the declaration made by him/her/them or his/her/their election agent is false in any particular.

8.105 If a candidate makes posting in more than 1 batch, the same declaration form must be presented at the same designated post office on each occasion.

8.106 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 the publication is in such a way as to imply or to be likely to cause electors to

believe that the candidate(s) has/have the support of the person or organisation concerned, the candidate(s) should ensure that **prior written consent** has been obtained from the person or organisation concerned. (Please refer to Chapter 18 for the detailed requirements)

8.107 Government reserves the right to charge a candidate postage where any of the requirements under s 101A(3) of the EAC (EP) (LC) 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.

8.108 **The postal requirements stated in the above guidelines (paras. 8.87 to 8.105) are quoted for general reference only. Candidates should comply with the latest requirements issued by Hongkong Post at the time of the election concerned.**

Enquiries

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

Assistant Manager (Retail Business Support/Hong Kong)
 Room 1M05
 General Post Office
 2 Connaught Place
 Central
 Hong Kong
 Telephone: 2921 2190 / 2921 2307
 Fax: 2501 5930

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

8.110 Candidates may send EAs to registered electors/ARs in the custody of the CSD where the electors/ARs 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 19** when sending EAs to these electors/ARs.

8.111 Candidates may note that persons imprisoned or held in custody by the law enforcement agencies who are registered electors/ARs 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.

**PART XIII : COMMERCIAL ADVERTISEMENTS RELATING TO
CANDIDATES**

8.112 Any commercial advertisement in physical form showing the portrait and/or name of a candidate (e.g. commercial advertisements displayed on the bodies of buses or the exterior walls of buildings) which is merely for business promotion without any intention to promote or prejudice the election of any candidate will not be regarded as an EA. However, such a commercial advertisement may give extra publicity to the candidate concerned even though it is not an EA. In order to avoid such unfair publicity, the candidate should make his/her best endeavours to request the person(s)-in-charge not to display the advertisement after his/her declaration of intention to stand for the election or during the election period. The EAC appeals to the aforesaid person(s)-in-charge to accede to such a request as far as practicable in order to

avoid giving unfair publicity to the person concerned. If a complaint about unfair publicity was received from a candidate, the EAC will handle it according to established procedures. Nevertheless, if the display of the advertisement cannot be suspended due to contractual obligation, and the candidate has made best endeavour to request the person(s)-in-charge concerned not to display the EA, the candidate will not be subjected to any liability (for commercial advertisements broadcast on television/radio/cinema, please refer to paras. 11.29 to 11.30 below).

CHAPTER 9

ELECTIONEERING ACTIVITIES IN 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:

- (a) at his/her/their living/working places;
- (b) in the premises of the organisation(s) to which the elector(s) belong; or
- (c) in 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 7** 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 organisations 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.

9.2 Occupiers who have exclusive possession of private properties (houses, flats, shops, office buildings or factories) have the right to decide whether to allow individual candidates to display EAs or conduct electioneering activities in their premises without having to treat all candidates equally.

9.3 However, management organisations (such as owners' corporations, MACs, property management companies, etc.) of the common parts of buildings should accord fair and equal treatment to all candidates. Applications of all candidates for the display of EAs or the conduct of electioneering activities in the common areas of buildings should be processed impartially, especially if the chairmen or executive committee members of the management organisations are candidates or their relatives or friends, where the principle of fair treatment must be upheld and no preferential treatment should be given.

9.4 Candidates are reminded that different organisations/buildings may have their own guidelines to allow or disallow the conduct of electioneering activities in 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 organisations in advance and, if required, obtain prior permission from them for the conduct of electioneering activities in the places within their jurisdiction.

9.5 The general guidelines to be observed for conducting electioneering activities at the living and working places of electors, premises of organisations to which electors belong and buildings which electors frequent are set out in Part III below. The specific guidelines to be observed for conducting electioneering activities in the premises managed by the Housing Department and the Hong Kong Housing Society are set out in **Appendix 8**.

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

PART II : RIGHTS OF TENANTS AND OWNERS

Tenant's Right - His/Her House, Flat, Shop, Office or Factory

9.7 The tenant who has exclusive possession of a house, flat, shop, office or factory, and not the owner, has the right to allow or deny access by anyone to the place.

Common Parts

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

9.9 The carrying out of the powers and duties and the acts of an owners' corporation do not affect the rights of the tenants of the individual flats, shops, offices or factories in the building except in relation to matters concerning the common parts. Candidates and tenants should note that as a

tenant has exclusive possession of the unit that he/she occupies, he/she **has the right to invite anyone to visit his/her unit for any lawful purpose**, including electioneering, but he/she has no right to allow the invitee to approach other tenants' units, such as knocking on other people's doors, or to do anything in the common parts of the building, except for accessing and leaving his/her unit or for the purposes allowed by the owners.

Owners' Committees

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

Management Companies

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

Tenants' Associations, Residents' Associations, Mutual Aid Committees

9.12 Sometimes there are tenants' associations or residents' associations or MACs representing tenants' interests in buildings. As against the owners, they have no right to control or manage the common parts. However, if they are given the authority by the owners, they are entitled to control and manage the common parts on behalf of the owners.

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

Visits to Living and Working Places of Electors

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

9.14 However, access to a private office may require the approval of the management organisations of the office building or the companies which employ the electors, and such management organisations when making a decision should have due regard to the **fair and equal treatment principle** mentioned in Part IV below. In conducting electioneering activities at the common parts of the living or working places of electors, candidates should observe the general guidelines set out in paras. 9.17 to 9.24 below.

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

9.16 Due to security reasons, arrangements will not be made to facilitate in-person canvassing activities in a penal institution or the premises of a law enforcement agency. A visitor, who visits a penal institution 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 90A of the EAC (EP) (LC) Reg].

Respect for the Decision and Privacy

9.17 After a candidate/list of candidates has been notified of the decision made by the management organisation relating to electioneering activities, he/she/they should ensure that he/she/they and his/her/their supporters comply with the decision and should not avail himself/herself/themselves of or obtain any unfair advantage over any other candidate(s)/list(s) of candidates.

9.18 If a decision to disallow electioneering activities in an organisation or a building has been made by the management organisation, the candidate and 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 or its Complaints Committee. The EAC may publish a reprimand or censure against the candidate concerned.

9.19 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.

9.20 **Privacy of the electors should be respected.** The Guidance on Election Activities for Candidates, Government Departments, Public Opinion Research Organisations and Members of the Public at **Appendix 9**, prepared by the Office of the Privacy Commissioner for Personal Data ("PCPD"), 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 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/ARs 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 PCPD has provided relevant complaint cases in the guidance note for illustration purpose. **Candidates and their election agents are strongly advised to strictly follow the guidance provided by the PCPD in the aforesaid note when conducting electioneering activities.**

9.21 Validly nominated candidates/lists of candidates are supplied by the REO with an **extract of the FR** in respect of their respective GCs/FCs which contains the names and residential addresses of the electors of the relevant GC/FC and their email addresses (where the electors concerned have provided such to REO for the purpose of receiving election mails from candidates), but **not their telephone numbers**. As a general rule, candidates/lists of candidates should respect the privacy of electors when using their contact information for canvassing. In particular, for mass distribution of election mails by email, candidates/lists of 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/lists of candidates should note that some people do not

like or even detest being called over the telephone or 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 their choice of candidates/lists of candidates on the polling day. 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 good practice, candidates/lists of 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 or block the sender. 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.

IMPORTANT :

Information relating to a person contained in any register of electors or in any extract of any register of electors **can only be used for election-related purposes** under the electoral legislation. Any **abuse** or **misuse** of such information is an **offence** and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months [s 22(3) of the EAC (ROE) (GC) Reg and s 42(3) of the EAC (ROE) (FCSEC) Reg].

9.22 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/list of candidates has breached the time restriction, it may make a reprimand or censure against the candidate/list of candidates. Excessive noise will amount to an offence and the Police may be called. Anyway, it is unwise to create a nuisance through the use of loud-hailers, for the annoyance of the electors will obviously be reflected in their choice of candidates/lists of candidates (see also Chapter 12).

9.23 Canvassing through the use of the **entrance intercom system** by candidates/lists of candidate and their supporters in a building is prohibited unless it is expressly allowed by the building management organisation.

Identification of Canvassers

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

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

9.25 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 organisations of the organisations or the buildings concerned.

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

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

NOTE :

Candidates who are allowed to display or distribute EAs in the premises mentioned above must comply with the guidelines set out in Chapter 8.

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

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

Decision to be Made at a Tenants' Meeting

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

9.29 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 tenants and occupiers of each flat and act according to the majority view relating to matters covered by and in accordance with this chapter.

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

9.31 If a decision is made to allow electioneering by all candidates, the decision can also set out the hours of access and other conditions, such as not causing annoyance to occupiers, and the maximum number of persons allowed for home visits, etc. for the candidates to comply (see also **Appendix 10**).

Decision Must Provide Fair and Equal Treatment

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

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

9.33 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.

9.34 The organisation concerned should make a decision that applies equally and fairly to all candidates/lists of candidates of each GC/FC 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.

Notification of Decision

9.35 The management organisations of organisations and buildings are urged to notify the relevant RO in writing as soon as possible of their decision on electioneering by candidates, so as to equip the RO with the correct information to be provided to the candidates/public who may make inquiries with him/her. A **form** of the notification to the RO can be obtained from the REO and can be downloaded from the REO's website. Enquiries may be made with the RO concerned for the District in which the building is located. Nevertheless, candidates are advised to note that some buildings may not be able to make a decision on electioneering by candidates and therefore have not yet given the notification to the RO as required. When candidates come across these buildings, they should respect the interim decision of these buildings not to allow electioneering.

Display of Election Advertisements

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

- (a) ascertain all the available spots in the premises for

candidates/lists of candidates to display posters and banners;

- (b) decide on the maximum size of posters and banners to be allowed;
- (c) after the close of nominations, check with the relevant RO how many candidates/lists of candidates are contesting in the GCs/FCs concerned;
- (d) divide all the available spaces according to quality and quantity to ensure equality as far as possible into portions equivalent to the number of candidates/lists of candidates;
- (e) when one of the candidates/lists of candidates of the GC/FC concerned applies for display of EAs, allow him/her/them to draw lots to obtain a portion of the spots still available at the time of his/her/their application; and
- (f) where 2 or more candidates/lists of candidates wish to display their joint EAs, they should be allowed to do so but the joint EAs should occupy no more than the total of all the portions of the spots allocated to them by the restriction of size under (b) and the drawing of lots under (e) mentioned above.

9.37 If a building has any spaces in the common area that can be made available through any arrangement including rental for candidates to display EAs or conduct other electioneering activity, the management organisation shall ensure that such spaces are **equally available** to all the candidates/lists of candidates contesting the same GC/FC, and give reasonable notice to all such candidates/lists of candidates accordingly. Providing a space to only one of the candidates/lists of candidates but not the others will be considered to be

offering an unfair advantage to the candidate/list of candidates concerned and operating unfairly towards the other candidates/lists of candidates. Candidates should not take any such unfair advantage.

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

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

9.40 An owners' corporation or other organisation or person should be very careful not to incur any election expenses for promoting a candidate/list of candidates, such as putting up a banner to show support for a candidate/list of candidates, because it is an illegal conduct at an election for a person, other than a candidate or a candidate's election expense agent, to incur election expenses at or in connection with the election [s 23(1) of the ECICO].

9.41 Any person who puts up any publicity materials, including those which do not look election-related, before or during the nomination period in private premises should declare to the management organisation 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 organisation is also advised to exercise its own judgement 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 V : CONDUCT OF ELECTIONEERING ACTIVITIES IN PREMISES UNDER THE MANAGEMENT OF HOUSING DEPARTMENT AND HONG KONG HOUSING SOCIETY

9.42 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 the Hong Kong Housing Society are set out in **Appendix 8**.

PART VI : SANCTION

9.43 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.

9.44 Candidates should also refrain from accepting any unfair advantage over other candidates in the same GC/FC 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]. Expenses incurred before, during or after the LC election (in relation to machinery of the election) on account of an election meeting organised for any of the purposes stated above are election expenses [s 2 of the ECICO]. For the avoidance of doubt, election forums organised for all candidates in the same GC/FC are not treated as election meetings (see Part III 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.

10.2 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 of the ECICO].

10.3 Similarly, sometimes a candidate may be invited to a meeting which is entirely non-election-related, but during the meeting, someone may act

out of his/her own volition to promote the election of the candidate or prejudice the election of other candidates. In such case, the candidate should immediately make it clear that he/she has nothing to do with the acts of the person and ask the organiser to stop any act relating to the election. If the organiser fails to do so, the candidate should leave the meeting immediately in order to avoid any liability concerned. Otherwise, the meeting will be regarded as an election meeting held to promote the election of the candidate or prejudice the election of other candidates and the expenses so incurred will have to be counted towards the candidate's election expenses. The organiser will contravene the relevant legislation 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.

10.4 In addition to the election expenses (e.g. treating in election meetings) 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 in 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 in the premises within their jurisdiction.**

10.7 The statutory requirements for holding public meetings under the purview of the Hong Kong Police Force and the guidelines of the Housing Department/Hong Kong Housing Society for premises under their jurisdiction are set out in paras. 10.9 to 10.21 below.

PART II : ELECTION-RELATED “TREATING”

10.8 A person must not at any time provide or pay 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 (see also the part on “Treating” in Part IV of Chapter 17). Nevertheless, the serving of non-alcoholic drinks at an election meeting per se, without more, will not be deemed corrupt for the aforementioned purposes only because of that unless the purpose of treating is influencing the electors’ voting preference. If an election meeting held by a candidate involves consumption of food and drink, and the participants have shared the costs of the food and drink that do not have the purpose of influencing the participants’ voting preference, it may not fall within the scope of s 12 of the ECICO. Nevertheless, since the election meeting is for the purpose of promoting or prejudicing the election of a candidate or candidates, such costs borne by each participant should be treated as election expenses and election donations and the candidate should comply with the legal requirements accordingly.

PART III : ELECTION MEETINGS IN PUBLIC PLACES

10.9 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].

10.10 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.

10.11 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;
- (b) held in 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.

10.12 The Commissioner of Police may prohibit the holding of any public meeting notified (referred to in paras. 10.9 and 10.10 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 under such circumstances, he/she shall give notice of the prohibition to the person who gave the notification or to any person named in that notification 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. 10.13 below [s 11(2) and (3) of the POO].

10.13 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 amplifying 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]

10.14 A guidance note on safe conduct of election-related activities is at **Appendix 10**. It serves as a general advice to candidates and organisers of election-related activities, to enable them to conduct such activities safely.

Public Processions

10.15 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;
- (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]

10.16 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. 10.10 above should be used. [S 13A(1) and (4) of the POO]

10.17 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;
- (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(1) and (2), and 15(2) of the POO]

10.18 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(3) of the POO]

10.19 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 amplifying 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 IV : ELECTION MEETINGS IN PRIVATE PREMISES

10.20 Any person who organises an election meeting in 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 8**.

10.21 Notification in writing to the Commissioner of Police will need to be given, in accordance with the procedures set out in paras. 10.9 and 10.10 above, if at the proposed meeting the attendance will exceed 500 persons.

PART V : ELECTIONEERING EXHIBITIONS

General

10.22 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.

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

10.23 Where approval has been given by a housing manager or a competent officer 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 or a competent officer should send a copy of the letter of approval to the relevant RO for record and for public inspection. Please also see **Appendix 8** for reference.

PART VI: FUND RAISING ACTIVITIES AT ELECTION MEETINGS

10.24 A permit is required for organising, participating in, or providing equipment for 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 11** for general information.

CHAPTER 11

ELECTION BROADCASTING, MEDIA REPORTING AND ELECTION FORUMS

PART I : GENERAL

11.1 Based on the **fair and equal treatment principle**, the EAC promulgates the guidelines for election-related programmes and reports, including news reports, election forums and feature reports produced and published by broadcasters (covering television and radio stations licensed under the Broadcasting Ordinance (Cap 562) and the Telecommunications Ordinance (Cap 106) respectively) and the print media.

11.2 The EAC highly respects the freedom of the press and hopes that electors are able to obtain sufficient election information through media reporting in making informed choices. In setting out the guidelines in this chapter, the EAC does not seek to regulate the contents of media reporting, but aims to ensure an equal opportunity of media coverage for all candidates/lists of candidates.

11.3 During the election period (i.e. from the commencement of the nomination period up to the close of polling), the media should treat all candidates/lists of candidates in accordance with the **principle of fair and equal treatment** in handling programmes and reports relating to the election and candidates/lists of candidates and ensure that no favourable or unfavourable treatment be given to any candidate/list of candidates.

11.4 Provided that fair and equal treatment is given in reporting all candidates, the media can freely express opinions and comments based on the facts, expressing approval or disapproval on the platforms of individual candidates.

11.5 **Most importantly, media organisations should ensure that their programmes or reports will not become EAs (i.e. promoting and prejudicing the election of a particular candidate or particular candidates) in order to avoid breaching the law and legal requirements on incurring election expenses in not being a candidate or an authorised election expense agent. Please see Chapters 8 and 16.**

IMPORTANT :

The definition of “candidate” in this chapter (i.e. Chapter 11) is different from the definition under s 2 of the ECICO. According to s 2 of the ECICO, “candidate” means a person who stands nominated as a candidate at an election and also means a person who, at any time before the close of nominations for an election, has publicly declared an intention to stand as a candidate at the election. This legislative provision is applicable to the requirements on candidates’ EAs and election expenses or other requirements under the ECICO.

For the purpose of the principle of fair and equal treatment of candidates under the guidelines in this chapter (i.e. Chapter 11), “candidate” means a person whose nomination form has been received by the RO⁴¹. Given the diverse means and platforms

⁴¹ It will take time for the RO to determine whether a nomination received is valid or not. However, the information of the person being nominated will be uploaded onto the relevant election website for public information on the day when the RO receives the nomination form.

employed by different persons to publicly declare their intention to stand for the election, the media may have practical difficulties in obtaining full information on all such persons. Hence, a definition of “candidate” for the operational convenience of the media is specially given in this chapter. The media may, based on the list of candidates whose nomination forms have been received by the RO as provided on the election website, treat all the candidates of the same constituency in accordance with the principle of fair and equal treatment. **It should be noted that the definition of “candidate” in this chapter is only an operational definition for the purpose of the implementation of the principle of fair and equal treatment, but is not a legal definition under any legislation.** On the legislation aspect, as mentioned above, for compliance with the requirements on EAs and election expenses or other requirements under the ECICO, the definition of “candidate” under s 2 of the ECICO must be followed.

The reference of “candidate” in this chapter includes a list of candidates in a GC/DC (second) FC to which the list system of proportional representation applies.

PART II : NEWS REPORTS (BROADCASTERS AND PRINT MEDIA)

11.6 News report means the report of events happening on the day or of a recent period.

11.7 The media should follow the **principle of fair and equal treatment** in reporting news relating to the election and the candidates/lists of

candidates. However, the requirement of equivalent time/number of words is not applicable.

11.8 Election-related news involving a particular candidate can be reported by itself even if no other news on other candidates/lists of candidates is carried that day. However, the other candidates/lists of candidates of the same constituency must at least be mentioned. The mention should be made in the same programme or publication by the media in an appropriate way. They may not necessarily appear within the content of the same report, but in principle, should enable the viewers, listeners or readers to be informed of the other candidates/lists of candidates.

11.9 News unrelated to the election, even if a candidate/list of candidates is involved, can be factually reported, as long as the status as a candidate is not mentioned in the report. Reference to other candidates/lists of candidates of the same constituency need not be made. In any case, the relevant news reporting should not give favourable or unfavourable treatment to any candidates/list of candidates.

11.10 When determining whether any news reporting by the media is in breach of the principle of fair and equal treatment, the EAC may take into consideration the overall reporting by the media organisation during the election period.

PART III : ELECTION FORUMS

11.11 During the election period, broadcasters may organise election forums. Broadcasters should ensure that the principle of fair and equal treatment is applied to all candidates/lists of candidates. If a candidate/list of candidates is invited to take part in an election forum, then all candidates/lists of

candidates contesting in the same constituency should also be invited so as to give them an equal opportunity to attend the forum and present their election platforms. Some candidates/lists of candidates may choose not to attend due to personal or other reasons. Under such circumstances, the broadcaster may proceed with the programme without contravening the principle of fair and equal treatment. A record must be kept by the broadcaster of the date, time and contents of the invitation and notice until 3 months after the election.

11.12 The entire election forum should be produced and conducted by the broadcaster according to the fair and equal treatment principle. The principle does not require broadcasters to give each participating candidate/list of candidates equal time in the entire election forum, but they require broadcasters to give each candidate/list of candidates “equivalent time” in the relevant session of the forum to present his/her/its election platform. The requirement of equivalent time does not apply to other sessions of the forum, such as the debate session, in which each candidate may freely express his/her views on specific issues. Most importantly, the presenter should try his/her best to ensure that each candidate/list of candidates has the opportunity to express views or make responses in accordance with the fair and equal treatment principle at any time throughout the programme.

11.13 Other organisations or groups, such as professional bodies or trade organisations, academic institutions and schools, may also organise election forums for promoting civic education or other purposes. In line with the principle of fair and equal treatment of candidates, the EAC appeals to all organisers to invite all candidates/lists of candidates of the same constituency to appear in the forums, so that no unfair advantage will be accorded to or obtained by any candidate/list of candidates over others regarding election campaigning. Some candidates/lists of candidates may choose not to attend due to personal or other reasons. Under such circumstances, the forum organisers may proceed with the activities without contravening the principle of fair and equal treatment.

A record must be kept by the broadcaster of the date, time and contents of the invitation and notice until 3 months after the election.

11.14 During the conduct of election forums, broadcasters and other organisations or groups should not give favourable or unfavourable treatment to any candidates/lists of candidates, causing unfairness to any candidates/lists of candidates.

11.15 The EAC appeals to all candidates/lists of candidates to attend these election forums as far as possible so as to keep electors and the public apprised of their election platforms.

PART IV : FEATURE REPORTS (BROADCASTERS)

11.16 Under the principle of fair and equal treatment, whether producing a feature programme or interview to introduce individual candidates/lists of candidates, in news bulletins or during the airtime of other programmes, the broadcasters should give equal opportunity and approximate time to all the candidates/lists of candidates of the same constituency.

11.17 When inviting any candidate/list of candidates to an interview, broadcasters should invite all candidates/lists of candidates contesting in the same constituency and give them an equal opportunity to appear. The EAC appeals to all candidates/lists of candidates to accept invitations to interviews as far as possible in order to enable electors and the public to be apprised of their election platforms. Some candidates/lists of candidates may choose not to accept the invitations due to personal or other reasons. Under such circumstances, the broadcaster may proceed with the programme without contravening the principle of fair and equal treatment. A record shall be kept by the broadcaster of the date, time and contents of the invitation and the notice

until 3 months after the election.

11.18 To avoid any possible misunderstanding, broadcasters should provide the audience of the programmes with clear information on the total number and names of candidates/lists of candidates in the same constituency. Furthermore, to ensure equal treatment to all candidates/lists of candidates concerned, broadcasters should in particular take heed of the observations by the Court in an election petition relating to the 2010 LegCo By-election as set out in **Appendix 12**, and where appropriate, follow the arrangements set out therein when producing election related multi-episode feature reporting.

11.19 When determining whether an election-themed feature report produced by a broadcaster is in breach of the principle of fair and equal treatment, the EAC may take into consideration the overall circumstances of relevant feature reporting produced by the broadcaster during the election period.

PART V : FEATURE REPORTS (PRINT MEDIA)

11.20 If the print media conducts interviews to introduce individual candidates/lists of candidates during the election period, it should also give the other candidates/lists of candidates contesting in the same constituency an equal opportunity to be interviewed so as to ensure the electors receive more relevant information about the election, so as to make informed choices.

11.21 In the interview reports of individual candidates/lists of candidates by the print media, mention of other candidates/lists of candidates of the same constituency should be made. Such mention may be made in an appropriate way by the media organisations. They may not necessarily appear within the content of the same report, but in principle, should enable readers to be informed of the other candidates/lists of candidates. For instance, when an interview

with a candidate/list of candidates is published on a newspaper, the names of other candidates/lists of candidates of the same constituency may be listed on the same page of the report or on other pages.

11.22 The EAC appeals to the print media to accord **fair and equal treatment** and equal opportunity as far as practicable to all candidates/lists of candidates in respect of reporting on candidates contesting in the same constituency and their electioneering activities. How to treat the candidates fairly and equally in practice depends on the actual circumstances. Reference may be made to the elaboration in **Appendix 13**. When determining whether any feature reporting by the print media is in breach of the principle of fair and equal treatment, the EAC may take into consideration the overall reporting by the media organisation during the election period.

11.23 The print media should ensure that, during the election period, their reporting will not give unfair publicity to particular candidate/list of candidates, or lead the public to perceive that such reporting is made for the publicity of particular candidate/list of candidates. Publications (e.g. newspaper supplements or leaflets) that promote or prejudice the election of a particular candidate/list of candidates or particular candidates, whether for free or otherwise, may be regarded as EAs for the candidate(s)/list(s) of candidates concerned and will be subject to the requirements on election expenses as stipulated in Chapter 16. The publisher may contravene the relevant legislation if not being an authorised election expense agent.

PART VI : NON-ELECTION-RELATED PROGRAMMES AND ARTICLES

11.24 During the election period, a candidate/list of candidates may appear as guest in a non-election-related programme on television/radio or an

interview by the print media insofar as his/her participation is pertinent to his/her position, i.e. the candidate is invited because his/her professional knowledge or past experience is in close connection with the subject matters of the programme or interview. A record should be kept by the broadcaster/print media for providing justification regarding the choice of guests, including no better choice of alternative guests, etc. The broadcaster/print media should ensure that no election-related topics (including the machinery of the election of the candidate/list of candidates) would be mentioned in the programme/article and no unfair publicity will be given to the candidate/list of candidates. Otherwise, under the principle of fair and equal treatment, the broadcaster/print media should also give the other candidates/lists of candidates contesting in the same constituency an equal opportunity of appearance/being interviewed.

11.25 Similarly, during the election period, if a representative of a political party or political organisation with members contesting in the election, or a prescribed body the registered name or registered emblem of which is to be printed on the ballot papers in the election, is invited to take part as a guest in a non-election-related programme/interview, the broadcaster/print media should also ensure that the participation of the representative is pertinent to his/her position, i.e. the candidate is invited because his/her professional knowledge or past experience is in close connection with the subject matters of the programme/interview. A record should be kept by the broadcaster/print media for providing justification regarding the choice of guests, including no better choice of alternative guests, etc. The broadcaster/print media should ensure that no election-related topics (including machinery of the election) would be mentioned in the programme/article, that no election-related materials (including badges and clothing) of the political party, political organisation or prescribed body to which the representative belongs would be displayed in the programme/article, and that the programme/article will not cause any unfairness to any candidate/list of candidates. Otherwise, under the principle of fair and equal treatment, the broadcaster/print media should also give all political parties

or political organisations with members contesting the election or prescribed bodies the registered names or registered emblems of which will be printed on the ballot papers in the election (whether or not they are contesting in the same constituency) and all independent candidates/lists of candidates an equal opportunity of appearance/being interviewed.

PART VII : AVOIDING UNFAIR PUBLICITY

11.26 During the election period, media organisations should ensure that no favourable or unfavourable treatment will be given to any of the candidates/lists of candidates, and **no** such unfair advantage should be **obtained** by candidates/lists of candidates. If a candidate has more opportunities for publicity than other candidates on the basis of his/her background or profession, he/she should also endeavour to avoid obtaining such unfair publicity.

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

11.27 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 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 regular contributor may, of course, appear as a candidate in election forums referred to in Part III above.

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

Candidates Appearing in Commercial Advertisements

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

11.30 If, after the relevant advertisement has been made, the person then decides to stand for election and knows that the relevant advertisement will be broadcast on television/radio/cinema after his/her declaration of intention to stand for 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)-in-charge not to broadcast the relevant advertisement after his/her declaration of intention to stand for election or during the election period. The EAC appeals to the aforesaid person(s)-in-charge to accede to such a request as far as practicable in order to avoid giving unfair publicity to the person concerned.

Candidates Contributing Regularly to Print Media

11.31 A regular columnist should not contribute articles to the print media after he/she has publicly declared his/her intention to stand for 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 person who has been contracted to

serve as a regular columnist should make his/her utmost endeavours to request the person(s)-in-charge not to publish his/her commentaries in any media after his/her declaration of intention to stand for election or during the election period if he/she becomes a candidate. The EAC appeals to the aforesaid person(s)-in-charge to accede to such a request as far as practicable in order to avoid giving unfair publicity to the person concerned.

PART VIII : PLACING ELECTION ADVERTISEMENTS IN MEDIA

11.32 Television stations licensed under the Broadcasting Ordinance are not allowed to broadcast advertisements of a political nature under the law. Radio stations licensed under the Telecommunications Ordinance are not allowed to broadcast advertisements of a political nature under the Code of Practice issued by the Communications Authority unless prior approval has been given by the Communications Authority.

11.33 A candidate may advertise in the print media to promote his/her candidacy. Where such 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 therein to avoid misunderstanding by readers that it is not an EA (see para. 8.67 of Chapter 8). The expenses so incurred must be accounted for in the return and declaration of election expenses and elections donations. An EA placed in a registered local newspaper is exempted from the requirement on bearing printing details (see para. 8.66 of Chapter 8 for details). The EAC appeals to all members of the print media to give all candidates/lists of candidates contesting in the same constituency **equal opportunity** for placing EAs in the print media.

PART IX : SANCTION

11.34 Whether the principle of fair and equal treatment is complied with or whether there is any favourable or unfavourable treatment by the media should be determined having regard to the overall reporting by the media organisation during the election period.

11.35 Any broadcaster, member of the print media or forum organiser who is found to have treated the candidates/lists of candidates in an unfair or unequal manner may be **reprimanded** or **censured** by the EAC in a public statement, in which the names of the candidates/list of candidates receiving favourable or unfavourable treatment as well as the names of the broadcaster, member of the print media or forum organiser concerned will be released. The EAC may also notify the relevant authorities for appropriate action to be taken. Moreover, the programme, news report or article concerned may very likely have the effect of promoting or prejudicing the election of a particular candidate/list of candidates or particular candidates and thus be construed as an EA for the candidate(s) concerned. As such, it may contravene the statutory requirements on EAs and election expenses (see Chapters 8 and 16), and both the media organisation and candidate(s) concerned may be subject to criminal liability. The EAC will refer cases of possible breaches to the relevant law enforcement agencies for follow-up. In view of the above, the EAC appeals to all broadcasters, members of the print media, 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.

11.36 Candidates mentioned in paras. 11.27 to 11.31 above should make their best endeavours to avoid unfair publicity according to the respective guideline stipulated in each paragraph. If the EAC receives any complaint about the unfair publicity of a candidate and subsequently discovers that he/she

fails to make such endeavours, it may **reprimand** or **censure** the candidate concerned in a public statement.

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.

12.3 The use of loudspeakers is not 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. Candidates should also arrange the removal of EAs on the windows or bodywork of any public service vehicles if those vehicles will pass through or be parked within the NCZ on the polling day. Otherwise, the vehicles on which EAs are displayed will not be allowed to enter the NCZ on the polling day (please also see Chapter 14).

PART II : USE OF LOUDSPEAKERS AND VEHICLES

12.4 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 amplifying device is used in an election meeting or procession. An amplifying device includes a loudspeaker and any device which can emit or amplify sound (please refer to Chapter 10).

12.5 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 in 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/list of candidates has breached the time restriction, it may make a reprimand or censure against the candidate/list of candidates. 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.

12.6 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.

12.7 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”.

12.8 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 advertisement on a public light bus or taxi. The TD has issued general approval to all franchised bus companies for advertising on the bodies and windows 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 those non-franchised buses with approval from TD for advertising on the bodies and windows of buses, they are subject to the conditions imposed by the TD. The non-franchised bus operators should comply with the conditions set out in the TD approval letters when they handle all kinds of advertisements. 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.

IMPORTANT:

The definition of “publish” in the context of publication of EAs includes “continue to publish”. If any person who intends to stand as a candidate at an election continues to display publicity materials previously published (e.g. EAs displayed on public light buses or taxis during the previous election) in the constituency concerned, in particular posters or banners bearing his/her name or photograph with the intent to promote his/her election at the current election in public places or common areas in buildings, after he/she has been nominated as a candidate or has publicly declared the intention to stand for election, such publicity materials may be regarded as EAs. For the sake of prudence, that person should remove the publicity materials previously published before he/she is nominated as a candidate or has publicly declared an intention to run for the election.

12.9 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.

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

Appendix 14.

12.11 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 40(16) of the EAC (EP) (LC) Reg]. Candidates should also arrange the removal of EAs on the windows or bodywork of any public service vehicles (e.g. public light buses or taxis) if those vehicles will pass through or be parked within the NCZ on the polling day. Otherwise, the vehicles on which EAs are displayed will not be allowed to enter the NCZ on the polling day (see also Chapter 14).

PART III : SANCTION

12.12 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 candidate concerned may be liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months [s 45(7)(b) of the EAC (EP) (LC) Reg]. Candidates should also remind their supporters to observe these guidelines when they are campaigning on behalf of the candidates.

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 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 youngsters 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 youngsters of school age under his/her charge in electioneering activities, it may make a reprimand or censure against the person. For the regulatory provisions on use of force or duress on a person's voting preference, see s 13 of the ECICO.

13.3 Candidates who are school administrators (e.g. school principals, teachers) should not distribute their EAs to the parents of pre-primary, primary or secondary school pupils through these pupils to avoid any impression of undue influence on youngsters of school age under the charge of these persons in authority in the school.

PART II : SCHOOL PUPILS

13.4 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.

13.5 Distribution of EAs is a form of electioneering activity. School supervisors, principals or teachers may be supporters of a particular candidate/list of candidates. While they are free to support any candidate/list of candidates they prefer, they should not distribute or help in the distribution of EAs of any candidate/list of candidates 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/list of candidates. 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 impression of undue influence on young children under the charge of these persons in authority in the school.

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

- (a) participation by pupils in electioneering activities must be **entirely voluntary**;
- (b) the **written consent** of a parent or guardian must be obtained beforehand;

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

13.7 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.

13.8 The EAC recognises that school pupils who are 18 years of age or above are by law responsible for their own acts and making election-related decisions for themselves.

PART III : ELECTIONEERING ACTIVITIES IN SCHOOLS

13.9 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/list of candidates. Such activities should, therefore, be regarded as the relevant candidate's electioneering activities (see also para. 13.5 above).

13.10 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/lists of candidates of the same GC/FC for the purpose of electioneering. If a school authority has decided to allow a particular candidate/list of candidates to conduct electioneering activities in the school, other candidates/lists of candidates of the same GC/FC should be 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.

PART IV : SANCTION

13.11 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.

CHAPTER 14

PROHIBITION AGAINST CANVASSING ACTIVITIES OUTSIDE POLLING STATIONS

PART I : GENERAL

14.1 This chapter deals with the ban on canvassing activities **outside polling stations** on the polling day. An NCZ will be designated outside each polling station to ensure that electors can gain access to the polling station without interference. In addition, an 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 the entry/exit.

14.2 No canvassing activities are allowed within the NCZ. Regarding buildings within the NCZ, all canvassing activities by candidates and their campaigners are prohibited in the entire building where a polling station is located as well as on the ground floor of other buildings, regardless of whether they are government or private premises, and even if approval from the building management concerned is obtained.

14.3 Any deliberate but disguised conduct for the canvassing of votes in the NCZ is prohibited, such as staying or loitering in the NCZ, smiling or showing goodwill to the electors, etc. for the purpose of canvassing votes. For details, please refer to **Appendix 7**.

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

14.4 The RO for a GC must determine, in respect of each polling station designated for the GC and 29 FCs an area outside the polling station to be an 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 an NSZ. These two zones are to be determined with reference to a map or plan [s 40(1) of the EAC (EP) (LC) Reg].

14.5 For a polling station which is used for more than one GC/FC, the determination of the NCZ and NSZ is to be made by the RO specified for the purpose by the CEO [s 40(2) of the EAC (EP) (LC) Reg].

14.6 The RO who made the determination of an NCZ and an NSZ in respect of a polling station must, at least **7 days** before the polling day, give a notice of the determination to the candidates of his/her own GC/FC and, where appropriate, to the ROs of other GCs/FCs for which polling will be held at the polling station; and thereafter each of the ROs of these other relevant GCs/FCs must give the notice of the determination to the candidates of his/her own GC/FC as soon as practicable [s 40(3), (4), (6), (7) and (8) of the EAC (EP) (LC) Reg].

14.7 The notice will be given in writing, and delivered by hand, by electronic mail, by facsimile transmission or by post, to the candidates/lists of candidates (or in the case of a multiple candidates list, to the candidate ranking first in priority on the list) or to the election agents or to the polling agents of the candidates/lists of candidates [s 40(3), (4), (6) and (14) and s 98(2) of the EAC (EP) (LC) Reg].

14.8 Where the circumstances so warrant, the RO who has made a determination may vary the NCZ or NSZ. Notice of the variation must be given as soon as practicable after the variation in the same manner as a notice referred to in para. 14.7 above [S 40(9) of the EAC (EP) (LC) Reg]. The notice of variation of an NCZ or NSZ on the polling day may however be given orally if delivering it in the manner as referred to in para 14.7 above is not practicable or is not suitable in the circumstances [s 98(3) of the EAC (EP) (LC) Reg]. However, a notice of variation need not be given to the candidates if it is not reasonably practicable to do so before the close of poll [s 40(13) of the EAC (EP) (LC) Reg].

14.9 A notice of the determination or the variation, together with indication of the boundaries of the NCZ or the NSZ, must be displayed on the polling day at or near the relevant polling station in order to make the determination or variation effective [s 40(10), (11) and (12) of the EAC (EP) (LC) Reg].

14.10 The RO who is empowered to determine NCZ and NSZ may authorise his/her ARO or the PRO of the relevant polling station to exercise the power to vary the determination and to perform the associated duties on the polling day [ss 40(11A) and 92 of the EAC (EP) (LC) Reg].

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

14.11 Canvassing activities (including displaying or wearing of propaganda materials, or suggesting voting or not voting for any candidate) will not be allowed within an NCZ, except for static display of EAs that are authorised by the RO (e.g. EAs mounted at designated spots) and the permitted activities described in para. 14.12 below [s 40(16) of the EAC (EP) (LC) Reg].

14.12 Apart from the building in which the polling station is located, no canvassing is allowed on the street level (i.e. ground floor) within the NCZ. Door-to-door canvassing may be allowed on the storeys above or below the street level in any building other than the building in which the polling station is located within an NCZ, provided that permission has been obtained for entry into the building for canvassing votes, that no obstruction is caused to any person, and that no sound amplifying system or device is used. For the purpose of such canvassing, the display or wearing of any promotional material (e.g. badge, emblem, clothing or head-dress which may promote or prejudice the election of any candidate at the election) or any material making direct reference to a body a member of which is standing as a candidate in the election, or the registered name or emblem of a prescribed body printed on any ballot paper for the election, may be allowed but in no case to appear on the street level within the NCZ [s 40(16), (17), (18) and (19) of the EAC (EP) (LC) Reg].

14.13 Where there are private premises situated within the NCZ, the ROs should issue a notice in advance to all the candidates in the GCs/FCs concerned asking them to remove all of their EAs, if any, posted up at the private premises within the NCZ before the polling day. The exhibition of portable displays on vehicles (whether in motion or parked within the area), or held or carried by persons is also regarded as a canvassing activity which is forbidden within an NCZ. Therefore, candidates should arrange the removal of EAs on the windows or bodywork of any public service vehicles (e.g. public light buses or taxis) if those vehicles will pass through or be parked within the NCZ on the polling day. If the candidates fail to remove the EAs as requested by the ROs, the ROs may issue a warning to them to remove the offending EAs immediately. If the candidate/list of candidates fails to do so, the EAC may issue a censure or reprimand. Canvassing activities may take many different forms. A list of common canvassing activities which are forbidden in an NCZ is at **Appendix 7**.

14.14 On the polling day, the PRO will use his/her best endeavours to ensure that no person carries out any activity other than those permitted activities described in para. 14.12 above in the NCZ in respect of his/her polling station to persuade or induce any elector to vote or not to vote. Any unauthorised display of EAs in the area will be removed by the RO or other persons authorised by the RO [s 107 of the EAC (EP) (LC) Reg]; and any person found to have conducted canvassing activities prohibited in the area will be asked to leave the area [s 41(2) of the EAC (EP) (LC) Reg].

14.15 The use of loudspeakers or loud-hailers will not be permitted within the NCZ, nor will any such device or any activity (e.g. lion dance) be permitted in the vicinity so that the sound emitted can be heard within the NCZ [ss 40(16) and 41(1) of the EAC (EP) (LC) Reg]. However, an officer of the CSD may on the polling day use a sound amplifying system or device for the performance of his/her duties in the NCZ of a dedicated polling station situated in a penal institution [ss 40(19) and 41(1A) of the EAC (EP) (LC) Reg]. Save for canvassing activities allowed in para. 14.12, candidates and their supporters are not allowed to pass, let alone shout, appeal message to persons while inside the NCZ (see Part II of Chapter 12 regarding the use of loudspeakers).

14.16 Within the NCZ but immediately outside the entrance/exit of each polling station (and sometimes the entrance is also the same as the exit), there will be an **NSZ**, in which no person is allowed to stay or loiter, except where a person has been expressly permitted to do so by the PRO [ss 40(16) and 41(1)(d) of the EAC (EP) (LC) Reg]. This is for the purpose of securing safe and smooth passage of electors into and out of polling stations.

14.17 A person shall not obtain or attempt to obtain (in any manner) information as to which candidate an elector of the relevant polling station is about to vote for or has voted for in an NSZ, or in an NCZ without the express permission of the EAC or PRO. The PRO should have regard to exit pollsters who have complied with the requirements set out in Chapter 15. [S 96(7) of

the EAC (EP) (LC) Reg]

14.18 Any person who misconducts himself/herself or carries out any forbidden activity in an NCZ or NSZ, or fails to obey a lawful order of the RO (who has made the determination in respect of that NCZ or NSZ) or the PRO, commits an offence and will be liable to a fine and to imprisonment and may be ordered by such officer to leave the NCZ or NSZ [ss 41(2), 45(4) and (7)(b) of the EAC (EP) (LC) Reg]. If he/she fails to leave immediately, 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 any other person authorised in writing by the RO or the PRO [s 41(3) of the EAC (EP) (LC) Reg]. The person so removed may not re-enter the NCZ or NSZ on that day except with the permission of the RO or the PRO [s 41(4) of the EAC (EP) (LC) Reg].

14.19 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 at the polling station allocated to that person [ss 41(5), 44(14) and 46(5) of the EAC (EP) (LC) Reg].

PART IV : PENALTY

14.20 Any canvassing within an NCZ except those exempted and any conduct prohibited under paras. 14.16 and 14.18 above will be an offence and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months [s 45(7)(b) of the EAC (EP) (LC) Reg]. Any attempt to obtain information as described in para. 14.17 above without the necessary permission will be an offence under s 96(10) of the EAC (EP) (LC) Reg and will be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months.

CHAPTER 15

EXIT POLL

PART I : GENERAL

15.1 This chapter sets out the guidelines for the conduct, publication and broadcast of exit polls on the polling day. The EAC respects academic freedom and freedom of expression in conducting exit polls. However, the EAC also has to ensure that elections are conducted fairly and honestly, to avoid the electors being unduly influenced and interfered with, and to maintain the order outside the polling stations. As such, a fair balance between the two ends must be maintained.

15.2 Secrecy of the vote is an important principle under the electoral system. It is entirely voluntary for electors to participate in any exit polls and they are not required to disclose to the organisations conducting the exit polls their voting preference unless they wish to do so.

15.3 Voting polls inside a polling station or an NSZ are strictly prohibited under the law. However, exit polls may be conducted outside the exit in an NCZ if approval from the EAC is obtained [s 96(7) of the EAC (EP) (LC) Reg].

15.4 Exit polls approved by the EAC are not for electioneering purpose in promoting or prejudicing the election of a candidate or candidates. Organisations or persons conducting exit polls must not be affiliated with the candidates. The organisations or persons have to ensure that the results of exit polls must not be announced or disclosed to any candidate and other persons before the close of poll. The interviewers should make clear to the electors

that participation in the exit poll is entirely voluntary.

15.5 To strictly regulate the exit polls, all applicants for the conduct of exit polls are required to make a statutory declaration to abide by the relevant terms and guidelines (see para. 15.12 below), in breach of which the approval may be revoked. If the person or organisation concerned deliberately makes false statutory declaration, they will be in breach of s 36 of the Crimes Ordinance and be sentenced to imprisonment for 2 years and to a fine.

15.6 Except for exit polls conducted within the NCZ on the polling day mentioned in para. 15.3 above, election-related opinion polls conducted outside the NCZ or before the polling day are not regulated by the subsisting legislation. These polls do not fall within the scope of exit polls regulated by the EAC.

15.7 **The EAC appeals to the media to act with self-discipline, goodwill and in a spirit of voluntary cooperation in publishing and broadcasting the results of exit polls and other election-related opinion polls by refraining from announcing the said results before the close of poll so that electors' voting behaviour will not be unduly affected.**

PART II : SECRECY OF THE VOTE

15.8 **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/list of candidates 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/AR to disclose the name of, or any particular relating to, the candidate/list of candidates for whom the elector/AR has voted at an election** [s 60 of the LCO and s 96(7) of the EAC (EP) (LC) Reg]. **Those who conduct exit polls must respect the electors' right and wish not to be disturbed.** The

interviewers should inform the electors being interviewed that their participation in the exit poll is voluntary prior to the conduct of exit poll.

15.9 Any announcement or disclosure of results of exit polls or predictions, particularly in relation to any individual candidate/list of candidates, 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/list of candidates before the close of poll. Furthermore, interviewers of approved exit poll should not speak to or communicate with candidates/lists of candidates or their agents when conducting the poll outside polling stations.**

PART III : CONDUCT OF EXIT POLLS

15.10 Any person or organisation may apply for conducting exit polls in respect of any GC/FC to the REO, which is appointed to handle such applications on behalf of the EAC. Individual applicants must reach the age of 18 as they are required to make a statutory declaration (see para. 15.12 below) and the consequences of failing to abide by the relevant terms and guidelines governing the conduct of exit polls are serious and may attract criminal liability. 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)/list(s) of candidates contesting in the GC/FC, of which any polling stations are covered by the exit poll(s);
- (b) the applicant organisation has member(s) contesting in the GC/FC, of which any polling stations are covered by the exit

poll(s);

- (c) the person(s) responsible for the exit poll(s) or interviewers deployed for the poll(s) are currently members of the organisation(s):
 - (i) which has candidate(s)/list(s) of candidates contesting in the GC/FC, of which any polling stations are covered by the exit poll(s), or
 - (ii) which have publicly expressed support for any candidate(s)/list(s) of candidates contesting in the GC/FC, of which any polling stations are covered by the exit poll(s).

15.11 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 the exit poll at each polling station on the polling day together with the identity document number and name of each of all the persons who will be so deployed.

15.12 A person or an organisation applying for the conduct of exit poll must make a statutory declaration by virtue of the Oaths and Declarations Ordinance (Cap 11) to abide by the relevant terms and the guidelines governing the conduct of exit poll. On the receipt of the application, the REO will consider the application and issue approval to the person or organisation concerned as appropriate. 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 respective polling stations.

15.13 Exit polls are not allowed inside polling stations and the NSZ. Interviewers should note that canvassing activity is prohibited within the NCZ and is subject to criminal sanction, with the exception of door-to-door canvassing activities (in both residential premises and commercial premises such as restaurants or shops) on any storey above or below street level (i.e. not including the storey at the street level) in buildings other than the one in which a polling station is located, provided that permission has been obtained for entry to the building for canvassing votes, and that obstruction is not caused to electors and no sound amplifying device is used. Interviewers must therefore be extremely careful in conducting exit poll so as not to give rise to any suspicion that they are canvassing electors inside the NCZ. Interviewers, like any other person, are not allowed to stay or loiter in the areas designated as the NSZ (within the NCZ but immediately outside the entrance/exit to each polling station). [S 41(1) of the EAC (EP) (LC) Reg] Interviewers are also not allowed to accost electors in the NSZ. All these measures are for the purpose of securing safe and smooth passage of electors into and out of polling stations.

15.14 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. As the entrance and exit of some polling stations are at the same location, organisations conducting exit polls should keep a reasonable distance from the exit and ensure that electors entering the polling station will not be affected when the said exit polls are being conducted.

PART IV : IDENTIFICATION OF INTERVIEWERS

15.15 There had been occasions where exit poll interviewers were mistaken for government officials or polling staff. Such interviewers are therefore required to display prominently an identification device showing the identity of the person or organisation 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 person or organisation conducting the exit poll at the start of the interview and the fact that the exit poll is not commissioned by the Government.

15.16 After receipt of the information referred to in para. 15.11 above, the REO will notify the person or organisation concerned to collect a number of identification devices bearing the name of the person or organisation that is required to be displayed prominently by each of the persons included in the list in para. 15.11(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.

PART V : USE OF EXIT POLLS AND OTHER OPINION POLLS FOR ELECTIONEERING

15.17 As mentioned in para. 15.4, exit polls approved by the EAC are in all circumstances not for electioneering purpose.

15.18 If a candidate makes use of the results of other opinion polls for the purpose of promoting himself/herself or prejudicing the election of other candidate(s), the expenses incurred for conducting the polls will be regarded as his/her election expenses.

15.19 If persons other than candidates or the authorised election expense agents make use of the results of the exit polls or other opinion polls for the purpose of promoting or prejudicing the election of any candidate, they will commit the offence of incurring election expenses without being authorised as an election expense agent.

PART VI : SANCTION

15.20 Apart from the criminal sanction provided in the LCO and the EAC (EP) (LC) 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 : GENERAL

16.1 The law has prescribed the maximum amount of election expenses in order to ensure that all candidates compete on a level playing field within a reasonable level of expenditures. Candidates must submit an election return to the CEO after the election, listing the election expenses incurred and the election donations received by them and their election expense agents.

16.2 “Candidate” is defined as a person who stands nominated as a candidate at an election, and this also includes a person who, at any time before the close of nomination for an election, has publicly declared an intention to stand for the election. “Election expense” is defined as the expenses which are incurred or to be incurred for the purpose of promoting or prejudicing the election of a candidate, without time constraint, including those incurred before, during or after the election period. Please refer to Part II of this chapter for details. “Election expense agent” refers to a person who is authorised by a candidate to incur election expenses on the candidate’s behalf.

16.3 To ensure that election expenses will not exceed the statutory upper limit, the law stipulates that only candidates and their authorised election expense agents may incur election expenses. Persons other than the candidates and election expense agents are therefore not permitted to incur any election expenses. Non-compliance is an illegal conduct. Nevertheless, a third party (other than a candidate and his/her election expense agents) who published an EA on the internet is exempted from the relevant criminal liability if the only election expenses incurred are either electricity charges and/or

charges necessary for accessing the Internet.

16.4 Election expenses incurred by a third party without the consent or knowledge of a candidate are not attributed to the candidate concerned and the third party himself/herself must be held accountable for the expenses. However, if the election expenses are incurred by the third party under the instruction of the candidate, especially in the case where the upper limit of election expenses is exceeded, the candidate will be subject to legal liabilities.

16.5 If the expenses incurred by a candidate are partly related to the election and partly the general expenditures for other purposes, the candidate is required to apportion the part of the expenses that is election-related and include it in the election return. Time and usage are relevant factors in the apportionment.

16.6 Voluntary service is defined as any service provided by any natural person voluntarily, personally and free of charge in his/her own time for the purpose of promoting the election of a candidate or prejudicing the election of other candidates. Voluntary service is the only service rendered free of charge which may be excluded from being counted as election expenses. Nonetheless, goods or materials given incidental to the provision of voluntary service will be counted as election donations. All such donations will be counted as election expenses when used.

PART II : WHAT CONSTITUTES ELECTION EXPENSES

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

16.8 **Election expenses**, in relation to a candidate/list of candidates at an election, mean expenses incurred or to be incurred **before, during or after**

the **election period**, by or on behalf of a candidate/list of candidates for the purpose of promoting the election of the candidate/list of candidates, or prejudicing the election of another candidate/ list of 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 as a candidate** at an election in respect of a GC/FC at any time before the close of 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]. As to the meaning of “has publicly declared an intention to stand as a candidate”, an inference could be drawn from the overall circumstances as well as objective facts and evidence on whether a person has the actual intent to publicly declare an intention to stand for election or not. If a person takes part in the “internal selection” held by his/her political party or affiliated group, whether that person will be regarded as a “candidate” at that election or not will depend on all the circumstances and factual evidence involving that person in the relevant course, instead of depending solely on that person’s self-expressed statement or explanation, because whether that person has publicly declared an intention to stand for election is to be determined on the basis of substance and not form. The relevant considerations include the intention to stand for election, whether the intention to stand for election is made public in any form, and/or whether the acts constitute part of the machinery of the election. If the conduct of that person has already constituted a public declaration of his/her intention to stand for election, that person may be regarded as a “candidate” in the election. In that regard, prospective candidates must exercise due care to avoid incurring any legal liability inadvertently. Besides, if a person has publicly declared an intention to stand as a candidate at an election on an individual medium available for public access (e.g. newspapers or online social media) prior to the close of nominations for that election, that person is already within the meaning of “candidate” as defined under the above legislation even without being formally nominated. A prescribed person who has applied under PCBP (LC

& DC) Reg to have his/her emblem registered should not, by that act alone, be treated as having publicly declared an intention to stand for election. As the list voting system of proportional representation applies to the election of the GCs and the DC (second) FC, where lists of candidates instead of individual candidates will contest the election, a candidate who is on a list of candidates should pay attention to the special features applicable to the GC and DC (second) FC lists as set out in Part VIII. However, the law and guidelines in this chapter referable to candidates also generally apply to the GC and DC (second) FC lists of candidates.

16.9 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 15**.

16.10 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 or candidates at an election period, means any of the following donations:

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

candidates for the purpose of promoting his/her/their election or of prejudicing the election of another candidate or other candidates, but does not include voluntary service (see para. 16.31 below).

[S 2 of the ECICO]

An election donation to a candidate on a list of candidates will necessarily be a donation to all the individual candidates on the list jointly (see Part VIII of this chapter). All such donations, whether in cash or in kind, when spent or used, are counted as election expenses. (For details, see Part IV of this chapter)

16.11 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 period, and regardless of the source of funding.

16.12 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/list of candidates should include relevant particulars in his/her/their election return. As a general principle, time and usage are relevant factors for consideration. The candidate/list of candidates

can make reference to the examples of apportionment in the guide and video mentioned in para. 16.35(c) below which show how the election return can be completed (see also para. 16.33 below). The candidate/list of candidates may seek professional advice on apportionment of expenses as necessary. Any fees incurred for such professional advice will not be regarded as his/her/their election expenses.

16.13 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 to be counted towards election expenses is at **Appendix 16**. 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 be counted as an election expense. Any legal fees incurred as a result will not themselves be regarded as election expenses.

16.14 A candidate should not use any public resources for the purpose of promoting his/her election or prejudicing the election of another candidate or other candidates at the election.

PART III : WHO MAY INCUR ELECTION EXPENSES AND THEIR LIMIT

Maximum Amount of Election Expenses

16.15 The maximum amount of election expenses for the LegCo election for the different GCs/FCs is prescribed by the Maximum Amount of Election Expenses (Legislative Council Election) Regulation (Cap 554D) made by the CE in Council pursuant to s 45 of the ECICO. These expense limits control the extent of election campaigns and serve to prevent candidates with

ample financial resources from having an unfair advantage.

16.16 The election expense limits (from the seventh term LegCo general election onwards) are set out in the following table. For ascertaining the number of registered electors referred to in items (c), (d) and (e), inquiry can be made with the RO for the FC concerned.

Constituencies	Election Expense Limits
(a) for a GC election: (i) Hong Kong Island GC (ii) Kowloon East and Kowloon West GCs (iii) New Territories East and New Territories West GCs	\$2,661,000 per list of candidates \$1,996,000 per list of candidates \$3,326,000 per list of candidates
(b) for an election for one of the following 4 SFCs, namely Heung Yee Kuk, Agriculture and Fisheries, Insurance, and Transport FCs	\$133,000 per candidate
(c) for an election for a FC (other than those in (b) above and the DC (second) FC) with not more than 5 000 registered electors	\$213,000 per candidate

Constituencies	Election Expense Limits
(d) for an election for a FC (other than the DC (second) FC) with 5 001 to 10 000 registered electors	\$425,000 per candidate
(e) for an election for a FC (other than the DC (second) FC) with over 10 000 registered electors	\$639,000 per candidate
(f) for a DC (second) FC election	\$7,602,000 per list of candidates

[Ss 3, 3A and 4 of the Maximum Amount of the Election Expenses (Legislative Council Election) Regulation] (*subject to the enactment of the relevant regulation*)

16.17 A candidate must not incur election expenses in excess of the maximum amount prescribed [s 24(1) of the ECICO]. For lists of candidates at an election at which the list system of voting is used, each member of a list of candidates engages in illegal conduct at the election if the aggregate amount of the election expenses incurred at or in connection with the election by or on behalf of the list exceeds the prescribed maximum amount of election expenses [s 24(2) of the ECICO].

Persons Authorised to Incur Election Expenses

16.18 Only a candidate or a person (including a fellow candidate on the same list of candidates) who has been duly authorised by a candidate as the candidate's election expense agent may incur election expenses [s 23(1) and (2) of the ECICO]. The authorisation should follow the procedures specified in Part VI of Chapter 7.

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

16.20 Candidates should advise the organisations, with which they are associated and which may incur expenses to support them, of these requirements 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.

16.21 A candidate will be responsible for the overall amount of his/her election expenses. In the event the total amount incurred by the candidate 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. On the other hand, the election expense agent 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]

PART IV : ELECTION DONATIONS

General Provisions

16.22 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.

16.23 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].

16.24 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 the election period (in relation to machinery of the election), are counted towards the total election expenses which are subject to the maximum amount prescribed.

16.25 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 maximum amount 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(3), (4) and (5) of the ECICO]

16.26 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. 16.29 to 16.31 below.

16.27 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/list of candidates when he/she/they submit(s) 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) [s 19(1) and (2) of the ECICO].

16.28 Any person or organisation (including a political party) 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 17**.

Election Donations in Kind

16.29 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.

16.30 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.

16.31 **Voluntary service** is the only service rendered free of charge which may be excluded from being counted as election expenses. Nonetheless, goods or materials given incidental to the provision of voluntary service will be counted as election donations. 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 candidates, or of prejudicing the election of another candidate or other candidates [s 2 of the ECICO]. Otherwise, the service provided should be treated as an election donation and counted towards election expenses at a fair estimated value.

PART V : RETURN AND DECLARATION OF ELECTION EXPENSES AND ELECTION DONATIONS

16.32 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 before the expiry of the period of 60 days after the election is settled in relation to the GC/FC concerned (and in relation to all the GCs/FCs concerned if the election is held for 2 or more GCs/FCs) or within such extended period as may be allowed by the CFI under the relevant electoral law. The election return must be in the specified form. An election is settled in relation to a GC/FC on the date on which any of the following events occurs –

- (a) the result of the election is notified in the Gazette;
- (b) the proceedings for the election are declared to have been terminated;
- (c) the election is declared to have failed.

[s 37(1), (1B), (1C) and (1N) of the ECICO].

16.33 The election return must set out all the election expenses incurred by the candidate and his/her election expense agent(s). It must be accompanied by invoices and receipts issued by recipients of the payments for all election expenses each of \$500 and above [s 37(2)(b) of the ECICO]. The invoice and receipt for an election expense may be submitted in separate documents, or may be contained in the same document. A candidate should submit invoices and receipts with the following particulars, including:

- (a) date;
- (b) details of the expenditure item (i.e. information and amount of the goods or services);
- (c) information of the organisation or person (other than the candidate himself/herself) providing the goods or services; and

- (d) the information supporting that the organisation or person (other than the candidate himself/herself) providing the goods or services has received the relevant payment in full (e.g. name and signature of the recipient, or the stamp of the organisation or signature of its authorised person).

16.34 A candidate must also set out in the election return all election donations, whether in cash or in kind (including goods and services obtained free of charge or at a discount), received by or on behalf of him/her in connection with the election. The election return must be accompanied by copies of receipts issued by the candidate for each election donation of more than \$1,000 in value and copies of receipts issued by charitable institutions or trusts of a public character for the collection of any unspent or unused election donations, anonymous donations of more than \$1,000 in value or election donations which are in excess of the limit of election expenses. A declaration verifying the contents of the election return must also be submitted together with the election return. [S 37 of the ECICO]

16.35 At the time when a candidate/list of candidates submits his/her/their nomination form, he/she/they will be given:

- (a) the specified form for election return mentioned in para. 16.32 above, together with a standard form of receipt for election donations mentioned in para. 16.27 above;
- (b) the standard form for advance return and declaration of election donations [see paras. 16.42 to 16.44 below];
- (c) a guide and a video showing how the election return can be completed; and

- (d) a set of Frequently Asked Questions (“FAQs”) related to the election return.

A candidate should read the explanatory notes attached to the election return carefully before completing it, and make reference to the guide, the video and the FAQs.

Statutory Relief Mechanism for Errors and False Statements

16.36 If a candidate is unable or fails to send to the CEO the election return before the end of the statutory period (please see para. 16.32 above) 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.

16.37 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.

16.38 Notwithstanding the provision set out in para. 16.37 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, as the case may be:

- (a) \$30,000 for an election to elect a Member or Members of the GC;
- (b) \$50,000 for an election to elect a Member or Members of the DC (second) FC;
- (c) \$5,000 for an election to elect a Member or Members of any FC other than the DC (second) FC;

[Items (2), (3) and (4) of the Schedule of the ECICO]

he/she may, subject to the conditions set out in para. 16.39 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].

16.39 A 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/or 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.

16.40 **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]

16.41 When the candidate finds himself/herself in any of the situations set out in paras. 16.36 and 16.37 above, other than the situations where correction of errors or false statements is allowed under the relief arrangement in para. 16.38, 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].

PART VI : ADVANCE RETURN OF ELECTION DONATIONS

16.42 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 the extended period provided for in s 37 of the ECICO for lodging an election return [see

para. 16.32 above] [s 37(1), (1B), (1C) and (1N) of the ECICO]. The general provisions regarding election donations in Part IV must be observed.

16.43 Any **advance return of election donations** must be made on the standard form mentioned in para. 16.35 above.

16.44 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.

PART VII : FINANCIAL ASSISTANCE

16.45 Under the Financial Assistance Scheme for candidates and lists of candidates standing in LegCo elections in respect of election expenses, candidates/lists of candidates who get elected or who have received 5% of valid votes or more and are not disqualified will be eligible for financial assistance as follows:

- (a) in respect of a candidate/list of candidates in a contested GC or FC, the amount payable is the lowest of the following:
 - (i) the amount obtained by multiplying the total number of valid votes cast for the candidate/list of candidates by the specified rate at \$15 per vote (*subject to the enactment of the relevant regulation*) (from the seventh term LegCo general election onwards);
 - (ii) 50% of the maximum amount of election expenses that may be incurred by or on behalf of the candidate/list of candidates as set out in ss 3, 3A or 4 of the Maximum Amount of Election Expenses (Legislative Council

Election) Regulation; or

- (iii) the declared election expenses of the candidate/list of candidates.
- (b) in respect of a candidate/list of candidates in an uncontested GC or FC, the amount payable is the lowest of the following:
- (i) the amount obtained by multiplying 50% of the number of registered electors for the GC/FC by the specified rate at \$15 per registered elector (*subject to the enactment of the relevant regulation*) (from the seventh term LegCo general election onwards);
 - (ii) 50% of the maximum amount of election expenses that may be incurred by or on behalf of the candidate/list of candidates as set out in ss 3, 3A or 4 of the Maximum Amount of Election Expenses (Legislative Council Election) Regulation; or
 - (iii) the declared election expenses of the candidate/list of candidates.

[Ss 60D, 60E and Schedule 5 of the LCO]

The amount of election donations received by a candidate/list of candidates will not affect the calculation of the amount of financial assistance payable to the candidate/list of candidates. As election donations will not be netted off in calculating the amount of financial assistance payable to a candidate/list of candidates, the amount of financial assistance payable to a candidate/list of candidates in some cases may be greater than the amount of his/her or their net

election expenses⁴². Any such ‘surplus’ financial assistance may be used by the candidates for their future political or community work, or it may be expended generally as a token recognition of their efforts in election. The broad procedural and documentary requirements for making a claim, and general conditions for payment to be made are provided in Part 6A of the LCO. The EAC (FA) (APP) Reg sets out the detailed implementation procedures for the Scheme.

16.46 In the claim for financial assistance, a candidate/list of candidates should deduct the estimated value of the reused publicity materials (the expenses of which had been the subject of claims for financial assistance in a previous election) from calculation of the amount of financial assistance to be made payable to the candidate/list of candidates.

Making Claims and their Submissions

Requirements to be complied with when making claims

16.47 A claim for financial assistance shall be made by a candidate/list of candidates in a specified form (which will be provided by the REO at the time when candidates submit their nominations). It shall be signed by the candidate, or in respect of a list of candidates by all candidates on the list (or if there is only one candidate on the list, by that candidate). The claim form shall be accompanied by:

- (a) an election return made under s 37 of the ECICO; and
- (b) an auditor’s report which confirms that an auditor has audited the account of the declared election expenses by conducting a reasonable assurance engagement in accordance with the Hong

⁴² This may occur if the candidate/list of candidates secures election donations which exceed 50% of his/her/their total election expenses.

Kong Standards on Assurance Engagements, and states the auditor's opinion as to whether the election return complies with s 37(1)(a) and (2)(b)(i) and (v) of the ECICO in all material respects.

[S 3 of the EAC (FA) (APP) Reg]

16.48 A set of guidance notes will be prepared by the REO with assistance by the Hong Kong Institute of Certified Public Accountants ("HKICPA") for auditors who are engaged by candidates to perform the auditing task. These notes will be issued by the HKICPA to its members prior to the LegCo election and will also be distributed with the candidate's folder.

16.49 Since the auditing fee is not incurred for the purpose of promoting candidature or prejudicing another candidate, it should not be regarded as an election expense. Accordingly, an elected candidate could accept an advantage to meet the auditing fee incurred and he/she would not be required to report the acceptance in his/her election return. If an elected candidate decides to accept such an advantage, he/she should ensure that the acceptance is not in breach of the relevant provisions in s 4 of the POBO.

Submission of claims

16.50 The claim form, together with the accompanying documents, shall be submitted in person at the office of the CEO during ordinary business hours by the candidate or one of the candidates of a list of candidates (or if there is only one candidate on the list, by that candidate) who has signed the claim form, or his/her agent, before expiry of the period, or extended period provided for in s 37 of the ECICO for lodging an election return (see para. 16.32 above) [ss 37(1), (1B), (1C) and (1N) of the ECICO and s 4 of the EAC (FA) (APP) Reg].

Verification of Claims

Verification by the CEO

16.51 On receiving a claim, the CEO will check the eligibility for financial assistance of the candidate/list of candidates. He/She will also verify whether the claim conforms to the requirements set out in the EAC (FA) (APP) Reg.

Requirement for further information

16.52 The CEO may, through a written request, require the claimant to provide further information to verify the claim. The claimant must provide the information within 14 days from the date of receipt of the written request or within the period or extended period provided for in s 37 of the ECICO for lodging an election return, whichever is later. If the claimant fails to provide the information within the period, the CEO may stop processing the claim without any prior notice. [S 5(3), (5) and (6) of EAC (FA) (APP) Reg]

Part processing of claims

16.53 If an auditor's report states that only part of the election return complies with the requirements set out in the relevant sections of the ECICO, the CEO may process that part of the return that complies with those requirements and may stop processing the part of the return that does not comply with those requirements [s 6 of the EAC (FA) (APP) Reg].

Withdrawal of Claims

16.54 A claim may be withdrawn before a payment of financial assistance is made by submitting a notice of withdrawal at the office of the CEO during the ordinary business hours. The notice of withdrawal has to be

served in person by the candidate, or by one of the candidates in the case of a claim made by a list of candidates (or if there is only one candidate on the list, by that candidate), or his/her agent. It must be in a specified form and signed by the candidate, or by all the candidates in the case of a claim made by a list of candidates. [S 7 of the EAC (FA) (APP) Reg]

Payment of Claim after Verification

Payment to be made by the Director of Accounting Services

16.55 After verifying the claim, the CEO will certify the amount of financial assistance and notify the Director of Accounting Services (“DAS”) of the amount payable and the person to whom it is to be paid. As soon as practicable after receiving the notification, the DAS must make the payment in accordance with the notification. In the case of a list of more than one candidate, the payment is to be made to the candidate who is nominated in the claim form to receive the payment on behalf of the candidates on the list. [S 8 of the EAC (FA) (APP) Reg]

Recovery of Payment

16.56 Where a payment of financial assistance is made and the recipient is not entitled to receive the whole or part of the amount paid, the CEO is required to send a written notice under s 60H(1)(a) of the LCO by registered post to the recipient requiring repayment within 3 months after the date of the notice. The recipient may make the repayment, in person or by his/her agent(s), at the office of the CEO or send the repayment by post. [S 12(1) of the EAC (FA) (APP) Reg]

**PART VIII : SPECIAL FEATURES APPLICABLE TO THE LIST
OF CANDIDATES IN A GEOGRAPHICAL
CONSTITUENCY AND THE DISTRICT COUNCIL
(SECOND) FUNCTIONAL CONSTITUENCY
ELECTION**

16.57 The guidelines in this chapter and the provisions of the ECICO apply generally to each and every candidate who is on a list of candidates. This Part draws attention of those candidates and their agents to the special features that are applicable to the list of candidates in a GC/DC (second) FC.

16.58 As stated in item (a) and (f) of para. 16.16 above, a particular ceiling of election expenses applies to each list of candidates in the case of GC/DC (second) FC. The election expenses to be incurred by all the candidates on a list of candidates, or a single candidate on the list, cannot exceed the applicable ceiling, or else all the candidate(s) on the list of candidates will be guilty of an illegal conduct under s 24 of the ECICO.

16.59 Any election expenses incurred by or on behalf of a candidate on a GC/DC (second) FC list for promoting the election of the candidate/list of candidates, or for prejudicing the election of another candidate/list of candidates, or any one of such candidates (see para.16.8 above) will necessarily be election expenses incurred for the whole list of candidates, because they are not only incurred for a particular candidate, but for promoting or benefiting the election of that list of candidates in its entirety, regardless of the candidate's rank of priority on that list of candidates. An authorisation to an election expense agent, regardless of whether or not he/she is one of the candidates on the GC/DC (second) FC list, to incur election expenses for a candidate on the list of candidates, therefore, must necessarily be an **authorisation** to incur election expenses for all the candidates on the list of candidates, and thus it needs to be **signed by all the candidates on the list**, and not just by one or

some of the candidates only. For the same reason, each candidate on the same GC/DC (second) FC list must authorise the other fellow candidate(s) to be his/her election expense agent(s), or otherwise none of the other fellow candidates can lawfully incur election expenses for him/her, or for the whole list which includes him/her. The election expenses incurred by any candidate on a GC/DC (second) FC list individually, whether before or after the formation of the list, form part of the election expenses capped by the applicable ceiling and must be counted towards the maximum amount allowed.

16.60 In order to ensure that each of the candidates on a list of candidates will cross-authorise one another as his/her election expense agent(s), they will be required to complete and jointly sign a **declaration of election expenses already incurred and cross-authorisation form** and submit it to the relevant RO or the CEO, as the case may be, for the following purposes:

- (a) to declare the amount of election expenses each of the candidates has already incurred for himself/herself before formation of the list and up to the time when the declaration is made;
- (b) to declare the amount of election expenses each of the candidates and each election expense agents is authorised to incur for the list for the election campaign which, taking into account the expenses already incurred as referred to in (a) above, should not exceed the election expense ceiling applicable to the concerned GC/DC (second) FC; and
- (c) for each of the candidates to cross-authorise each other and to authorise the election expense agents to incur election expenses up to the amounts declared in (b) above.

It is important to note that the authorisation is not effective until it has been

received by the relevant RO or the CEO, as the case may be. So long as the sum total of the amounts in (a) and (b) above does not exceed the applicable ceiling for the concerned GC/DC (second) FC, the candidates on the list of candidates can decide the exact amount each is to expend for their campaign. However, candidates are advised that it would be wise to reserve a comfortable cushion below the ceiling when making the initial decision. The reason is that if any one of them wishes to expend above the amount to be incurred as declared in (b), this further expenditure could be covered by the cushioned amount. Moreover, since each candidate on a GC/DC (second) FC list is an election expense agent, he/she cannot by himself/herself delegate to any third party to incur election expenses for the GC/DC (second) FC list. Any election expense agent must receive a written authorisation from **all** the candidates on the GC/DC (second) FC list **before** he/she can incur such expenses without contravening s 23 of the ECICO.

16.61 If there is any proposed alteration of the amount of election expenses any one of the candidates on a GC/DC (second) FC list has been authorised to incur under the cross-authorisation referred to in para. 16.60(b) above, all candidates of the GC/DC (second) FC list are required to sign another declaration form for the purpose and submit it to the relevant RO or the CEO, as the case may be. If there is any proposed alteration of the amount of election expenses that any election expense agent has been authorised by all the candidates on a GC/DC (second) FC list to incur, the same procedure applies.

16.62 The reasoning set out in para. 16.59 above applies similarly to election donations.

16.63 **All candidates** on a GC/DC (second) FC list are required to **complete an election return which has been signed jointly** before a Commissioner for Oaths or other authorised persons after the election. In the form, election donations must include the amount of contribution each of the candidates has made and election donations received from other sources for the

election campaign for the promotion of the whole GC/DC (second) FC list. Each candidate on a GC/DC (second) FC list is responsible for the amount of election expenses he/she has incurred and been authorised to incur by the other fellow candidates on the list, which must be stated in the return with supporting invoices and receipts.

PART IX : ENFORCEMENT AND PENALTY

Enforcement

16.64 The election returns will be made available at the REO for public inspection up to the 60th 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. 16.32 above). Copies of the election returns will be furnished to any person upon request subject to payment of copying fee at a fixed rate. [S 41 of the ECICO]

16.65 Any complaint or report of breach of the relevant legislation may be made to the relevant RO, the REO, 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.

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

Penalties

16.67 It is an illegal conduct for a candidate to incur election expenses in excess of the maximum amount prescribed. It is an illegal conduct for an election expense agent to incur election expenses in excess of the amount

authorised. Moreover, it is also an illegal conduct for a person, other than a candidate or a candidate's election expense agent, to incur election expenses. Such an illegal conduct as mentioned above is liable to a fine of \$200,000 and to imprisonment for 3 years [ss 22, 23 and 24 of the ECICO]. In accordance with s 23(1A) of the ECICO, a person (other than candidates or election expense agents) is exempted from the relevant criminal liability under s 23(1) of the ECICO if the person publishes an EA on the internet, and the only election expenses incurred by the person for the purpose of publishing the EA are either or both of electricity charges and charges necessary for accessing the Internet. However, if a candidate, a candidate's election expense agent, or a person who is authorised by a candidate or his/her election expense agent publishes an EA of the candidate on the Internet, any costs incurred, even though the costs only involve electricity charges and charges necessary for accessing the Internet, will have to be included in the election expenses of the candidate.

16.68 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]

16.69 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].

16.70 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].

16.71 A candidate, who, having been elected to the LegCo, acts in the office or participates in the affairs of the LegCo, 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 or participates in the affairs of the LegCo as a member without having complied with s 37 of the ECICO [s 39(1) and (2) of the ECICO].

16.72 A person convicted of a **corrupt or illegal conduct** within the meaning of the ECICO will, in addition to the penalties set out in paras. 16.67 to 16.71 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 Chief Executive Election Ordinance (Cap 569) (“CEEEO”), s 39 of the LCO, s 21 of the DCO and s 23 of the Rural Representative Election Ordinance (Cap 576) (“RREO”)]; and
- (b) from being nominated as a candidate at the Election Committee (“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 CEEEO].

CHAPTER 17

CORRUPT AND ILLEGAL CONDUCT

PART I : GENERAL

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

17.2 Provisions relating to corrupt and illegal conduct can be found in the ECICO. To help candidates and their agents to get acquainted with the major provisions of the Ordinance, the ICAC has prepared an Information Booklet on “Clean Legislative Council Election” 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).

17.3 The ECICO and the guidelines in this chapter apply generally to the elections in respect of the GCs and FCs. For the special features applicable to the system of the list of candidates in the GC and DC (second) FC elections, please also see Part VIII of Chapter 16.

17.4 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]; 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. 17.38 below.

17.5 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]

17.6 According to the ECICO, if a candidate includes the name, logo or pictorial representation of a person or an organisation in his/her EA as an indication of support from that person or organisation, he/she has to obtain prior written consent to the inclusion. Oral or retrospective consent does not comply with the legal requirements. For details, please refer to paras. 17.13 to 17.18 and Chapter 18.

17.7 Any act to induce an elector to vote or not to vote for a candidate/candidates by offering advantages, any food, drink or entertainment, or using force or duress against a person, or by a deception violates the ECICO. There are occasions that the electors may require assistance from others or transportation service in accessing the polling station. However, the above acts must not be done deliberately to induce an elector to vote or not to vote for a candidate/candidates.

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

Offences Relating to Candidature

17.8 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]

17.9 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]

17.10 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].

PART III : ILLEGAL CONDUCT RELATING TO ELECTIONEERING

False Statement that a Person is or is not a Candidate

17.11 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

17.12 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. 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 or candidates. [S 26 of the ECICO] For example, 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.

Claim of Support

(Please also see Chapter 18)

17.13 A candidate engages in illegal conduct if he/she fails to obtain **prior written consent** to the inclusion of the name, logo or pictorial representation from a person or an organisation before using such name, logo or pictorial representation of that person or organisation 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. Under the ECICO, **support** (支持), in relation to a candidate, includes support for the policies or activities of the candidate. 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 has **consented in writing** to the inclusion of the modified name, logo, pictorial representation or content in the EA. [S 27(1), (1A), (1B) and (7) of the ECICO]

17.14 Oral or retrospective consent does **not** comply with the legal requirements. The EAC provides a sample form for seeking **consent of support** in writing from a person or an organisation (“consent form”). A candidate is required to post the 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 relevant RO in the manner as set out in para. 8.58 of Chapter 8 [s 105(2) and (3) of the EAC (EP) (LC) Reg]. It is important to note that it is still an offence even if such an EA contains a statement to the effect that it does not imply support from the person or organisation concerned [s 27(4) of the ECICO]. It is also an offence for a person to give information which he/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].

17.15 A person or an organisation may give support to a list of candidates, to one or more of the candidates on a list of candidates, or to a single candidate on a list. Support can be also given to 2 or more candidates or 2 or more lists of candidates, even if they are competing in the same GC/FC, although that may cause confusion. This should be specified in the written consent. A sample form prepared by the EAC for seeking **consent of support** in writing from a person or an organisation will be available at the REO and the relevant RO’s office after the gazettal of a notice specifying a period and place for submitting nomination forms for the election and can be downloaded from the REO website. It will also be provided to a candidate upon his/her submission of a nomination form for the election. Candidates should be careful to ensure that their EAs make clear where support is claimed whether it is for the whole list of candidates or for individual candidate(s) on a list of candidates. Candidates are reminded that it is an offence to make a false claim of support (see Chapter 18).

17.16 Candidates on a list of candidates must be very careful in their EAs to describe **precisely** the support obtained by them or only one of them

from supporters (as evidenced by a completed form of consent of support) to ensure that there is no false claim of support (see also para. 16.20 of Chapter 16).

17.17 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 relevant 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. 8.58 of Chapter 8. The candidate concerned should cease to publish immediately any EA which contains the support of the person or organisation who has made the revocation.

17.18 S 28 of the ECICO provides for an injunction order by the Court to restrain the publication of any materially false or misleading statement or false claim of support. An application for such an injunction order may be made by a candidate in the same GC/FC, his/her election agent, an elector of the GC/FC concerned and the person or body to whom or which the false information is related.

PART IV : CORRUPT CONDUCT RELATING TO ELECTIONEERING AND VOTING

Bribery

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

17.20 Candidates are advised to, during the election period, refrain from engaging in any financial dealing which may be perceived as having an influence on a person's voting preference.

Treating

17.21 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].

17.22 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).

17.23 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 the 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 to 10.3 above and s 23 of the ECICO)

17.24 If a candidate or another person offers food, drink or entertainment to affect a person's voting preference, it is an offence under s 12 of the ECICO.

Force and Duress

17.25 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].

17.26 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.

Deception

17.27 Furthermore, a person engages in corrupt conduct at an election if he/she, by a deception, induces another person not to vote at the election, or to vote or not to vote for a particular candidate or particular candidates at the election, or obstruct or prevent another person from voting at the election (e.g. taking away the original of an elderly's HKID) [s 14 of the ECICO].

Voting Offences

17.28 It is a corrupt conduct for any person:

- (a) to impersonate another person to apply for a ballot paper at an election, or having voted at an election, to apply at the same election for a ballot paper in the person's own name;

- (b) to vote at an election knowing that he/she is not entitled to vote at that election;
- (c) 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;
- (d) except as expressly permitted by an electoral law,
 - (i) to vote at an election more than once in the same GC, or to vote in more than one GC; or
 - (ii) to vote at an election more than once in the same FC, or vote in more than one FC; or
- (e) to invite or induce another person to commit (b), (c) or (d) above.

[S 15, 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.

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

17.29 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

17.30 S 31 of the ECICO provides a mechanism for a candidate to apply to the CFI for an 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 CFI. He/She will not be liable to be convicted of an offence if the illegal conduct is the subject of the court order.

17.31 A candidate who is unable or has failed to send to the CEO the election return before the expiry of the statutory deadline (see para. 16.32 of Chapter 16) 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].

17.32 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].

17.33 When the candidate finds himself/herself in any of the situations set out in paras. 17.31 and 17.32 above, other than the situations where correction of errors or false statements is allowed under the relief arrangement in para. 16.38 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.

PART VII : NON-COMPLIANCE WITH THE LAW AND SANCTION

17.34 Any complaint or report of breach of the relevant legislation may be made to the relevant RO, the REO, 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.

17.35 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.

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

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

17.38 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. 17.4 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 an 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].

17.39 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.

CHAPTER 18

NAMEDROPPING

PART I : GENERAL

18.1 According to the ECICO, if a candidate includes the name, logo or pictorial representation of a person or an organisation in his/her EA as an indication of support from that person or organisation, he/she has to obtain prior written consent to the inclusion. Oral or retrospective consent does not comply with the legal requirements.

18.2 If the consent of support is given by a supporter in his/her personal capacity and he/she intends to mention his/her office title or the name of the organisation that he/she belongs to, the candidate/list of candidates should be careful not to give the impression that it represents the support of the whole organisation. If the EA indicates support by the relevant organisation, approval should be given by the governing body of the organisation or by a resolution of the members of the organisation passed at a general meeting.

18.3 When a candidate publishes EA through online platforms, a person or an organisation may show his/her/its support to the candidate/list of candidates out of his/her/its own volition by giving response, indicating “like” or including his/her/its name, logo or pictorial representation in the EA published by the candidate/list of candidates. If the candidate has neither requested or directed nor authorised any person to request or direct the person or organisation to show his/her/its support, the candidate is not required to seek prior written consent provided that he/she must not modify that EA.

PART II : CLAIM OF SUPPORT

18.4 A candidate engages in illegal conduct if he/she fails to obtain **prior written consent** to the inclusion of the name, logo or pictorial representation from a person or an organisation before using such name, logo or pictorial representation of that person or organisation 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. Under the ECICO, **support** (支持), in relation to a candidate/list of candidates, includes support for the policies or activities of the candidate/list of candidates. 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 has **consented in writing** to the inclusion of the modified name, logo, pictorial representation or content in the EA. [S 27(1), (1A),(1B) and (7) of the ECICO] Moreover, modifying the name, logo or pictorial representation or the content without the person's consent may render his/her personal data inaccurate and hence constitute a contravention of Data Protection Principle 2(1)⁴³ in Schedule 1 to the PD(P)O.

(Please also see paras. 17.13 to 17.18 especially regarding the GC and the DC (second) FC.)

18.5 It is not uncommon that a candidate publishes EAs through online platforms such as social networking or communication websites for promoting

⁴³ Data Protection Principle 2(1): All practicable steps shall be taken to ensure that personal data is accurate having regard to the purpose (including any directly related purpose) for which the personal

his/her candidature. There may be cases that a person shows his/her support to the candidate/list of candidates out of his/her own volition by giving response or indicating “like” in the EA published by the candidate, or by appearing in the live broadcast of an electioneering activity published by the candidate. The candidate is not required to seek the prior written consent of the person if the candidate has neither requested or directed nor authorised any person to request or direct the inclusion of the name, logo or pictorial representation of the person in the EA. Nevertheless, if a person is invited by the candidate to show his/her support by giving response to the online EA or by participating in the electioneering activity which is covered by the live broadcast, the candidate should obtain prior written consent from the person. [S 27(1) and (1A) of the ECICO]

18.6 Oral or retrospective consent does **not** comply with the legal requirements. As set out in para. 18.4 above, 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. The EAC provides a sample form for seeking **consent of support** from a person or an organisation for this purpose. 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, as opposite to the candidate or any other person publishing or authorising the publication of the EA, who has seen the pictorial representation would have the perception that the persons appearing in the EA support the candidate.

18.7 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].

18.8 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/list of candidates' 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/list of candidates 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/list of candidates 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/list of candidates. In case of doubt, the candidate or his/her supporter should consult the organisation concerned on its internal rules and procedures. The candidate/list of candidates 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.

18.9 Candidates should note that the Home Affairs Department has its own guidelines for MACs and their office bearers in respect of their giving consent of support to candidates. A copy of such guidelines can be found at **Appendix 18**.

18.10 Consent can be given to 2 or more candidates or 2 or more lists of candidate(s) of a GC/DC (second) FC, even if they are competing in the same GC/FC, 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/list of candidates concerned. The candidate/list of candidates is required to notify the relevant 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. 8.58 of Chapter 8.

18.11 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. In accordance with the requirements of the PD(P)O, the candidate should not retain the personal data of the person for a period that is longer than it is necessary⁴⁴, in particular when his/her consent of support is revoked. 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.

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

Scenario A

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

⁴⁴ i.e. to retain the data for the fulfillment of the purpose for which the data is used.

Scenario B

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

It should be noted that the EA mentioned in Scenario B above should be treated as a joint EA. To comply with the requirement stipulated in s 27 of the ECICO, both candidates A and B also have to seek written consent of support from each other before publishing the joint EA.

18.13 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, to any reasonable person, it 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.

18.14 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.

18.15 According to the PD(P)O, any data (including images) relating to a living individual and from which it is practicable for the identity of the individual to be ascertained⁴⁵, 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 principles as set out in the “Guidance on Election Activities for Candidates, Government Departments, Public Opinion Research Organisations and Members of the Public” at **Appendix 9**.

Consent in writing

18.16 As stated in para. 18.6 above, a sample form prepared by the EAC for seeking **consent of support** in writing **from a person or an organisation** will be available at the offices of the REO and the relevant RO after the gazettal of a notice specifying a period and place for submitting nomination forms and can be downloaded from the REO website. It will also be provided to a candidate upon his/her submission of a nomination form for the election.

18.17 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 the written consent relevant to the EA

⁴⁵ For example, an image of an individual with a caption about his/her identity; or an image of a public figure with no caption or other information, from which his/her identity can still be ascertained.

concerned onto the Candidate's Platform or Central Platform or deposit a copy of the written consent with the relevant RO in the manner as set out in para. 8.58 of Chapter 8 [s 105(2) and (3) of the EAC (EP) (LC) Reg]. A candidate is also **required to post** onto the Candidate's Platform or Central Platform a written notice of revocation **or notify** the relevant RO of such revocation in the manner as set out in para. 8.58 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 relevant RO.

Penalty

18.18 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. 17.4(b) and Part VII of Chapter 17.

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 LegCo 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. The guidelines in respect of civil servants are also equally applicable to the non-civil service contract staff of the Government.

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]. The reference of “candidate” in this chapter includes a list of candidates in a GC/DC (second) FC to which the list system of proportional representation applies.

PART II : PARTICIPATION IN ELECTIONEERING ACTIVITIES BY CIVIL SERVANTS

19.2 Civil servants who wish to participate in electioneering activities in a LegCo election should observe the regulations, rules and guidelines issued by the Civil Service Bureau. Civil servants, other than directorate officers, Administrative Officers, Information Officers, 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 the CRO, ROs, 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 work in a GC/FC or have extensive contacts with the public in a GC/FC are strongly advised not to accept appointment by a candidate in that GC/FC to be his/her agent and/or participate in electioneering activities in the GC/FC concerned. 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.

19.3 The guidelines set out in para. 19.2 above are equally applicable to the non-civil service contract staff of the Government.

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 election in respect of a particular GC/FC 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 candidates. 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 same GC/FC.

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.

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 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 same GC/FC.

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”.

19.11 Politically appointed officials may, subject to the guidelines below, participate in election-related activities.

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 LegCo election, please see para. 4.12 in Chapter 4).

19.13 As far as the LegCo elections are concerned, politically appointed officials should not use any public resources for any election-related activities. A politically appointed official should ensure that when taking part in such activities, great care should be taken that there is no actual or potential conflict of interest with the business of the Government or his/her own official duties.

CHAPTER 20

COMPLAINTS PROCEDURE

PART I : GENERAL

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

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.

20.3 The EAC will solemnly handle complaints against any breach of the fair and equality principle as set out in the election guidelines. Investigation must be conducted in accordance with the principle of procedural fairness and be based on factual evidence. The party concerned must be given the opportunity to make representation in defence. In considering whether any conduct is unfair in the absence of contravention of the law, a decision could not be made lightly without careful consideration of all relevant matters and circumstances. Furthermore, while complaints are often made shortly before the polling day, the EAC cannot circumvent or compress the established procedure because of the time constraint so as to avoid any unfairness.

20.4 If the complaint is substantiated, the EAC may, if necessary, make a censure in a public statement to enable the electors and the public be informed of the major occurrences during the election. The EAC may also

issue press statements on matters of principle which have attracted widespread public concern in order to set the record straight.

PART II : TO WHOM A COMPLAINT MAY BE MADE

20.5 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 professionals, who are independent and politically impartial, for the purpose of dealing with complaints.

20.6 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 EAC (EP) (LC) Reg or relating to election matters can be made to one of the following bodies or persons:

- (a) the RO of the relevant GC/FC appointed by the EAC to deal with electoral arrangements;
- (b) the REO;
- (c) the EAC or its Complaints Committee; or
- (d) the PRO (on the polling day).

20.7 **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

20.8 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.

20.9 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.

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

PART IV : COMPLAINTS INSIDE A POLLING STATION

20.11 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 DPRO or an APRO 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 DPRO or an APRO, he/she should as soon as possible report the matter to the RO of the relevant GC/FC of the polling station by using the telephone number appearing in the guide on procedures for complaint;

- (c) where the matter is still not resolved by the RO, the complainant should without any delay telephone the 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 a polling station (together with telephone numbers of the relevant RO(s) and the EAC Complaints Hotline) will be displayed at each polling station.

20.12 The PRO or his/her DPRO or APRO must record any complaint mentioned in para. 20.11(a) and (b) and any other complaints and enquiries concerning an elector's data.

PART V : THE PROCESSING OF COMPLAINT

20.13 The CEO, the ROs and the PROs are obliged under s 101 of the EAC (EP) (LC) Reg to report irregularities to the EAC or its Complaints Committee. By these guidelines, they are also required to report all

complaints received by them to the EAC or its Complaints Committee. Except where a complaint is of a minor nature or the RO has been delegated with the authority to deal with it, any complaint received by the RO or the REO will be forwarded to the EAC or its Complaints Committee with comments and all the relevant information relating to the complaint. When the EAC or its Complaints Committee receives a complaint, it may seek additional information and comments from the relevant RO or the REO, if necessary.

20.14 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.

20.15 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].

20.16 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 the 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].

20.17 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.

PART VI : ELECTORAL AFFAIRS COMMISSION'S REPORT ON COMPLAINTS

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

PART VII : OBLIGATIONS OF THE RETURNING OFFICER, THE PRESIDING OFFICER AND THE CHIEF ELECTORAL OFFICER

20.19 The RO(s), the PRO(s) 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.

PART VIII : SANCTION FOR FALSE COMPLAINT

20.20 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].

Legislative Council Election

Action Checklist for Candidates

<u>Time</u>	<u>Action</u>
Before and during Nomination Period	<p>1. Obtain the following from the Returning Officer (“RO”), any District Office (“DO”) of the Home Affairs Department or the Registration and Electoral Office (“REO”):</p> <ul style="list-style-type: none"> (a) Nomination Form; (b) Confirmation Form; (c) Grid Paper for the production of the Introduction to Candidates and Guide on Completion of Grid Paper; (d) the form of “Request by a Candidate for a Legislative Council Functional Constituency or a Sole Candidate on a Legislative Council Nomination List or by a Candidate for a District Council Constituency for Printing of Particulars Relating to the Candidate on a Ballot Paper” and/or the form of “Request by Candidates on a Legislative Council Nomination List with More than One Candidate for Printing of Particulars Relating to the Candidates on a Ballot Paper”, as the case may be; (e) the form of “Consent of a Prescribed Body for its Particulars to be Printed on a Ballot Paper in Relation to the Request by Candidate(s)”; and (f) the form of “Intention to Display Election Advertisements at Designated Spots”.
During Nomination Period	<p>2. Except where the Chief Electoral Officer (“CEO”) authorises otherwise, hand in the following to the RO by the candidate in person <u>before the end of the Nomination Period</u>:</p>

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

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

3. Apply to Hongkong Post for written approval of their election mail specimens for free postage. Candidates should:
 - (a) carefully study the requirements governing free postage for election mail before deciding on the contents of their election mail 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 election mail specimens to Hongkong Post for written approval as early as possible to allow sufficient time for revising the contents of their election mail specimens, if necessary.
4. Obtain from the RO a Candidate Folder containing various forms and reference materials for use by candidate participating in the election.
5. Lodge with the RO a Notice of Withdrawal of Candidature if the candidate wishes to withdraw his/her candidature.
6. (a) Ensure that all printed election advertisements (“EAs”), except for the category exempted, contain the name and address of the printer, date of printing and the number of copies printed.

Any time before,
during or after
handing in
Nomination Form

- (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 open platform maintained by the candidate(s) or a person authorised by the candidate(s) (“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**. Candidates should keep records of the attachments posted onto the Candidate’s Platform and maintain this platform till the end of the period for which copies of Return and Declaration of Election Expenses and Election Donations (thereafter referred to as “election return”) are available for public inspection under section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) (“ECICO”).

- (ii) If the candidates choose to post the electronic copy of EA and relevant information/documents onto the open platform maintained by the CEO or a person authorised by the CEO (“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 two sets of 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, including publication information, permission/consent of support in relation to EAs, 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 5**;
 - (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 5**);
 - (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 each EA that is published through the open platform (the hyperlink to the specific EA published should be provided, rather than the hyperlink to the entire election website or page of the social media) 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 5**;
 - (iv) providing 2 hardcopies each of the EAs (or 2 identical full colour photographs/

printouts/photocopies of each EA which cannot be practically or conveniently produced in its actual form) and 1 hardcopy 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 hardcopy each of the relevant information/documents to the RO.

Candidates may make submission as required from time to time. Candidates should keep records of all relevant information/documents and EAs posted onto the Central Platform or lodged with the RO.

7.
 - (a) Record all election expenses spent and all election donation received.
 - (b) Keep all original invoices and receipts issued by recipients of the payments for expense of \$500 or above.
 - (c) Issue receipt to donor 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.)
 - (d) Submit to the CEO an Advance Return and Declaration of Election Donations when an election donation is received (if required and as appropriate).

Any time before handing in Nomination Form till the end of election period

8. Appoint Election Expense Agents:
 - (a) Lodge with the RO (or CEO if RO has not yet been appointed) Authorisation to Incur Election Expenses.

[For GC/DC (second) FC list of candidates, Declaration of Election Expenses Already

Incurred/Cross-Authorisation and Authorisation to Incur Election Expenses by a List of Candidates in a GC/DC (second) FC Election is applicable.]

- (b) Each candidate/list of candidates can authorise 1 or more persons as the election expense agents to incur election expenses on his/her/their behalf at a prescribed amount specified by the candidate. A candidate/list of candidates **may** also authorise his/her/their election agent as an election expense agent. These agents may incur election expenses only after the candidate/list of candidates has authorised them to do so. It is important to note that the authorization is not effective until it has been received by the RO or CEO (if the RO has not yet been appointed).
- (c) An election expense agent needs to be a person who has attained the age of 18 years.

Any time after
handing in
Nomination Form

9. Appoint Election Agent:

- (a) Lodge with the RO a Notice of Appointment of Election Agent.
- (b) Each candidate/list of candidates can only appoint 1 election agent. An election agent has the authority to do everything a candidate is authorised to do under the EAC (EP) (LC) Reg for the purposes of the election, **except:**
 - (i) to sign the nomination form or make any requisite declaration in relation to a candidate's nomination;
 - (ii) to withdraw the candidate's candidature;
 - (iii) to incur election expenses unless he/she has been so authorised by the candidate;
 - (iv) to authorise a person as an election expense agent to incur election expenses; and

(v) to be present at a dedicated polling station situated in a maximum security prison.

(c) An election agent should be holder of the Hong Kong identity card and has attained the age of 18 years.

Any time after
handing in
Nomination Form,
but before end of
Nomination Period

10. (a) If a candidate/list of candidates wishes to have his/her/their photograph(s) and electoral message printed in the Introduction to Candidates, he/she/they should :

(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 taken within the last 6 months; and

(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/list of candidates does not submit the grid paper, the Introduction to Candidates will only show the name of the candidate(s) and the number/alphabet of the candidate/list of the candidates. The statement, “Relevant information has not been provided by the candidate/list of candidates”, will also be printed in the space provided for the electoral message.)

(b) Lodge with the RO the form “Intention to Display Election Advertisements at Designated Spots”.

(c) If a candidate wishes to have his/her photograph and particulars printed on a ballot paper, he/she should lodge with the RO:

(i) a duly completed form of “Request by a Candidate for a Legislative Council Functional Constituency or a Sole Candidate on a Legislative Council

Nomination List or by a Candidate for a District Council Constituency for Printing of Particulars Relating to the Candidate on a Ballot Paper” or a duly completed form of “Request by Candidates on a Legislative Council Nomination List with More than One Candidate for Printing of Particulars Relating to the Candidates on a Ballot Paper”, as the case may be;

- (ii) a colour photograph of the candidate, in a specified size and taken within the last 6 months, which should be affixed to the form at (c)(i) above, and an additional copy of his/her photograph identical to the one affixed to the form with his/her name label affixed on the back; and
- (iii) the duly completed form(s) of “Consent of a Prescribed Body for its Particulars to be Printed on a Ballot Paper in Relation to the Request by Candidate(s)”.

(If a candidate/list of candidate(s) does not submit the duly completed form(s) of request and consent, if any, specified above, only his/her/their name(s) and candidate/candidate list number/alphabet will be printed on a ballot paper.)

Any time after
handing in
Nomination Form,
but not later than 3
weeks before polling
day

11. Make a request to the CEO for obtaining one set of mailing labels of electors and/or a Candidate Mailing Label System (“CMLS”) DVD-ROM containing information of electors in the constituency (Candidates or their election agents are required to sign an Undertaking on the Use of Electors’ Information with the request.).

(Note: Relevant information will be provided to the validly nominated candidates. To protect the environment and respect the wish of electors, mailing labels of electors who have provided their email addresses for receiving election mails and who have indicated that they do not wish to receive any election mails will not be provided by the CEO.)

Any time after
handing in
Nomination Form,
but at least 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 by hand, by electronic mail, by facsimile transmission or by post.
13. Lodge with the RO Notices of Appointment of Counting Agents by hand, by electronic mail, by facsimile transmission or by post.
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) for seeking the consent of the Commissioner of Correctional Services to the presence of an election agent or a polling agent at a dedicated polling station situated in a penal institution (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 penal institution (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 penal institution, 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 5 working days after end of Nomination Period

15. Attend the briefing for candidates and collect from the RO the following:
 - (a) location maps and layout plans of the polling and counting stations; and
 - (b) name badges for candidates and their agents.
16. Attend meetings held by the RO to determine the candidate numbers/alphabets 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 (except for uncontested candidates who will not be allocated with designated spots).

After the end of Nomination Period

18. Receive from the RO the notification on the validity of the candidate's nomination (which will also be sent to every other validly nominated candidate of the same geographical constituency/functional constituency, if any).

Around 7 days after end of Nomination Period

19. Send by e-mail to 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 onto the election dedicated website.

(If a candidate/list of candidates does not submit the file

by the said deadline, only his/her/their name and candidate/candidate list number/alphabet and the words “Relevant information has not been provided by the candidate/list of candidates” will be shown in the appropriate area of the form.)

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| Within 10 days after
end of Nomination
Period | 20. | Receive from the RO information about the election agents appointed by other candidates of the same constituency. |
| Around 14 days after
end of Nomination
Period | 21. | <p>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.</p> <p>(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.)</p> |
| At least 10 days
before polling day | 22. | Receive information from the RO on when and where the counting of votes is to take place. |
| Not later than 7 days
before polling day | 23. | 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 | 24. | <p>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/ Polling Agent in a Dedicated Polling Station Situated in a Prison (other than a Maximum Security Prison) only if –</p> <p>(a) an elector imprisoned or held in custody who is entitled to vote for the relevant constituency at the aforesaid dedicated polling station situated in a penal institution is admitted or transferred to the</p> |

penal institution 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

25. 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(s) of Hongkong Post for inspection and approval.

Make postage-free election mail before the posting deadline as designated by the Hongkong Post

26. 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(s) of Hongkong Post for record purpose.

(Note: Election mail sent after the deadline may fail to reach the electors before the polling day.)

Before entering the polling station, counting station or the ballot paper sorting station

27. Complete the Declarations of Secrecy (to be made by all candidates, their election agents, polling agents and counting agents).

Any time before polling day

28. Lodge with the CEO or RO, as the case may be, Notices of Revocation of Appointment of Agent, if any, by hand, by electronic mail, by facsimile transmission or by post.

On polling day

29. Attend the poll and the count if so wishes, bringing along the Declaration of Secrecy.
30. Candidates or 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 relevant Presiding Officer (“PRO”) other than a PRO of a dedicated polling station situated in a penal institution, if not yet lodged pursuant to paras. 12 and 28 respectively.

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|---|-----|--|
| | 31. | Notices of Revocation of Appointment of Agent must be delivered to the relevant RO by hand, by electronic mail or by facsimile transmission to revoke the appointment of polling agent for a dedicated polling station situated in a penal institution, if necessary and not yet lodged pursuant to para. 28. |
| | 32. | Candidates or their election agents personally deliver Notices of Appointment of Counting Agents and Notices of Revocation of Appointment of Agent to the relevant PRO (or to the relevant RO if the counting agents are appointed for the central counting station), if not yet lodged pursuant to paras. 13 and 28 respectively. |
| Within 3 working days after the polling day | 33. | Post the corrected information of the EAs concerned onto the Candidate's Platform or the 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 10 days after polling day | 34. | Remove all EAs displayed on Government land/ property. |
| Within 2 weeks after polling day | 35. | Destroy the CMLS DVD-ROM, and unused mailing labels, if any, and all the electors' information copied (the use of data erasing software is recommended to completely erase the information) and return to REO the reply slip on "Confirmation of Destruction of CMLS DVD and the Relevant Electors' Information". |
| Before the statutory deadline for submission of election return as required under section 37 of the ECICO

(REO will issue letters to inform candidates of the deadline for lodging | 36. | <p>(a) Lodge with the CEO an election return setting out all election expenses incurred by the candidate/list of candidates and his/her/their election expense agents and all election donations received by or on behalf of the candidate/list of candidates.</p> <p><i>A candidate/list of candidates is required to submit his/her/their election return even if no election expenses have been incurred or no election donation is received.</i></p> |

election returns)

- (b) Ensure that the election return is accompanied by invoices and receipts for each election expense of \$500 or more and copies of standard receipts issued to donors for each election donation of more than \$1,000 in value and the copies of receipts 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 and election donations which are in excess of the limit of election expenses as required under section 37 of the ECICO (see Chapter 16 of the Guidelines for details).
- (c) A candidate/all candidate(s) of a list must make the declaration/supplementary declaration(s) verifying the contents of the election return before a Commissioner for Oaths (at DOs), or a Justice of the Peace or solicitor holding a practicing certificate.
- (d) If a candidate/list of candidates is unable/fails to lodge the election return before the deadline, he/she/they may apply to the Court of First Instance (“CFI”) for an order allowing him/her/them to lodge the election return within such a further period as specified by the CFI.
- (e) If a candidate/list of candidates wishes to change any information in his/her/their submitted election return before the deadline, he/she/they may lodge with the CEO before the deadline a supplementary declaration stating the information to be changed together with the related supporting documentations (e.g. receipt) as appropriate.
- (f) If a candidate/list of candidates wishes to correct any error or false statement in his/her/their election return (including any document accompanying his/her/their election return) after the deadline, he/she/they must apply to the CFI for an order enabling him/her/them 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 for election concerned for purpose of section 37A of the ECICO, the candidate/list of candidates 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 section 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 para. 16.36 to 16.41 of the Guidelines).

37. Eligible candidates/lists of candidates who wish to apply for financial assistance should complete a Claim for Financial Assistance. The completed form, together with the candidate's election return and an auditor's report should be presented in person by the candidate or his/her/their agent (i.e. any other person on behalf of the candidate) to the CEO before the statutory deadline for submission of election return.

Until the end of the period for which copies of election returns are available for inspection under section 41 of the ECICO

38. Maintain the Candidate's Platform for public inspection of EAs and relevant information/documents. If the hyperlink of a website on which an EA is published has been uploaded onto the Central Platform, ensure the hyperlink is valid and the relevant website continues to operate.

Note:

Most of the forms mentioned in this checklist can be downloaded from the REO website at <https://www.reo.gov.hk>.

(This “Action Checklist for Candidates” is for general reference only. Candidates are advised to refer to the Action Checklist with timetable which will be included in the Candidate Folder for the respective general election/by-election.)

The Functional Constituencies and their Electors

<u>Item</u>	<u>Column 1 Constituency</u>	<u>Column 2 Electors</u>
1.	Heung Yee Kuk functional constituency	The Chairman and Vice-Chairmen of the Heung Yee Kuk and the Ex Officio, Special and Co-opted Councillors of the Full Council of the Kuk.
2.	Agriculture and fisheries functional constituency	<p>(1) Corporate members of each of the following bodies:</p> <p>(a) The Federation of Vegetable Marketing Co-operative Societies, Limited;</p> <p>(b) The Federation of Pig Raising Co-operative Societies of Hong Kong, Kowloon and New Territories, Limited;</p> <p>(c) The Joint Association of Hong Kong Fishermen;</p> <p>(d) Federation of Hong Kong Aquaculture Associations;</p> <p>(e) The Federation of Fishermen's Co-operative Societies of Shau Kei Wan District, Limited;</p> <p>(f) The Federation of Fishermen's Co-operative Societies of Tai Po District, N.T., Limited;</p> <p>(g) The Federation of Fishermen's Co-operative Societies of Sai Kung District, Limited;</p> <p>(h) The Federation of Fishermen's Co-operative Societies of Southern District, Limited.</p> <p>(2) Aberdeen Fishermen Friendship Association.</p> <p>(3) The Ap Lei Chau Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(4) The Castle Peak Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(5) The Castle Peak Mechanized Trawler Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(6) Cheung Chau Fisheries Joint Association.</p> <p>(7) Cheung Chau Fishermen's Welfare Promotion Association.</p> <p>(8) The Fanling Kwun Ti Village Farmers' Irrigation Co-operative Society, Ltd.</p> <p>(9) Fish Farming and Stuff Association.</p> <p>(10) Fisherman's Association of Po Toi Island.</p> <p>(11) Fishery Development Association (Hong Kong) Limited.</p> <p>(12) Fraternal Association of The Floating Population of Hong Kong.</p> <p>(13) The Guild of Graziers.</p> <p>(14) Hang Hau Grazier Association.</p> <p>(15) Hong Kong and Kowloon Fishermen Association Ltd.</p> <p>(16) Hong Kong & Kowloon Floating Fishermen Welfare Promotion Association.</p> <p>(17) Hong Kong Fisheries Development Association.</p> <p>(18) Hong Kong Fishermen's Association.</p> <p>(19) Hong Kong Fishing Vessel Owners Association, Ltd.</p> <p>(20) Hong Kong Florists Association.</p>

<u>Item</u>	<u>Column 1</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
2.	Agriculture and fisheries functional constituency (<i>Cont'd</i>)	<p>(21) Hong Kong Graziers Union.</p> <p>(22) Hong Kong Liner & Gill Netting Fisherman Association.</p> <p>(23) Hong Kong Livestock Industry Association.</p> <p>(24) Hong Kong N.T. Fish Culture Association.</p> <p>(25) Hong Kong N.T. Poultry (Geese & Ducks) Mutual Association.</p> <p>(26) Hong Kong Netting, Cultivation and Fisherman Association.</p> <p>(27) Hong Kong Off-shore Fishermen's Association.</p> <p>(28) The Lam Ti Agricultural Credit Co-operative Society, Limited.</p> <p>(29) Lamma Island Lo Dik Wan Aquaculture Association.</p> <p>(30) Lau Fau Shan Oyster Industry Association, New Territories.</p> <p>(31) Ma Wan Fisheries Rights Association Ltd.</p> <p>(32) The Mui Wo Agricultural Products Marketing & Credit Co-operative Society, Ltd.</p> <p>(33) Mui Wo Fishermen Fraternity Society.</p> <p>(34) N.T. Oyster and Aquatic Products United Association.</p> <p>(35) The New Territories Chicken Breeders Association, Ltd.</p> <p>(36) The New Territories Fishermen Fraternity Association Ltd.</p> <p>(37) New Territories Florist Association, Ltd.</p> <p>(38) North District Florists Association.</p> <p>(39) Outlying Islands Mariculture Association (Cheung Chau).</p> <p>(40) Peng Chau Fishermen Association Ltd.</p> <p>(41) Quality Broiler Development Association.</p> <p>(42) Sai Kung (North) Sham Wan Marine Fish Culture Business Association.</p> <p>(43) Sai Kung Po Toi O Fish Culture Business Association.</p> <p>(44) Sai Kung Tai Tau Chau Fish Culture Business Association.</p> <p>(45) Sai Kung Tai Wu Kok Fishermen's Association.</p> <p>(46) The Sha Tau Kok Marine Fish Culture Association.</p> <p>(47) The Sha Tau Kok Small Long Liner and Gill Net Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(48) The Shan Tong Vegetable Marketing Co-operative Society, Ltd.</p> <p>(49) Shatin Ah Kung Kok Fishermen Welfare Association.</p> <p>(50) Shatin Florists Association.</p> <p>(51) Shau Kei Wan Deep Sea Capture Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(52) Shau Kei Wan Fishermen Friendship Association.</p> <p>(53) Shau Kei Wan Pair Trawler Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(54) The Shau Kei Wan Trawler Fishermen's Credit Co-operative Society, Unlimited.</p>

<u>Item</u>	<u>Column 1</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
2.	Agriculture and fisheries functional constituency (Cont'd)	(55) Tai O Fishermen (Coastal Fishery) Association. (56) The Tai O Sha Chai Min Fishermen's Credit Co-operative Society, Unlimited. (57) The Tai Po Fishermen's Credit Co-operative Society, Unlimited. (58) Tai Po Florists and Horticulturists Association. (59) The Tai Po Purse Seiner and Small Long Liner Fishermen's Credit Co-operative Society, Unlimited. (60) The Tsuen Wan Fishermen's Credit Co-operative Society, Unlimited. (61) The Tuen Mun Mechanized Fishing Boat Fishermen's Credit Co-operative Society, Unlimited. (62) Tuen Mun Agricultural Association. (63) Tung Lung Chau Mariculture Association. (64) The Hong Kong Branch of the World's Poultry Science Association. (65) Yuen Long Agriculture Productivity Association. (66) Yung Shue Au Marine Fish Culture Business Association. (67) Tsing Yi Residents Association. (68) 荃灣葵青居民聯會（漁民組）. (69) 荃灣葵青漁民會. (70) The Shau Kei Wan Stern Trawler Fishermen's Credit Co-operative Society, Unlimited. (71) Sustainable Ecological Ethical Development Foundation Limited. (72) N. T. North District Fishermen's Association. (73) Tai Po Off Shore Fishermen's Association. (74) Aberdeen Fisherwomen Association. (75) 香港新界本地農協會. (76) The Hong Kong Veterinary Association Limited.
3.	Insurance functional constituency	Bodies that are insurers authorized or deemed to be authorized under the Insurance Companies Ordinance (Cap 41).
4.	Transport functional constituency	(1) Parking Management and Consultancy Services Limited. (2) Airport Authority Hong Kong. (3) Hong Kong Driver's Training Association. (4) The Association of N.T. Radio Taxicabs Ltd. (5) Autotoll Limited. (6) The Chartered Institute of Logistics and Transport in Hong Kong. (7) China Merchants Shipping & Enterprises Co. Ltd. (8) Chu Kong Shipping Enterprises (Holdings) Co. Ltd. (9) Chuen Kee Ferry Ltd. (10) Chuen Lee Radio Taxis Association Ltd.

<u>Item</u>	<u>Column 1</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
4.	Transport functional constituency (<i>Cont'd</i>)	(11) Citybus Ltd. (12) Coral Sea Ferry Service Co., Ltd. (13) COSCO–HIT Terminals (Hong Kong) Limited. (14) CTOD Association Company Ltd. (15) Turbojet Ferry Services (Guangzhou) Limited. (16) Discovery Bay Transportation Services Ltd. (17) Driving Instructors Merchants Association, Limited. (18) Eastern Ferry Co. (19) Expert Fortune Ltd. (20) Far East Hydrofoil Co. Ltd. (21) Fat Kee Stevedores Ltd. (22) The Fraternity Association of N.T. Taxi Merchants. (23) Fraternity Taxi Owners Association. (24) G.M.B. Maxicab Operators General Association Ltd. (25) The Goods Vehicle Fleet Owners Association Ltd. (26) Happy Taxi Operator's Association Ltd. (27) Hoi Kong Container Services Co. Ltd. (28) Hon Wah Public Light Bus Association Ltd. (29) Hong Kong Air Cargo Terminals Limited. (30) Hong Kong & Kowloon Ferry Ltd. (31) Hong Kong Kowloon Goods Vehicles, Omnibuses and Minibuses Instructors Association Limited. (32) Hong Kong & Kowloon Motor Boats & Tug Boats Association Limited. (33) Hong Kong & Kowloon Radio Car Owners Association Ltd. (34) Hong Kong and Kowloon Rich Radio Car Service Centre Association Ltd. (35) Hong Kong Association of Freight Forwarding and Logistics Limited. (36) Hong Kong Automobile Association. (37) The Hong Kong Cargo–Vessel Traders' Association Ltd. (38) Hong Kong Commercial Vehicle Driving Instructors Association. (39) Hong Kong CFS and Logistics Association Limited. (40) Hong Kong Container Tractor Owner Association Ltd. (41) Hong Kong Driving Instructors' Association. (42) Hong Kong Guangdong Transportation Association Ltd. (43) The Hong Kong Institute of Marine Technology. (44) Hong Kong, Kowloon & NT Public & Maxicab Light Bus Merchants' United Association. (45) Hong Kong Taxi Owners' Association Limited. (46) The Hong Kong Liner Shipping Association. (47) Hong Kong Motor Car Driving Instructors Association Ltd. (48) Hong Kong Pilots Association Ltd. (49) Hong Kong Public & Maxicab Light Bus United Associations.

<u>Item</u>	<u>Column 1</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
4.	Transport functional constituency (<i>Cont'd</i>)	<p>(50) Hong Kong Public Cargo Working Areas Traders Association Ltd.</p> <p>(51) Hong Kong Scheduled (GMB) Licensee Association.</p> <p>(52) The Hong Kong School of Motoring Ltd.</p> <p>(53) Hong Kong Sea Transport and Logistics Association Limited.</p> <p>(54) The Hong Kong Shipowners Association Ltd.</p> <p>(55) Hong Kong Shipping Circles Association Ltd.</p> <p>(56) Hong Kong Shipping Industry Institute.</p> <p>(57) Hong Kong Logistics Management Staff Association.</p> <p>(58) The Hong Kong Stevedores Employers' Association.</p> <p>(59) Hong Kong Tele-call Taxi Association.</p> <p>(60) Hong Kong Tramways, Limited.</p> <p>(61) Hong Kong Transportation Warehouse Wharf Club.</p> <p>(62) The Hongkong & Yaumati Ferry Co., Ltd.</p> <p>(63) Hongkong International Terminals Ltd.</p> <p>(64) Institute of Advanced Motorists (Hong Kong) Limited.</p> <p>(65) Institute of Seatransport.</p> <p>(66) Institute of Transport Administration (Hong Kong, China).</p> <p>(67) Kowloon Fung Wong Public Light Bus Merchants & Workers' Association Ltd.</p> <p>(68) The Kowloon Motor Bus Company (1933) Limited.</p> <p>(69) Kowloon Motor Driving Instructors' Association Ltd.</p> <p>(70) The Kowloon PLB Chiu Chow Traders & Workers Friendly Association.</p> <p>(71) The Kowloon Taxi Owners Association Ltd.</p> <p>(72) Kowloon Truck Merchants Association Ltd.</p> <p>(73) Kwik Park Limited.</p> <p>(74) Lam Tin Wai Hoi Public Light Bus Association.</p> <p>(75) Lantau Taxi Association.</p> <p>(76) Lei Yue Mun Ko Chiu Road Public Light Bus Merchants Association Ltd.</p> <p>(77) Lok Ma Chau China-Hong Kong Freight Association.</p> <p>(78) Long Win Bus Company Limited.</p> <p>(79) Mack & Co. Carpark Management Limited.</p> <p>(80) Marine Excursion Association Limited.</p> <p>(81) Maritime Affairs Research Association Ltd.</p> <p>(82) MTR Corporation Limited.</p> <p>(83) Merchant Navy Officers' Guild-Hong Kong.</p> <p>(84) Metropark Limited.</p> <p>(85) Mid-stream Holdings (HK) Limited.</p> <p>(86) Mixer Truck Drivers Association.</p> <p>(87) Modern Terminals Ltd.</p> <p>(88) N.T. PLB Owners Association.</p> <p>(89) N.T. San Tin PLB (17) Owners Association.</p> <p>(90) N.T. Taxi Merchants Association Ltd.</p> <p>(91) N.T. Taxi Owners & Drivers Fraternal Association.</p>

<u>Item</u>	<u>Column 1</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
4.	Transport functional constituency (Cont'd)	(92) N.T. Taxi Radio Service General Association. (93) N.W. Area Taxi Drivers & Operators Association. (94) New Hong Kong Tunnel Co., Ltd. (95) New Lantau Bus Co., (1973) Ltd. (96) New Territories Cargo Transport Association Ltd. (97) New World First Bus Services Limited. (98) North District Taxi Merchants Association. (99) Organisation of Hong Kong Drivers. (100) Public and Private Light Buses Driving Instructors' Society. (101) The Public Cargo Area Trade Association. (102) Public Light Bus General Association. (103) The Public Omnibus Operators Association Ltd. (104) Public Vehicle Merchants Fraternity Association. (105) River Trade Terminal Co. Ltd. (106) Route 3 (CPS) Company Limited. (107) Sai Kung Public Light Bus Drivers and Owners Association. (108) Sai Kung Taxi Operators Association Ltd. (109) CSX World Terminals Hong Kong Limited. (110) Serco Group (HK) Limited. (111) The "Star" Ferry Co., Ltd. (112) Sun Hing Taxi Radio Association. (113) Taxi Association Limited. (114) Taxi Associations Federation. (115) Taxi Dealers & Owners Association Ltd. (116) The Taxi Operators Association Ltd. (117) Taxicom Vehicle Owners Association Ltd. (118) Transport Infrastructure Management Limited. (119) Tuen Mun Public Light Bus Association. (120) Tung Yee Shipbuilding and Repairing Merchants General Association Limited. (121) United Friendship Taxi Owners & Drivers Association Ltd. (122) Wai Fat Taxi Owners Association Ltd. (123) Wai Yik H.K. & Kowloon and New Territories Taxi Owners Association. (124) West Coast International (Parking) Limited. (125) Western Harbour Tunnel Co. Ltd. (126) Wilson Parking (Hong Kong) Limited. (127) Wing Lee Radio Car Traders Association Ltd. (128) Wing Tai Car Owners & Drivers Association Ltd. (129) Wu Gang Shipping Co. Ltd. (130) Xiamen United Enterprises (H.K.) Ltd. (131) School Buses Operators Association Limited. (132) New World First Ferry Services Limited. (133) Shun Tak–China Travel Macau Ferries Limited. (134) Hong Kong Container Drayage Services Association

<u>Item</u>	<u>Column 1</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
4.	Transport functional constituency (<i>Cont'd</i>)	<p>Limited.</p> <p>(135) Hong Kong Kowloon & N.T. Grab – Mounted Lorries Association Limited.</p> <p>(136) Hong Kong Waste Disposal Industry Association.</p> <p>(137) HK Public – light Bus Owner & Driver Association.</p> <p>(138) Logistics Industry & Container Truck Drivers Union.</p> <p>(139) The Concrete Producers Association of Hong Kong Limited.</p> <p>(140) Hongkong Guangdong Boundary Crossing Bus Association Limited.</p> <p>(141) Tsui Wah Ferry Service Company Limited.</p> <p>(142) Quality Driver Training Centre Limited.</p> <p>(143) Public and Private Commercial Driving Instructors' Society.</p> <p>(144) Shun Tak – China Travel Ship Management Limited.</p> <p>(145) Cruise Ferries (HK) Limited.</p> <p>(146) Asia Airfreight Terminal Company Limited.</p> <p>(147) The Hong Kong Joint Branch of The Royal Institution of Naval Architects and The Institute of Marine Engineering, Science and Technology.</p> <p>(148) The Hongkong Salvage & Towage Company Limited.</p> <p>(149) The Institute of Chartered Shipbrokers, Hong Kong Branch.</p> <p>(150) Hongkong United Dockyards Limited.</p> <p>(151) Guangdong and Hong Kong Feeder Association Limited.</p> <p>(152) Hong Kong Right Hand Drive Motors Association Limited.</p> <p>(153) The Institute of the Motor Industry Hong Kong.</p> <p>(154) Hong Kong Vehicle Repair Merchants Association Limited.</p> <p>(155) Environmental Vehicle Repairers Association Limited.</p> <p>(156) The Hong Kong Taxi and Public Light Bus Association Limited.</p> <p>(157) Park Island Transport Company Limited.</p> <p>(158) Discovery Bay Road Tunnel Company Limited.</p> <p>(159) International Association of Transport Officers.</p> <p>(160) Hong Kong Express Airways Limited.</p> <p>(161) Hong Kong (Cross Border) Transportation Drivers' Association.</p> <p>(162) Hong Kong Logistics Association Limited.</p> <p>(163) Hong Kong Container Depot and Repairer Association Limited.</p> <p>(164) New World Parking Management Limited.</p> <p>(165) The Nautical Institute – Hong Kong Branch.</p> <p>(166) Worldwide Flight Services, Inc.</p> <p>(167) NT Taxi Operations Union.</p>

<u>Item</u>	<u>Column 1</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
4.	Transport functional constituency (<i>Cont'd</i>)	<p>(168) Sun Star Taxi Operators Association.</p> <p>(169) Taxi & P.L.B. Concern Group.</p> <p>(170) Tai Wo Motors Limited.</p> <p>(171) Tuen Mun District Tourists and Passengers Omnibus Operators Association Limited.</p> <p>(172) Tsuen Wan District Tourists and Passengers Omnibus Operators Association Limited.</p> <p>(173) Yuen Long District Tourists and Passengers Omnibus Operators Association Limited.</p> <p>(174) Kowloon District Tourists and Passengers Omnibus Operators Association Limited.</p> <p>(175) Hong Kong District Tourists and Passengers Omnibus Operators Association Limited.</p> <p>(176) Sino Parking Services Limited.</p> <p>(177) Urban Parking Limited.</p> <p>(178) Greater Lucky (HK) Company Limited.</p> <p>(179) China Hongkong and Macau Boundary Crossing Bus Association Limited.</p> <p>(180) Ground Support Engineering Limited.</p> <p>(181) Cathay Pacific Services Limited.</p> <p>(182) Cathay Pacific Catering Services (H.K.) Limited.</p> <p>(183) LSG Lufthansa Service Hong Kong Limited.</p> <p>(184) Gate Gourmet Hong Kong, Limited.</p> <p>(185) ECO Aviation Fuel Services Limited.</p> <p>(186) Hong Kong Aircraft Engineering Company Limited.</p> <p>(187) China Aircraft Services Limited.</p> <p>(188) Dah Chong Hong – Dragonair Airport GSE Service Limited.</p> <p>(189) Jardine Air Terminal Services Limited.</p> <p>(190) Service Managers Association.</p> <p>(191) Driving Instructors Association.</p> <p>(192) The Chamber of Hong Kong Logistics Industry Limited.</p> <p>(193) New Horizon School of Motoring Limited.</p> <p>(194) Leinam School of Motoring Limited.</p> <p>(195) TIML MOM Limited.</p> <p>(196) Hong Kong Taxi Association.</p> <p>(197) Chung Shing Taxi Limited.</p> <p>(198) Hong Kong Air Cargo Carrier Limited.</p> <p>(199) Hong Kong Dumper Truck Drivers Association.</p> <p>(200) Shun Fung Motors Investment Management Company Limited.</p> <p>(201) Taxi Drivers and Operators Association.</p>

<u>Item</u>	<u>Column 1</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
5.	Education functional constituency	<p>(1) Full-time academic staff engaged in teaching or research and administrative staff of equivalent rank in –</p> <p>(a) institutions of higher education funded through the University Grants Committee;</p> <p>(b) approved post secondary colleges registered under the Post Secondary Colleges Ordinance (Cap 320);</p> <p>(c) technical colleges established under the Vocational Training Council Ordinance (Cap 1130);</p> <p>(d) The Hong Kong Academy for Performing Arts;</p> <p>(e) The Open University of Hong Kong.</p> <p>(2) Full – time academic staff engaged in teaching or research and administrative staff of equivalent rank in the institutions which –</p> <p>(a) offer post secondary education leading to the award of any qualification entered into the Qualifications Register established under the Accreditation of Academic and Vocational Qualifications Ordinance (Cap 592); and</p> <p>(b) are set up by–</p> <p>(i) an institution of higher education funded through the University Grants Committee;</p> <p>(ii) The Hong Kong Academy for Performing Arts; or</p> <p>(iii) The Open University of Hong Kong.</p> <p>(3) Members of each of the following bodies –</p> <p>(a) Council of the University of Hong Kong;</p> <p>(b) Council of The Chinese University of Hong Kong;</p> <p>(c) Council of The Hong Kong University of Science and Technology;</p> <p>(d) Council of the City University of Hong Kong;</p> <p>(e) Council of The Hong Kong Polytechnic University;</p> <p>(f) Council of The Hong Kong Academy for Performing Arts;</p> <p>(g) Council of The Open University of Hong Kong;</p> <p>(h) the Vocational Training Council;</p> <p>(i) Council of The Education University of Hong Kong;</p> <p>(j) Council of the Hong Kong Baptist University;</p> <p>(k) Council of Lingnan University;</p> <p>(l) Board of Governors of the Hong Kong Shue Yan University;</p> <p>(m) Board of Governors of the Caritas Institute of Higher Education;</p> <p>(n) Board of Governors of the Chu Hai College of Higher Education;</p> <p>(o) Board of Governors of the Centennial College;</p> <p>(p) Board of Governors of the Tung Wah College;</p> <p>(q) Board of Governors of The Hang Seng University of Hong Kong;</p>

<u>Item</u>	<u>Column 1</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
5.	Education functional constituency (<i>Cont'd</i>)	<ul style="list-style-type: none"> (r) Board of Governors of the Hong Kong Nang Yan College of Higher Education; (s) Board of Governors of the HKCT Institute of Higher Education; (t) Board of Governors of the Gratia Christian College; (u) Board of Governors of Yew Chung College of Early Childhood Education. <ul style="list-style-type: none"> (4) Registered teachers registered under the Education Ordinance (Cap 279). (5) Permitted teachers engaged in full-time employment in schools registered or provisionally registered under the Education Ordinance (Cap 279). (6) Teachers and principals of schools entirely maintained and controlled by the Government. (7) Persons whose principal or only employment is that of full-time teaching with the following institutions– <ul style="list-style-type: none"> (a) technical institutes, industrial training centres or skills centres established under the Vocational Training Council Ordinance (Cap 1130); (b) (i) industrial training centres established under the repealed Industrial Training (Construction Industry) Ordinance (Cap 317) and maintained under the Construction Industry Council Ordinance (Cap 587); <li style="padding-left: 20px;">(ii) industrial training centres established under the Construction Industry Council Ordinance (Cap 587); (c) industrial training centres established under the Industrial Training (Clothing Industry) Ordinance (Cap 318); (d) Hong Chi Association-Hong Chi Pinehill Integrated Vocational Training Centre; (e) Caritas Lok Mo Integrated Vocational Training Centre of Caritas–Hong Kong incorporated under the Caritas–Hong Kong Incorporation Ordinance (Cap 1092). (8) Registered managers of schools registered under the Education Ordinance (Cap 279).
6.	Legal functional constituency	<ul style="list-style-type: none"> (1) Members of The Law Society of Hong Kong entitled to vote at general meetings of the Society. (2) Members of the Hong Kong Bar Association entitled to vote at general meetings of the Association. (3) Legal officers within the meaning of the Legal Officers Ordinance (Cap 87). (4) Persons appointed under section 3 of the Legal Aid Ordinance (Cap 91).

<u>Item</u>	<u>Column 1</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
6.	Legal functional constituency (<i>Cont'd</i>)	<p>(5) Persons deemed to be legal officers for the purpose of the Legal Officers Ordinance (Cap 87) by section 75(3) of the Bankruptcy Ordinance (Cap 6) or section 3(3) of the Director of Intellectual Property (Establishment) Ordinance (Cap 412).</p> <p>(6) The Legal Adviser of the Legislative Council Secretariat and his or her assistants who are in the full-time employment of The Legislative Council Commission and are barristers or solicitors as defined in the Legal Practitioners Ordinance (Cap 159).</p>
7.	Accountancy functional constituency	Certified public accountants registered under the Professional Accountants Ordinance (Cap 50).
8.	Medical functional constituency	<p>(1) Medical practitioners registered or deemed to be registered under the Medical Registration Ordinance (Cap 161).</p> <p>(2) Dentists registered, deemed to be registered or exempt from registration under the Dentists Registration Ordinance (Cap 156).</p>
9.	Health services functional constituency	<p>(1) Chiropractors registered under the Chiropractors Registration Ordinance (Cap 428).</p> <p>(2) Nurses registered or enrolled or deemed to be registered or enrolled under the Nurses Registration Ordinance (Cap 164).</p> <p>(3) Midwives registered or deemed to be registered under the Midwives Registration Ordinance (Cap 162).</p> <p>(4) Pharmacists registered under the Pharmacy and Poisons Ordinance (Cap 138).</p> <p>(5) Medical laboratory technologists registered under the Medical Laboratory Technologists (Registration and Disciplinary Procedure) Regulations (Cap 359 sub. leg. A).</p> <p>(6) Radiographers registered under the Radiographers (Registration and Disciplinary Procedure) Regulation (Cap 359 sub. leg. H).</p> <p>(7) Physiotherapists registered under the Physiotherapists (Registration and Disciplinary Procedure) Regulation (Cap 359 sub. leg. J).</p> <p>(8) Occupational therapists registered under the Occupational Therapists (Registration and Disciplinary Procedure) Regulations (Cap 359 sub. leg. B).</p> <p>(9) Optometrists registered under the Optometrists (Registration and Disciplinary Procedure) Regulation (Cap 359 sub. leg. F).</p>

<u>Item</u>	<u>Column 1</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
9.	Health services functional constituency (<i>Cont'd</i>)	<p>(10) Dental hygienists enrolled under the Ancillary Dental Workers (Dental Hygienists) Regulations (Cap 156 sub. leg. B).</p> <p>(11) Audiologists, audiology technicians, chiroprodists (also known as "podiatrists"), dental surgery assistants, dental technicians, dental technologists, dental therapists, dietitians, dispensers, mould laboratory technicians, orthoptists, clinical psychologists, educational psychologists, prosthetists, speech therapists and scientific officers (medical) who are in the service under the Government, or are employed in Hong Kong, at the following institutions–</p> <p>(a) Public hospitals within the meaning of the Hospital Authority Ordinance (Cap 113);</p> <p>(b) Hospitals registered under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap 165);</p> <p>(c) Clinics maintained or controlled by the Government or The Chinese University of Hong Kong or by the University of Hong Kong;</p> <p>(d) Services subvented by the Government.</p>
10.	Engineering functional constituency	<p>(1) Professional engineers registered under the Engineers Registration Ordinance (Cap 409).</p> <p>(2) Members of the Hong Kong Institution of Engineers entitled to vote at general meetings of the Institution.</p>
11.	Architectural, surveying, planning and landscape functional constituency	<p>(1) Architects registered under the Architects Registration Ordinance (Cap 408).</p> <p>(2) Members of The Hong Kong Institute of Architects entitled to vote at general meetings of the Institute.</p> <p>(3) Landscape architects registered under the Landscape Architects Registration Ordinance (Cap 516).</p> <p>(4) Members of The Hong Kong Institute of Landscape Architects entitled to vote at general meetings of the Institute.</p> <p>(5) Professional surveyors registered under the Surveyors Registration Ordinance (Cap 417).</p> <p>(6) Members of The Hong Kong Institute of Surveyors entitled to vote at general meetings of the Institute.</p> <p>(7) Professional planners registered under the Planners Registration Ordinance (Cap 418).</p> <p>(8) Members of The Hong Kong Institute of Planners entitled to vote at general meetings of the Institute.</p>

<u>Item</u>	<u>Column 1</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
12.	Labour functional constituency	Bodies that are trade unions registered under the Trade Unions Ordinance (Cap 332) of which all the voting members are employees.
13.	Social welfare functional constituency	Social workers registered under the Social Workers Registration Ordinance (Cap 505).
14.	Real estate and construction functional constituency	<p>(1) Members of The Real Estate Developers Association of Hong Kong entitled to vote at general meetings of the Association.</p> <p>(2) Members of The Hong Kong Construction Association, Limited entitled to vote at general meetings of the Association.</p> <p>(3) Members of The Hong Kong E&M Contractors' Association Limited entitled to vote at general meetings of the Association.</p>
15.	Tourism functional constituency	<p>Bodies that are:</p> <p>(1) travel industry members of the body known immediately before 1 April 2001 as the Hong Kong Tourist Association, entitled immediately before that date, under the constitution of that body in force immediately before that date, to vote at general meetings of that body.</p> <p>(2) members of the Travel Industry Council of Hong Kong entitled to vote at general meetings of the Council.</p> <p>(3) members of The Board of Airline Representatives in Hong Kong.</p> <p>(4) members of the Hong Kong Hotels Association entitled to vote at general meetings of the Association.</p> <p>(5) members of Federation of Hong Kong Hotel Owners Limited entitled to vote at general meetings of the Federation.</p>
16.	Commercial (first) functional constituency	Bodies that are members of The Hong Kong General Chamber of Commerce entitled to vote at general meetings of the Chamber.
17.	Commercial (second) functional constituency	Members of The Chinese General Chamber of Commerce entitled to vote at general meetings of the Chamber.
18.	Industrial (first) functional constituency	Members of the Federation of Hong Kong Industries entitled to vote at general meetings of the Federation.

<u>Item</u>	<u>Column 1</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
19.	Industrial (second functional constituency)	Bodies that are members of The Chinese Manufacturers' Association of Hong Kong entitled to vote at general meetings of the Association.
20.	Finance functional constituency	<p>Bodies that are:</p> <p>(1) banks within the meaning of the Banking Ordinance (Cap 155).</p> <p>(2) restricted licence banks within the meaning of the Banking Ordinance (Cap 155).</p> <p>(3) deposit-taking companies within the meaning of the Banking Ordinance (Cap 155).</p>
21.	Financial services functional constituency	<p>(1) Exchange participants of a recognized exchange company.</p> <p>(2) Members of The Chinese Gold & Silver Exchange Society entitled to vote at general meetings of the Society.</p>
22.	Sports, performing arts, culture and publication functional constituency	<p>(1) Statutory bodies and registered bodies (other than schools registered under the Education Ordinance (Cap 279) and bodies formed by such schools) that are members of the sports associations affiliated to the Sports Federation & Olympic Committee of Hong Kong, China.</p> <p>(2) Sports associations affiliated to the Sports Federation & Olympic Committee of Hong Kong, China but have no statutory bodies or registered bodies as members.</p> <p>(3) The following district sports associations:</p> <p>(a) Central & Western District Recreation & Sports Association;</p> <p>(b) Eastern District Recreation & Sports Advancement Association Ltd.;</p> <p>(c) The Federation of Tsuen Wan District Sports & Recreation Association Ltd.;</p> <p>(d) Islands District Sports Association;</p> <p>(e) Kowloon City District Recreation & Sports Council Limited;</p> <p>(f) Kwai Tsing District Sports Association Limited;</p> <p>(g) Kwun Tong Sports Promotion Association Ltd.;</p> <p>(h) Mong Kok District Cultural, Recreational and Sports Association Limited;</p> <p>(i) North District Sports Association Limited;</p> <p>(j) Sai Kung District Sports Association Ltd.;</p> <p>(k) Sha Tin Sports Association Ltd.;</p> <p>(l) Sham Shui Po Sports Association Limited;</p> <p>(m) Southern District Recreation and Sports Association Limited;</p>

<u>Item</u>	<u>Column 1</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
22.	Sports, performing arts, culture and publication functional constituency (Cont'd)	<p>(n) Taipo Sports Association Limited.;</p> <p>(o) Tuen Mun Sports Association Limited;</p> <p>(p) Wan Chai District Arts Cultural Recreational and Sports Association Limited;</p> <p>(q) Wong Tai Sin District Recreation & Sports Council;</p> <p>(r) Yaumatei and Tsimshatsui Recreation & Sports Association Ltd.;</p> <p>(s) Yuen Long District Sports Association Ltd.</p> <p>(4) Bodies listed in a Gazette notice currently in force made under section 3(5) of the Hong Kong Arts Development Council Ordinance (Cap 472) as organizations for the purpose of section 3(4) of that Ordinance.</p> <p>(5) Statutory bodies and registered bodies, the primary goal of which is the promotion of arts, and to which grants, sponsorship or performance fees have been approved by the Hong Kong Arts Development Council, the Urban Council, the Regional Council, the Provisional Urban Council, the Provisional Regional Council, the Leisure and Cultural Services Department or the Home Affairs Bureau during the relevant period.</p> <p>(6) The following district arts and culture associations:</p> <p>(a) Central and Western District Association for Culture and Arts;</p> <p>(b) Eastern District Arts Council Limited;</p> <p>(c) Kowloon City District Arts and Culture Council;</p> <p>(d) Kwai Chung and Tsing Yi District Culture and Arts Co-ordinating Association Limited;</p> <p>(e) Kwun Tong District Culture and Recreation Promotion Association;</p> <p>(f) North District Arts Advancement Association Limited;</p> <p>(g) Sai Kung Culture & Recreational Advancement Association;</p> <p>(h) Sha Tin Arts Association Limited;</p> <p>(i) Sham Shui Po Arts Association Limited;</p> <p>(j) Southern District Arts and Culture Association Limited;</p> <p>(k) Tai Po District Arts Advancement Association;</p> <p>(l) Tsuen Wan Culture & Recreation Co-ordinating Association Limited;</p> <p>(m) Tuen Mun Arts Promotion Association;</p> <p>(n) Wong Tai Sin District Arts Council;</p> <p>(o) Yau Ma Tei and Tsim Sha Tsui Culture and Arts Association Limited;</p> <p>(p) Yuen Long District Arts Committee.</p> <p>(7) Members of each of the following bodies entitled to vote at general meetings of the body–</p> <p>(a) Educational Booksellers' Association, Limited;</p>

<u>Item</u>	<u>Column 1</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
22.	Sports, performing arts, culture and publication functional constituency (Cont'd)	<ul style="list-style-type: none"> (b) The Hong Kong Publishers and Distributors Association; (c) Hong Kong Book & Magazine Trade Association Limited; (d) Hongkong Book and Stationery Industry Association Company Limited; (e) The Hong Kong Association of Professional Education Publishing Limited.
		(8) Members of the Hong Kong Publishing Federation Limited (other than those referred to in paragraph (7)) entitled to vote at general meetings of the Federation.
		(9) Members of each of the following bodies entitled to vote at general meetings of the body–
		<ul style="list-style-type: none"> (a) Hong Kong Motion Picture Industry Association Limited; (b) Hong Kong Film Awards Association Ltd.; (c) International Federation of the Phonographic Industry (Hong Kong Group) Limited; (d) Movie Producers and Distributors Association of Hong Kong Ltd.; (e) Music Publishers Association of Hong Kong Ltd.; (f) Hong Kong Theatres Association Ltd.; (g) Hong Kong Recording Industry Alliance Limited.
		(10) Corporate proprietors, the principal business of which is publication, registered under the Registration of Local Newspapers Ordinance (Cap 268).
		(11) Corporate proprietors of newspaper distributors licensed under the Newspapers Registration and Distribution Regulations (Cap 268 sub. leg. B).
		(12) Bodies that are holders of one or more of the following classes of licences granted under the Broadcasting Ordinance (Cap 562)–
		<ul style="list-style-type: none"> (a) licences to provide a domestic free television programme service; (b) licences to provide a domestic pay television programme service; (c) licences to provide a non – domestic television programme service.
		(13) Holders of licences granted under Part 3A of the Telecommunications Ordinance (Cap 106) (sound broadcasting licences).
		(14) All Stars Sports Association Ltd.
		(15) The Song Writers' Association of Hong Kong.
		(16) Artiste Training Alumni Association Limited.
		(17) Composers and Authors Society of Hong Kong Limited.
		(18) Friends of the Art Museum, The Chinese University of Hong Kong Limited.
		(19) The Friends of the Hong Kong Museum of Art.

<u>Item</u>	<u>Column 1</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
22.	Sports, performing arts, culture and publication functional constituency (Cont'd)	<p>(20) Hong Kong Film Directors' Guild Limited.</p> <p>(21) Hong Kong Anthropological Society.</p> <p>(22) Hong Kong Archaeological Society.</p> <p>(23) The Hong Kong Children's Choir.</p> <p>(24) Hong Kong Chinese Orchestra Limited.</p> <p>(25) Hong Kong Chinese Press Association.</p> <p>(26) Hong Kong & Macau Cinema and Theatrical Enterprise Association Limited.</p> <p>(27) Hong Kong Cinematography Lighting Association Limited.</p> <p>(28) Hong Kong Curators Association.</p> <p>(29) Hong Kong Dance Company Limited.</p> <p>(30) Hong Kong Federation of Journalists Ltd.</p> <p>(31) Hong Kong Festival Fringe Limited.</p> <p>(32) Hong Kong Film Academy.</p> <p>(33) Hong Kong Film Arts Association Limited.</p> <p>(34) Hong Kong History Society.</p> <p>(35) The Hong Kong Intellectual Property Society Limited.</p> <p>(36) Hong Kong Journalists Association.</p> <p>(37) Hong Kong Museum of Medical Sciences Society.</p> <p>(38) Hong Kong News Executives' Association, Limited.</p> <p>(39) Hong Kong P.E.N. (English) Centre.</p> <p>(40) Hong Kong Performing Artistes Guild Limited.</p> <p>(41) The Hong Kong Philharmonic Society Limited</p> <p>(42) Hong Kong Press Photographers Association.</p> <p>(43) Hong Kong Recreation Management Association Limited.</p> <p>(44) Hong Kong Repertory Theatre Limited.</p> <p>(45) Hong Kong Screen Writers' Guild Limited.</p> <p>(46) Hong Kong Sports Association of the Deaf Company Limited.</p> <p>(47) Hong Kong Sports Press Association Ltd.</p> <p>(48) Hong Kong Stuntman Association Limited.</p> <p>(49) The Hong Kong Tai Chi Association.</p> <p>(50) Hong Kong United Arts Entertainment Company Limited.</p> <p>(51) Min Chiu Society.</p> <p>(52) The New Territories Regional Sports Association.</p> <p>(53) The Newspaper Society of Hong Kong.</p> <p>(54) Pop-Music Authors Society of Hong Kong.</p> <p>(55) The Hong Kong Branch of the Royal Asiatic Society.</p> <p>(56) Sail Training Association of Hong Kong Limited.</p> <p>(57) Society of Cinematographers (Hong Kong) Limited.</p> <p>(58) Society of Film Editors (Hong Kong) Limited.</p> <p>(59) South China Film Industry Workers' Union.</p> <p>(60) South China Research Circle.</p> <p>(61) The Hong Kong Swimming Teachers' Association Limited.</p>

<u>Item</u>	<u>Column 1</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
22.	Sports, performing arts, culture and publication functional constituency (Cont'd)	(62) Videotage Limited. (63) Zuni Icosahedron. (64) Federation of Hong Kong Filmmakers Limited. (65) Hong Kong Movie Production Executives Association Limited. (66) Hong Kong Sports Institute Limited. (67) The Federation of Motion Film Producers of Hong Kong Limited.
23.	Import and export functional constituency	(1) Companies licensed under the Dutiable Commodities Ordinance (Cap 109) for the import or export, or import and export, of dutiable commodities. (2) Companies licensed under the Dutiable Commodities Ordinance (Cap 109) immediately before the commencement of the Dutiable Commodities (Amendment) (No. 2) Ordinance 2008 (16 of 2008) for the import, or import and export, of alcoholic liquors. (3) Companies registered under the Motor Vehicles (First Registration Tax) Ordinance (Cap 330) for the import of motor vehicles for use in Hong Kong. (4) Companies licensed under the Control of Chemicals Ordinance (Cap 145) for the import or export, or import and export, of controlled chemicals. (5) Members of each of the following bodies entitled to vote at general meetings of the body– (a) The Association of Hong Kong Photographic Equipment Importers Limited; (b) Hong Kong & Kowloon Steel and Metal Importers and Exporters Association Ltd.; (c) The Hong Kong Chinese Importers' & Exporters' Association; (d) The Hong Kong Exporters' Association; (e) Hong Kong General Association of Edible Oil Importers & Exporters Ltd.; (f) Hongkong Rice Importers & Exporters Association; (g) Hongkong Watch Importers' Association; (h) The Hong Kong Food, Drink & Grocery Association; (i) Hong Kong & Kowloon Light Industrial Products Importers & Exporters Association Limited; (j) Nanyang Importers and Exporters Association; (k) Hong Kong Industrial Production Trading Association Limited; (l) The Industrial Chemical Merchants' Association Limited; (m) Hong Kong Paper Association Limited; (n) The Wah On Exporters & Importers Association; (o) The Hong Kong Shippers' Council; (p) The Shippers' Association of Hong Kong.

<u>Item</u>	<u>Column 1</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
24.	Textiles and garment functional constituency	<p>(1) Corporate members of the Textile Council of Hong Kong Limited (other than those referred to in paragraph (2)(a) to (j)) entitled to vote at general meetings of the Council.</p> <p>(2) Corporate members of each of the following bodies entitled to vote at general meetings of the body–</p> <ul style="list-style-type: none"> (a) The Federation of Hong Kong Cotton Weavers; (b) The Federation of Hong Kong Garment Manufacturers; (c) Hong Kong Chinese Textile Mills Association; (d) The Hongkong Cotton Spinners Association; (e) Hong Kong Garment Manufacturers Association Ltd.; (f) Hongkong Knitwear Exporters & Manufacturers Association Limited.; (g) Hong Kong Woollen & Synthetic Knitting Manufacturers' Association, Ltd.; (h) The Hong Kong Association of Textile Bleachers, Dyers, Printers and Finishers Limited; (i) The Hong Kong Weaving Mills Association; (j) The Hong Kong General Chamber of Textiles Limited. <p>(3) Members of the Hong Kong Institution of Textile and Apparel Limited entitled to vote at general meetings of the Institution.</p> <p>(4) Textiles & Clothing manufacturers registered under the Factory Registration of the Trade and Industry Department for the purpose of applying for the certificate of Hong Kong origin.</p> <p>(5) Textiles traders who–</p> <ul style="list-style-type: none"> (a) are registered as textiles traders pursuant to regulation 5A of the Import and Export (General) Regulations (Cap 60 sub. leg. A); (b) have been so registered for a period of 12 months immediately before making the application for registration as an elector; and (c) are carrying on business as textiles traders specified in Schedule 4 to the Import and Export (General) Regulations (Cap 60 sub. leg. A).
25.	Wholesale and retail functional constituency	<p>Members of each of the following bodies entitled to vote at general meetings of the body–</p> <ul style="list-style-type: none"> (1) Anglo-Chinese Vegetable Wholesale Merchants Association Limited; (2) Association of Better Business & Tourism Services; (3) Cheung Sha Wan Poultry United Wholesalers Association Ltd.;

<u>Item</u>	<u>Column 1</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
25.	Wholesale and retail functional constituency (<i>Cont'd</i>)	<p>(4) Chinese Medicine Merchants Association Ltd.;</p> <p>(5) Chinese Merchants (H.K.) Association Limited;</p> <p>(6) Chinese Paper Merchants Association Limited;</p> <p>(7) The Cosmetic & Perfumery Association of Hong Kong Ltd.;</p> <p>(8) Eastern District Fresh Fish Merchants' Society;</p> <p>(9) Federation of Hong Kong Kowloon New Territories Hawkers Associations;</p> <p>(10) The Federation of Hong Kong Watch Trades and Industries Ltd.;</p> <p>(11) HK Vegetable Wholesaler Community;</p> <p>(12) Hong Kong and Kowloon Bamboo Goods Merchants Association Limited;</p> <p>(13) Hong Kong and Kowloon Electrical Appliances Merchants Association Ltd.;</p> <p>(14) Hong Kong Electro-Plating Merchants Association Limited;</p> <p>(15) Hong Kong & Kowloon European Dress Merchants Association;</p> <p>(16) Hong Kong & Kowloon Fresh Water Fish Merchants' & Buyers' Association Limited;</p> <p>(17) Hong Kong & Kowloon Fruit & Vegetable Employees & Employers Guild;</p> <p>(18) Hong Kong & Kowloon Furniture & Shop Fittings Merchants Association;</p> <p>(19) Hong Kong & Kowloon General Association of Liquor Dealers and Distillers;</p> <p>(20) Hong Kong & Kowloon Machine Made Paper Merchants Association Ltd.;</p> <p>(21) Hong Kong and Kowloon Machinery and Instrument Merchants Association Ltd.;</p> <p>(22) Hong Kong & Kowloon Marine Products Merchants Association Ltd.;</p> <p>(23) Hong Kong & Kowloon Plastic Products Merchants United Association Limited;</p> <p>(24) Hong Kong & Kowloon Poultry Dealers Guild;</p> <p>(25) The Hong Kong & Kowloon Provisions, Wine & Spirit Dealers' Association Limited;</p> <p>(26) Hong Kong and Kowloon Rattan Ware Merchants Association (Wing-Hing-Tong);</p> <p>(27) The Hong Kong and Kowloon Salt Merchants' Association;</p> <p>(28) Hong Kong & Kowloon Sauce & Preserved-Fruit Amalgamated Employers Association;</p> <p>(29) Hong Kong & Kowloon Tea Trade Merchants Association Ltd.;</p> <p>(30) Hong Kong & Kowloon Timber Merchants Association</p>

<u>Item</u>	<u>Column 1</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
25.	Wholesale and retail functional constituency (<i>Cont'd</i>)	<p>Limited;</p> <p>(31) Hong Kong & Kowloon Vermicelli & Noodle Manufacturing Industry Merchants' General Association Limited;</p> <p>(32) Hong Kong Art Craft Merchants Association, Ltd.;</p> <p>(33) Hong Kong Dried Seafood and Grocery Merchants Association Limited;</p> <p>(34) Hong Kong Dyestuffs Merchants Association Limited;</p> <p>(35) Hong Kong Egg Merchants Association (Fung-Kwai-Tong);</p> <p>(36) Hong Kong Embroidery Merchants Association Limited;</p> <p>(37) Hong Kong Flower Dealers & Workers Association;</p> <p>(38) Hong Kong Flower Retailers Association;</p> <p>(39) The Hong Kong Food Council Limited;</p> <p>(40) Hong Kong Fresh Fish Merchants Association;</p> <p>(41) Hong Kong Fur Federation;</p> <p>(42) Hong Kong Furniture & Decoration Trade Association Limited;</p> <p>(43) Hong Kong General Chamber of Pharmacy Limited;</p> <p>(44) Hong Kong Glass and Mirror Merchants and Manufacturers Association Company Limited;</p> <p>(45) Hong Kong Jewellers' & Goldsmiths' Association Limited;</p> <p>(46) The Federation of Hong Kong Footwear Limited.;</p> <p>(47) The Hong Kong Medicine Dealers' Guild;</p> <p>(48) Hong Kong Metal Merchants Association;</p> <p>(49) The Hong Kong Oil Merchants Association, Limited;</p> <p>(50) Hong Kong Paints & Pigments Merchants Association Ltd.;</p> <p>(51) Hong Kong Petroleum, Chemicals and Pharmaceutical Materials Merchants Association Ltd.;</p> <p>(52) Hong Kong Photo Marketing Association Limited;</p> <p>(53) Hong Kong Piece Goods Merchants' Association;</p> <p>(54) Hong Kong Plastic Material Suppliers Association Ltd.;</p> <p>(55) Hong Kong Plumbing and Sanitary Ware Trade Association Ltd.;</p> <p>(56) Hong Kong Provision & Grocery General Commercial Chamber;</p> <p>(57) Hong Kong Record Merchants Association Ltd.;</p> <p>(58) Hong Kong Rice Suppliers' Association Limited;</p> <p>(59) Hong Kong Retail Management Association Limited;</p> <p>(60) Hong Kong Yee Yee Tong Chinese Medicine Merchants Association Ltd.;</p> <p>(61) The Hong Kong & Kowloon General Merchandise Merchants' Association Limited;</p> <p>(62) Hongkong Kowloon New Territories & Overseas Fish Wholesalers Association Limited;</p> <p>(63) The Industrial Chemical Merchants' Association Limited;</p>

<u>Item</u>	<u>Column 1</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
25.	Wholesale and retail functional constituency (<i>Cont'd</i>)	<p>(64) Kowloon Cheung Sha Wan Wholesale Vegetable Market (Importers) Recreation Club Limited;</p> <p>(65) Kowloon Fresh Fish Merchants Association Limited;</p> <p>(66) The Kowloon Pearls, Precious Stones, Jade, Gold & Silver Ornament Merchants Association;</p> <p>(67) Kowloon Poultry Laan Merchants Association;</p> <p>(68) The Merchants Association of First Wholesalers/Jobbery of Imported Fresh Fruits & Vegetables Limited;</p> <p>(69) Mongkok Vegetable Wholesale Merchants Association Company Limited;</p> <p>(70) The Motor Traders Association of Hong Kong;</p> <p>(71) Nam Pak Hong Association;</p> <p>(72) Po Sau Tong Ginseng & Antler Association Hong Kong Ltd.;</p> <p>(73) The Rice Merchants' Association of Hong Kong Limited;</p> <p>(74) Shaukiwan Fishery Merchants Association;</p> <p>(75) Kowloon Fruit & Vegetable Merchants Association Limited;</p> <p>(76) The Hong Kong And Kowloon Electric Trade Association;</p> <p>(77) Hong Kong Poultry Wholesalers Association;</p> <p>(78) Diamond Federation of Hong Kong, China Limited;</p> <p>(79) Tobacco Association of Hong Kong Limited;</p> <p>(80) Hong Kong Chinese Prepared Medicine Traders Association Limited;</p> <p>(81) Hong Kong Chinese Medicine Industry Association Limited;</p> <p>(82) Hong Kong Chinese Patent Medicine Manufacturers' Association Ltd.</p>

<u>Item</u>	<u>Column 1</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
26.	Information technology functional constituency	<p>(1) Distinguished Fellows, Fellows and Full Members of the Hong Kong Computer Society entitled to vote at general meetings of the Society.</p> <p>(2) Fellows, Members and Graduate Members of Information Technology Division of the Hong Kong Institution of Engineers who are entitled to vote at general meetings of the Division.</p> <p>(3) Professional Members of the Association for Computing Machinery, Hong Kong Chapter entitled to vote at general meetings of the Association.</p> <p>(4) Fellows, Senior Members and Full Members of the Institute of Electrical and Electronics Engineers, Inc., Hong Kong Section, Computer Chapter entitled to vote at general meetings of the Institute.</p> <p>(5) Fellows, Senior Members and Full Members of the Institute of Electrical and Electronics Engineers, Inc., Hong Kong Section, Hong Kong Joint Chapter on Circuits and Systems/Communications entitled to vote at general meetings of the Institute.</p> <p>(6) Honorary Fellows, Fellows and Members of The Institution of Engineering and Technology Hong Kong entitled to vote at general meetings of the Institution who are either –</p> <p style="padding-left: 40px;">(a) persons registered as Chartered Engineers with the Engineering Council UK; or</p> <p style="padding-left: 40px;">(b) Corporate Members of The Institution of Electrical Engineers Hong Kong (IEE Hong Kong) before 15 October 2002.</p> <p>(7) Fellows, Members and Associate Members of The British Computer Society (Hong Kong Section) Limited entitled to vote at general meetings of the Society.</p> <p>(8) Fellows, Senior Professional Members and Professional Members of The Hong Kong Association for Computer Education entitled to vote at general meetings of the Association.</p> <p>(9) Full Members (Information Technology) of the Hong Kong Society of Medical Informatics Limited entitled to vote at general meetings of the Society.</p> <p>(10) Full Members of the Information and Software Industry Association Limited entitled to vote at general meetings of the Association.</p> <p>(11) The eligible persons of the following bodies –</p> <p style="padding-left: 40px;">(a) Hong Kong Software Industry Association Limited;</p> <p style="padding-left: 40px;">(b) Information Systems Audit and Control Association China Hong Kong Chapter Limited;</p> <p style="padding-left: 40px;">(c) Internet Professional Association Limited;</p> <p style="padding-left: 40px;">(d) Professional Information Security Association.</p>

<u>Item</u>	<u>Column 1</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
26.	Information technology functional constituency (Cont'd)	<p>(12) Corporate members of each of the following bodies entitled to vote at general meetings of the body–</p> <p>(a) Hong Kong Information Technology Federation Limited;</p> <p>(b) Hong Kong Internet Service Providers Association Limited;</p> <p>(c) Hong Kong Radio Paging Association Ltd.;</p> <p>(d) Communications Association of Hong Kong Limited;</p> <p>(e) Hong Kong Wireless Technology Industry Association Limited;</p> <p>(f) The Society of Hong Kong Services-based Operators Limited.</p> <p>(13) Bodies that are holders of one or more of the following classes of licences granted by the Communications Authority under the Telecommunications Ordinance (Cap 106)–</p> <p>(a) Services-Based Operator Licences;</p> <p>(b) Public Radiocommunications Service licences;</p> <p>(c) Satellite Master Antenna Television licences;</p> <p>(d) Broadcast Relay Station licences;</p> <p>(e) Broadcast Radio Relay Station licences;</p> <p>(f) Carrier licences.</p> <p>(g) Wireless Internet of Things licences</p> <p>(14) Members of the Hong Kong Information Technology Joint Council Limited entitled to vote at general meetings of the Council.</p> <p>(15) Fellows and Full Members of the Information Security and Forensics Society entitled to vote at general meetings of the Society.</p> <p>(16) APT Satellite Company Limited.</p> <p>(17) Asia Satellite Telecommunications Company Limited.</p>
27.	Catering functional constituency	<p>(1) Holders of food business licences under the Public Health and Municipal Services Ordinance (Cap 132).</p> <p>(2) The Association for Hong Kong Catering Services Management Limited.</p> <p>(3) The Association of Restaurant Managers Limited.</p> <p>(4) The Hong Kong Restaurant and Eating House Merchants General Association.</p> <p>(5) Hong Kong Catering Industry Association Limited.</p>
28.	District Council (first) functional constituency	Members of the District Councils established under the District Councils Ordinance (Cap 547) who are elected under Part V of that Ordinance.

<u>Item</u>	<u>Column 1</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
29.	District Council (second) functional constituency	Persons who are registered electors for GCs but not registered as electors for any of the FCs specified in section 20(1)(a) to (zb) of the LCO.

Note : (1) In item 22 of this Appendix–

- (a) “registered body” (註冊團體) means a body which is registered or exempt from registration under, or incorporated by, any laws of Hong Kong.
- (b) “relevant period” (有關期間), in relation to a statutory body or registered body, means the period from 1 April 1994 to the date on which the statutory body or registered body applies for registration as an elector of the sports, performing arts, culture and publication functional constituency; or if the statutory body or registered body applies for such registration on or after 18 July 2003, the period of 6 years immediately preceding the date on which it so applies.
- (c) “statutory body” (法定團體) means a body established or constituted by or under the authority of an Ordinance.

(2) In item 26(11) of this Appendix, the “eligible persons” means–

- (a) Hong Kong Software Industry Association Limited–Full Members, the major business of which, as confirmed by the Association, has been in the research, development or application of information technology or computer software during the relevant period; and which are entitled to vote at general meetings of the Association;
- (b) Information Systems Audit and Control Association China Hong Kong Chapter Limited – Ordinary Members who are confirmed by the Association to have been holders of the Certified Information Systems Auditor Certification (CISA) during the relevant period; and entitled to vote at general meetings of the Association;
- (c) Internet Professional Association Limited – Members who are confirmed by the Association to have had experience in the information technology field, as specified in the constitution of the Association, during the relevant period; and entitled to vote at general meetings of the Association; and
- (d) Professional Information Security Association – Full Members who are confirmed by the Association to have been holders of the Certified Information Systems Security Professional Certification (CISSP) during the relevant period; and entitled to vote at general meetings of the Association,

where the “relevant period”, in relation to a person, means the period of 4 years immediately preceding the date on which that person applies for registration as an elector of the information technology functional constituency.

The Preferential Elimination System of Voting
(applicable to the election of the 4 Special Functional
Constituencies) - How Votes Are Counted
(with Annex showing Working Examples)

1. All valid ballot papers will be sorted with reference to the candidate for whom the first preference vote has been recorded.
2. The result of an election will be ascertained by a count of the first preference votes received by each of the candidates. The candidate who receives an absolute majority (i.e. over 50%) of all the first preference votes received by the candidates will be declared elected (see Example 1 in the Annex). However, where each of the ballot papers contains only a first preference vote without any other valid preference marked on it, the candidate who obtains the highest number of the first preference votes will be elected.
3. Where no candidate has received an absolute majority of all the first preference votes received by the candidates:
 - (a) If each of the candidates has received an equal number of first preference votes, the result of the election will be determined by the drawing of lots (see paras. 3.2 to 3.4 in the Annex).
 - (b) Otherwise, an elimination process accompanied with a transfer of votes will be carried out, i.e. the candidate(s) with the least number of votes will be eliminated and his/her/their votes will be transferred to the other (remaining) candidates according to the next available preference recorded on his/her/their ballot papers (see Example 2 in the Annex).
4. The process in para. 3(b) above will be repeated until:
 - (a) a candidate obtains an absolute majority of the aggregate of the total number of votes (both preference votes and transferred votes) – that candidate will then be declared elected;

- (b) only one candidate is remaining – he/she shall be elected; or
- (c) each of the remaining candidates has received an equal number of votes (i.e. the total number of the first preference votes and the transferred votes), in which case the result of the election will be determined by lot.

The Preferential Elimination System of Voting**WORKING EXAMPLES****Example 1** (where an absolute majority is obtained at the first count)

1.1 At the first count, only first preference votes are counted. The results are as follows :-

First Count	Exhausted Ballot Papers	Valid Ballot Papers	A Votes %	B Votes %	C Votes %	D Votes %	E Votes %
Total Number of Votes	-	100	51 51.00	29 29.00	10 10.00	7 7.00	3 3.00
			Elected				

1.2 Candidate A is elected as he/she has obtained an absolute majority (over 50%) of all the first preference votes.

Example 2 (where an elimination process and a transfer of votes take place)

2.1 In this example, the results of the first count in which only first preference votes are counted are as follows :-

First Count	Exhausted Ballot Papers	Valid Ballot Papers	A Votes %	B Votes %	C Votes %	D Votes %	E Votes %
Total Number of Votes	-	100	3 3.00	2 2.00	44 44.00	44 44.00	7 7.00

2.2 No candidate has obtained an absolute majority of all the first preference votes. Candidate B, who has obtained the least number of first preference votes, is eliminated.

2.3 A second count is then conducted. The 2 ballot papers which show Candidate B as the first preference are transferred to the remaining Candidates (A, C,

D and E) according to the next available (second) preference shown on them. For any ballot papers which express no available preference for any of the remaining candidates or where the next available preference is not clear (e.g. where there is no consecutive preference or where the same preference is marked for 2 or more candidates), they are set aside as "exhausted" and are excluded from any subsequent counting of the total number of valid votes for the purpose of calculating an absolute majority of votes of the winning candidate.

2.4 It is assumed that the next available (second) preferences shown on these 2 ballot papers are as follows :-

<u>Candidates of next available preference</u>	<u>Number of votes</u>
A	0
C	1
D	1
E	0
Nil	<u>0</u> (exhausted)
	2

2.5 The results of the second count are as follows :-

Second Count	Exhausted Ballot Papers	Valid Ballot Papers	A Votes %	C Votes %	D Votes %	E Votes %
Own 1st preference votes	-	98	3	44	44	7
Preference votes transferred from Candidate B	0	2	0	1	1	0
Total Number of Votes	0	100	3 3.00	45 45.00	45 45.00	7 7.00

2.6 Still no candidate has obtained an absolute majority of all the valid votes in circulation. Candidate A, who has obtained the least total number of votes

at this stage, is eliminated.

2.7 A third count is then conducted. The 3 ballot papers which show Candidate A as the first preference are transferred to the remaining Candidates (C, D and E) according to the next available (second) preference marked on them. If any of these ballot papers shows Candidate B who has already been eliminated at the first count as the 2nd preference, it is transferred to one of the remaining candidates according to the next available (third) preference shown on it. It is assumed that the next available preferences for the remaining candidates shown on the 3 ballot papers under Candidate A are as follows :-

<u>Candidates of next available preference</u>	<u>Number of votes</u>
C	2
D	0
E	0
Nil	<u>1</u> (exhausted)
	3

2.8 The results of the third count are as follows :-

Third Count	Exhausted Ballot Papers	Valid Ballot Papers	C		D		E	
			Votes	%	Votes	%	Votes	%
Own 1st preference votes	-	95	44		44		7	
Preference votes transferred from Candidate B	0	2	1		1		0	
Preference votes transferred from Candidate A	1	2	2		0		0	
Total Number of Votes	1	99	47	47.48	45	45.45	7	7.07

2.9 Still no candidate has obtained an absolute majority of all the valid votes in circulation. Candidate E, who has obtained the least total number of votes at this stage, is eliminated.

2.10 A fourth count is then conducted. The 7 ballot papers which show Candidate E as the first preference are transferred to the remaining Candidates C and D according to the next available (second) preference marked on them. If any of these ballot papers shows Candidate B or Candidate A (both have already been eliminated) as the 2nd preference, it is transferred to one of the remaining candidates according to the next available (third) preference shown on it. If any of these ballot papers shows Candidate A and Candidate B as 2nd and 3rd preferences (or vice versa), it is transferred to the remaining candidates according to the next available (fourth) preferences shown on it. It is assumed that the next available preference shown after Candidate E for the remaining candidates on the 7 ballot papers are as follows :-

<u>Candidates of next available preference</u>	<u>Number of votes</u>
C	4
D	2
Nil	<u>1</u> (exhausted)
	7

2.11 The results of the fourth count are as follows :-

Fourth Count	Exhausted Ballot Papers	Valid Ballot Papers	C		D	
			Votes	%	Votes	%
Own 1st preference votes	-	88	44		44	
Preference votes transferred from Candidate B	0	2	1		1	
Preference votes transferred from Candidate A	1	2	2		0	
Preference votes transferred from Candidate E	1	6	4		2	
Total Number of Votes	2	98	51	52.04	47	47.96

2.12 Candidate C has now obtained an absolute majority of all the valid votes in circulation and is declared elected.

2.13 The following table shows the entire counting process :-

	Exhausted Ballot Papers	Valid Ballot Papers	A		B		C		D		E	
			Votes	%	Votes	%	Votes	%	Votes	%	Votes	%
First Count	-	100	3	3.00	2 2.00 Eliminated		44 44.00		44 44.00		7 7.00	
Second Count	0	2	0				1		1		0	
Total Number of votes	0	100	3	3.00			45 45.00		45 45.00		7 7.00	
Third Count	1	2					2		0		0	
Total Number of votes	1	99					47 47.48		45 45.45		7 7.07 Eliminated	
Fourth Count	1	6				4		2				
Total Number of votes	2	98				51 52.04		47 47.96				
							Elected					

The Drawing of Lots

3.1 The result of the election will be determined by the drawing of lots if :-

- (a) in the first count, no candidate has received an absolute majority of all the first preference votes received by the candidates and each of the

candidates has received an equal number of first preference votes; or

- (b) after the elimination process and the transfer of votes have been carried out, no candidate has received an absolute majority of the aggregate of the total number of votes and each of the remaining candidates has received an equal number of votes (i.e. the total number of the first preference votes and the transferred votes).

3.2 10 lots will be used, each being allocated a number ranging from "1" to "10". All lots will be placed in an empty opaque bag.

3.3 The candidates concerned will take turn (in the order in which their names are listed on the ballot paper) to draw a lot, which will be put back into the bag after the Returning Officer has recorded the result and before the next candidate makes his/her draw. The candidate whose lot carries the higher number will emerge as the winner. Number "1" is the smallest number. Number "10" is the highest number.

3.4 This method as to how lots should be drawn allows each candidate to have an equal opportunity to try his/her luck. A candidate may even by chance draw the same lot as his/her opponent. In such an event, a second draw will be conducted (for detailed arrangement, please make reference to para. 3.50 (a) and (b) of Chapter 3).

**The Combined Polling Arrangements -
Polling Stations for Various Kinds of Electors
in the General Election**

1. The general election consists of elections of 5 geographical constituencies (“GCs”), the District Council (second) functional constituency (“DC (second) FC”), 24 ordinary functional constituencies (“ordinary FCs”) and 4 special functional constituencies (“SFCs”).
2. Elections of GCs and the DC (second) FC adopt the list system of proportional representation. For the 24 ordinary FCs, the first past the post voting system is applicable to them. Each of the 4 SFCs has a small electorate and the voting system applicable to them is the preferential elimination system.
3. An elector can simply be an elector of the GC, but an individual elector of the FCs must be a registered elector for a GC, and have been registered and remain qualified for the FCs.
4. A person cannot be an elector of more than one of the FCs.
5. All electors of the 5 GCs and DC (second) FC are individuals. However, some of the 24 ordinary FCs and 4 SFCs have corporate electors. A corporate elector can only cast its concerned FC vote by an authorised representative (“AR”) it has appointed. An AR must be a GC elector (see para. 3.19 of Chapter 3). A person who is an AR of the corporate electors for one FC cannot be AR of the corporate electors for another FC, but he/she can be an elector of another FC. Therefore, a person can be an FC elector and also an AR of another FC.
6. A one-stop service is provided, so that an elector only needs to go to one polling station to cast all the votes which he/she is entitled to cast. Under the combined polling arrangement, each GC elector is allocated to a polling station according to his/her residential address in the final register for GCs, save for registered electors imprisoned or held in custody by the law enforcement agencies who will be assigned to vote at the appropriate dedicated polling stations. Each GC elector will be issued at the polling station or the dedicated polling station the number of ballot papers to which he/she is entitled as the GC

elector, elector and/or AR of an FC, as the case may be. There will be no other polling station designated for any of the FCs; and their electors and ARs will have to cast their votes in polling stations designated for GCs.

7. A cardboard to which a chop with a tick “✓” is attached and a pen for marking the SFC ballot papers, where appropriate, will be provided to each person at the same time as he/she is issued with one or more ballot paper, in order to ensure that he/she must insert the ballot paper(s) issued to him/her in the ballot boxes before he/she leaves the polling station. A **green** cardboard will be issued to a person with 1 GC ballot paper only, a **white** cardboard will be issued to a person with 1 GC ballot paper and 1 DC (second) FC ballot paper, a **red** cardboard to a person with 1 GC ballot paper and 1 FC (other than DC (second) FC) ballot paper and a **blue** cardboard to a person with 1 GC ballot paper and 2 FC ballot papers. The cardboard with the chop and the pen for marking the SFC ballot papers, where appropriate, will have to be handed back by the person to the polling staff manning the ballot boxes after he/she has inserted his/her ballot paper(s) into the ballot box(es) before leaving the polling station.

8. There are going to be 3 kinds of ballot boxes in different colours, in any polling station:
 - (a) ballot box for the GCs;
 - (b) ballot box for the DC (second) FC; and
 - (c) ballot box for the ordinary FCs/SFCs (combined).

9. The polling arrangements, in their entirety, consist of only 5 scenarios. Each of the scenarios is explained below, and a table containing the 5 scenarios is also provided for easy reference.

THE 5 SCENARIOS**At a local GC polling station or a dedicated polling station :**

1. **A GC elector who has only his/her GC vote** - 1 GC ballot paper for the concerned GC. [The person shall insert his/her GC ballot paper into the GC ballot box.]
2. **A DC (second) FC elector** - 1 GC ballot paper for the concerned GC + 1 DC (second) FC ballot paper. [The person shall insert his/her GC ballot paper into the GC ballot box and his/her DC (second) FC ballot paper into the DC (second) FC ballot box.]
3. **A DC (second) FC elector who is also an AR of an ordinary FC/SFC** - 1 GC ballot paper for the concerned GC + 1 DC (second) FC ballot paper + 1 ordinary FC/SFC ballot paper. [The person shall insert his/her GC ballot paper into the GC ballot box, his/her DC (second) FC ballot paper into the DC (second) FC ballot box and his/her another FC ballot paper into the ordinary FC/SFC ballot box.]
4. **An ordinary FC/SFC elector/AR** - 1 GC ballot paper for the concerned GC + 1 ordinary FC/SFC ballot paper. [The person shall insert his/her GC ballot paper into the GC ballot box and his/her ordinary FC/SFC ballot paper into the ordinary FC/SFC ballot box.]
5. **An ordinary FC/SFC elector who is also an AR of another ordinary FC/SFC** - 1 GC ballot paper for the concerned GC + 1 ordinary FC/SFC ballot paper + 1 ordinary FC/SFC ballot paper as an AR. [The person shall insert his/her GC ballot paper into the GC ballot box, and both his/her ordinary FC/SFC ballot papers into the ordinary FC/SFC ballot box.]

The 5 Scenarios of Polling Arrangements

Type of Elector/AR			No. of Ballot Papers Issued	Cardboard Issued
GC	DC (second) FC	Ordinary FC / SFC		
Yes			1	Green
Yes	Elector		2	White
Yes		Elector or AR	2	Red
Yes	Elector	AR	3	Blue
Yes		Elector and AR	3	Blue

**Submission Method, Formats and Standard on Posting
Electronic Copy of Election Advertisement and Relevant Information
onto an Open Platform for Public Inspection
(with Annexes I and II on the guidelines and basic layout
design requirements for Candidate's Platform)**

1. To comply with the public inspection requirement governing election advertisements (“EAs”) under the electronic submission method as stipulated in s 105(2) of Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap 541D), a candidate must post the following EA particulars as applicable, **within one working day**^{Note 1} 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 each EA that is published through an open platform^{Note 2} (the hyperlink to the specific EA published should be provided, rather than the hyperlink to the entire election website or page of the social media) 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/printed
 as applicable;

^{Note 1} A “working day” means any day other than a general holiday or Saturday.

^{Note 2} 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.

- (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 allocation of designated spots); and
- (e) an electronic copy each of the documents providing consent of support.

Central Platform

2. If a candidate/list of candidates chooses to post the EA particulars onto the Central Platform, he/she/they must comply with the requirements set out in the ensuing paragraphs.

Submission Method

3. A candidate/list of candidates is required to apply to the CEO in a specified form for creation of an account to access the Central Platform before he/she/they can post EA particulars onto the platform for public inspection. Only one account will be created for each candidate/list of candidates. For a list of candidates, any candidate on the list can apply on behalf of the list for creation of an account but all candidates on the list can access the platform by using the registered username and password.

4. The CEO will inform the candidate/list of candidates concerned upon creation of the account and will provide a username and two sets of passwords (which can subsequently be changed by the relevant candidate) to the candidate/list of candidates concerned **within 3 working days** upon receiving an application. The candidate/list of candidates 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/list of candidates 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 EAs or other documents to be included in a submission. If subsequent correction to any EA particulars in a submission is required, the candidate/list of candidates 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 3 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 (Megabyte)**. Otherwise, the submission will be rejected.

8. Files included in a submission may be compressed using a file format of Zip (.zip), RAR (.rar) 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); or
- (d) Plain Text (TXT)

Graphics/Images

- (e) Graphics Interchange Format (GIF);
- (f) Joint Photographic Experts Group (JPEG);
- (g) Tag Image File Format (TIFF); or
- (h) Portable Network Graphics (PNG)

Audio

- (i) Waveform Audio Format (WAV); or
- (j) MPEG-1 Audio Layer 3 (MP3);

Video

- (k) Audio Video Interleave (AVI); or
- (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 visual impairment 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/list of candidates chooses to maintain a platform of his/her/their own for the posting of EA particulars for public inspection, he/she/they 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. Candidates/lists of candidates of different geographical/functional constituencies are also allowed to use a common platform but candidates/lists of candidates concerned are advised to ensure that their EA particulars should be presented in a way that will not cause confusion to the public during the inspection process. The EA particulars posted onto 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 3 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 and 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/list of candidates is solely responsible for (and that the CEO has no responsibility to him/her/them 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/list of candidates or which has been contaminated with computer virus after the submission. In case the removal is due to computer virus contamination, the candidate/list of candidates will be informed to upload the relevant EA particulars onto the Central Platform again.

19. Candidates should observe all subsisting 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.

20. If a candidate/list of candidates posts the hyperlink of an EA onto the Central Platform or Candidate's Platform, he/she/they must ensure that the hyperlink is valid and the relevant website on which the EA is uploaded continues to operate until the end of the period for which copies of election returns are available for inspection pursuant to section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554)^{Note 3} to facilitate public inspection of the EAs.

^{Note 3} Pursuant to section 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554), Chief Electoral Officer must keep all the copies of the election returns available for the public inspection during ordinary business hours, until the 60th 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 for the simplified relief arrangement for candidates).

Points to Note for Building Candidate's Platform**General**

1. The name of the election should be shown on the candidate's platform, e.g. 20XX Legislative Council General Election/20XX Legislative Council By-election (XX Geographical Constituency/Functional Constituency).
2. The name of the geographical/functional constituency should be shown on the candidate's platform.
3. The name(s) of the candidate(s) concerned should be shown on the candidate's platform. For a list of candidates, all the names should be shown.
4. The candidate number or alphabet/candidate list number should be shown on the candidate's platform once available.
5. 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.
6. The required information to be shown for each EA can be found in **Annex II**.
7. The corrected EA particulars should be posted alongside or beneath the original version.
8. 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, the 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, the 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.
9. The file format and computer instruction should follow the details shown at Appendix 5 of the Guidelines on Election-related Activities in respect of the Legislative Council Election.
10. Sensitive personal data should not be posted onto the candidate's platform. For example, any Hong Kong Identity Card Number shown on the consent form should be covered before uploading onto the candidate's platform.
11. 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

1. To guard against intruder attacks, the candidate's platform should be protected by firewall and/or Intrusion Protection System.
2. All files posted onto the candidate's platform should be properly scanned by anti-virus software before posting.
3. To protect against data loss, please conduct regular backup.
4. The hyper-links to external websites should also be checked regularly in order to ensure that they are up-to-date.
5. For more information and resources on the information security on the web, please refer to www.infosec.gov.hk.

Accessibility

1. The candidate's platform should be accessible by browsers and operating systems commonly used in personal computers.
2. For any electronic files containing images, they should be of sufficient resolution to ensure that the content is both legible and readable to readers.
3. 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.
4. The candidate's platform should be accessible to persons with visual impairment as far as possible.

候選人平台建議版面設計 Proposed Layout Design of Candidate’s Platform

選舉 Election: 20XX 年*立法會換屆選舉／立法會補選(XX 地方選區／功能界別)
20 XX* Legislative Council General Election/Legislative Council By-election (XX Geographical Constituency/ Functional Constituency)

地方選區／功能界別名稱 (註 1)
Name of Geographical Constituency/Functional Constituency (Note1): 香港島 HONG KONG ISLAND

候選人名單編號 Candidate List No.: 1
候選人姓名 Name(s) of Candidate(s): (a) 陳大文 Chan Tai Man (b) 李小明 Lee Siu Ming
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	修正日期 Date of Correction (dd-mm-yyyy)	選舉廣告 類別 Election Advertisement Type	製作/ 印刷日期 Date of Production/ Printing (dd-mm-yyyy)	尺寸/ 面積 Size/ Dimension	製作數量/ 印刷的 文本數目 Quantity Produced/ Number of Copies/ Printed	發布數量/ 發布的文本 數目 Quantity Published/ Number of Copies Published	發布日期 Date of Publication (dd-mm-yyyy)	發布方式 Manner of Publication	製作人/ 印刷人的 姓名或名稱 Name of Producer/ Printer	製作人/ 印刷人的 地址 Address of Producer/ Printer	選舉廣告 檔案/連結 Election Advertisement File/Link	准許/授權文 件 Permission/ Authorisation Document	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	15-7-20XX	A4	100	100	17-8-20XX	街頭派發 Distributed on street	AA 印刷公司 AA Printing Company	地址 Address	File1.jpg	-	-
2	-	橫額 Banners	11-7-20XX	1 米 x 2.5 米 1m x 2.5m	20	20	17-8-20XX	懸掛於路邊 鐵欄 Hung on roadside railing	BB 製作公司 BB Producer	地址 Address	File2.jpg	Authorisation .jpg	-
註 2 Note2	18-8-20XX	-	-	-	-	-	-	-	-	-	File2 (Revised).jpg		-
3	-	電子海報 Electronic posters	10-7-20XX	10Mb	1501	3	17-8-20XX	Facebook, Twitter, Instagram	CC 廣告設計 公司 CC Advertising Company	地址 Address	http://www. XXX.com.hk/ poster.jpg	Permissi on.jpg	-

註 1：只適用於立法會換屆選舉。 Note 1: Only applicable to Legislative Council general elections.
註 2：只顯示曾被修正的資料。 Note 2: 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 20-8-20XX 撤銷 Consent revoked on 20-8-20XX

Methods of Folding of Election Mail

郵寄選舉郵件應採用的摺疊方法⁽¹⁾

Figure 1 : Folder of A4 (296mm) size
圖示一：對摺的A4（296毫米）尺寸紙張

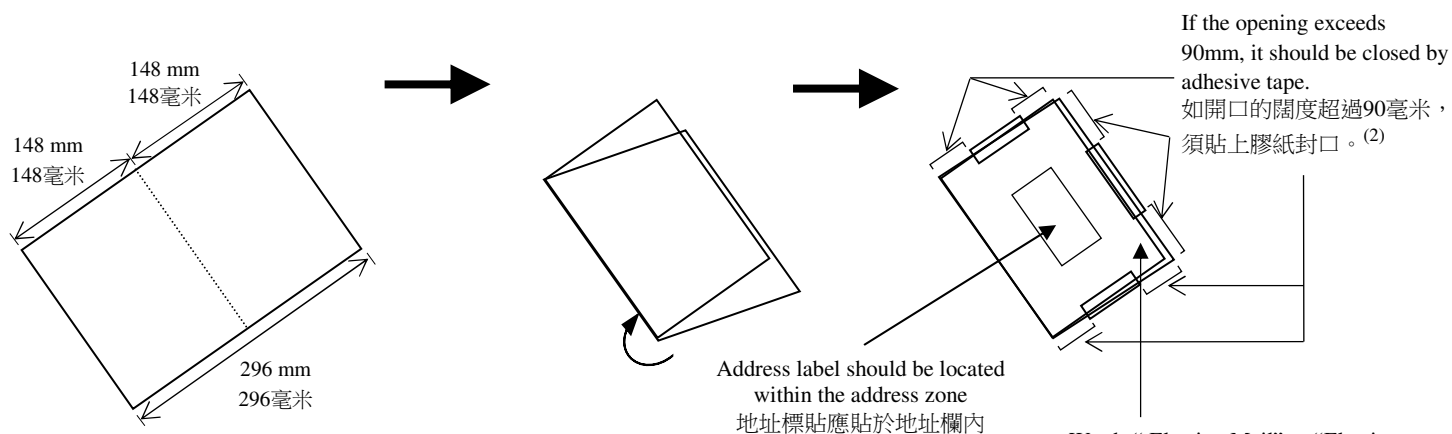


Figure 2 : Folder of A4 (296mm) size with 2 folds
圖示二：兩摺的A4（296毫米）尺寸紙張

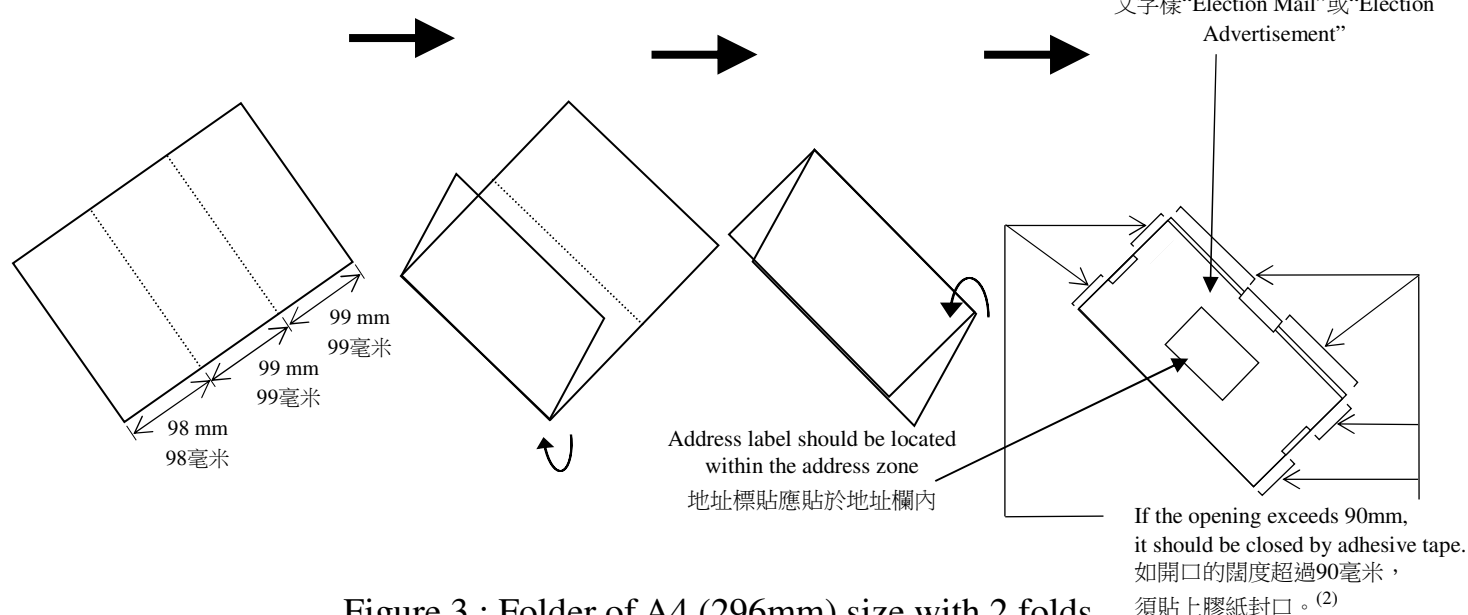
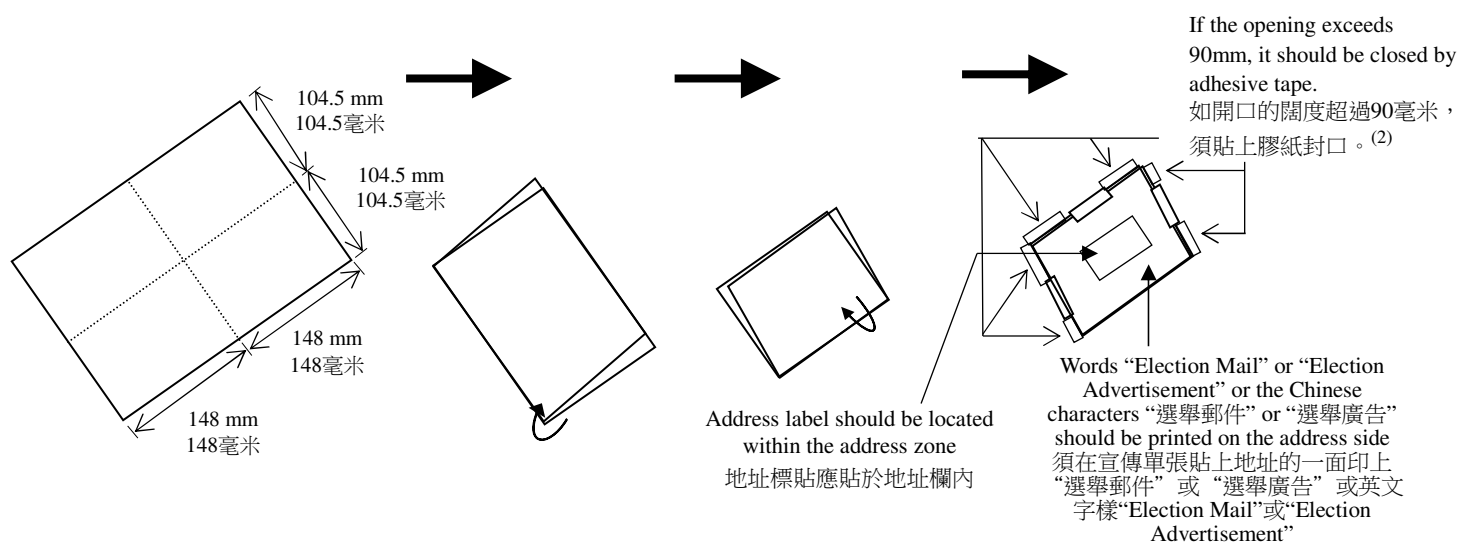


Figure 3 : Folder of A4 (296mm) size with 2 folds
圖示三：兩摺的A4（296毫米）尺寸紙張



Methods of Folding of Election Mail 郵寄選舉郵件應採用的摺疊方法⁽¹⁾

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

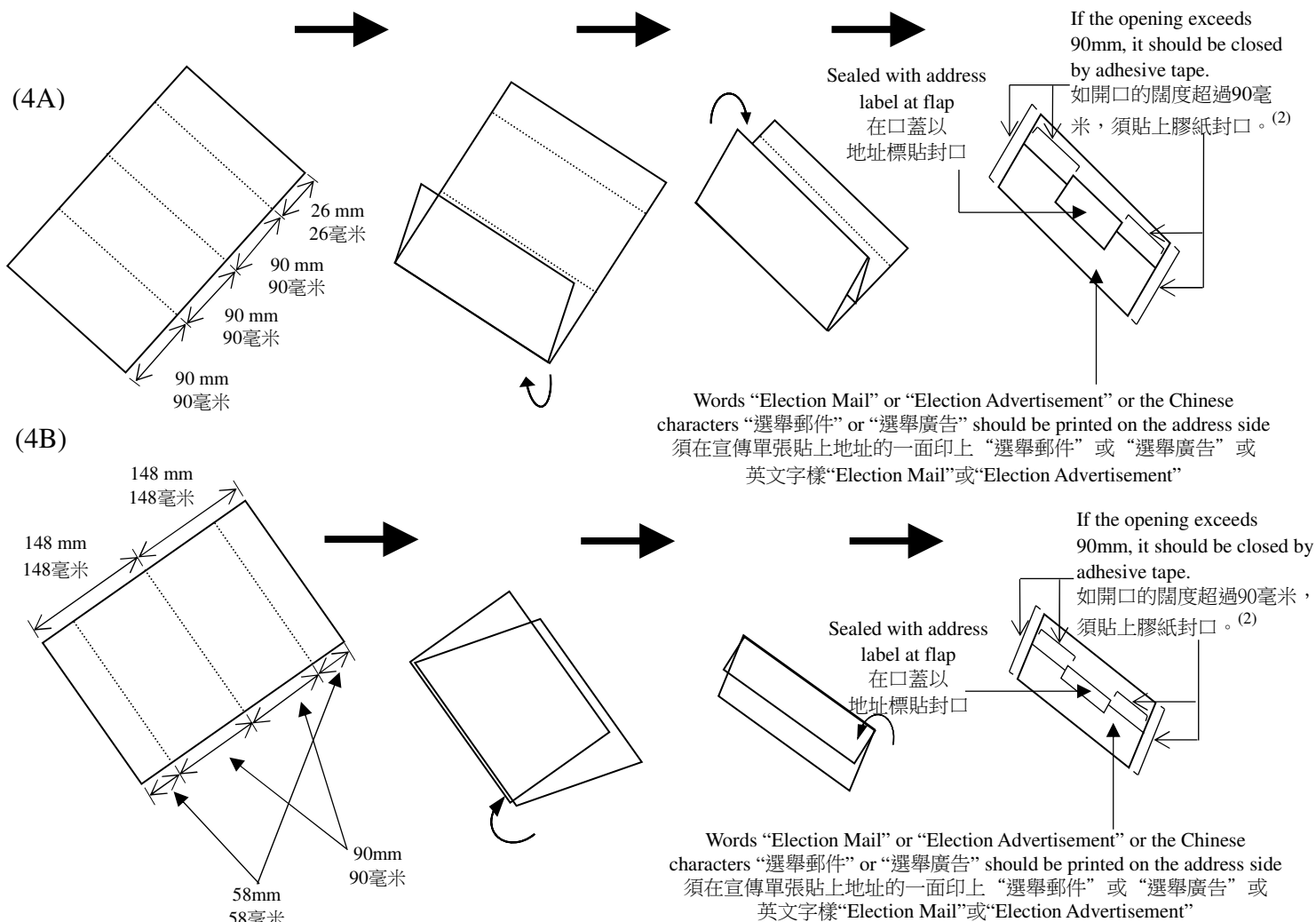
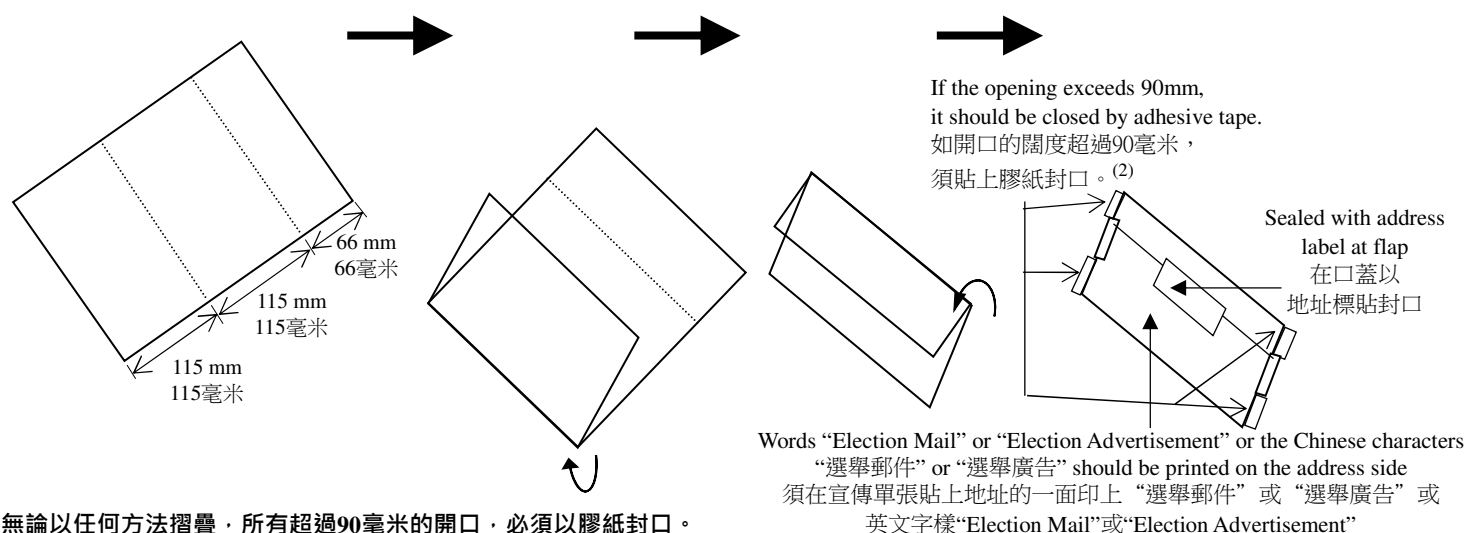


Figure 5 : Folder of A4 (296mm) size sealed with address label

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

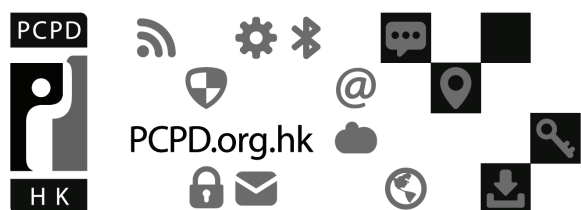
- (Note: (1) This list is by no means an exhaustive list of the canvassing activities which are prohibited within a no canvassing zone (“NCZ”). It only serves to illustrate some of the common forms of canvassing activities.
- (2) Door-to-door canvassing and for the purpose of such canvassing, the display or wearing of propaganda material, e.g. any badge, emblem, clothing or head-dress which may promote or prejudice the election of a candidate or candidates at the election, or makes direct reference to a body any member of which is standing as a candidate in the election or to a prescribed body the registered name or registered emblem of which has been printed on ballot paper for the election, will only be allowed on storeys **above or below street level (i.e. not including the storey at the street level) in a building** (including residential premises and commercial premises such as restaurants or shops) within an NCZ **other than a building in which a polling station is located** provided that permission has been obtained for entry to the building for canvassing votes, and that obstruction is not caused to any person and no sound amplifying system or device is used (except for the performance of duties by officers of the Correctional Services Department on the polling day at dedicated polling stations situated in prisons). **Nevertheless, candidates must note that canvassing activities are strictly prohibited on the storey at the street level of all the buildings within an NCZ.)**
1. Unauthorised static display of election advertisements (“EAs”) on walls (including the outer walls of the polling station), windows, railings, fences, etc.
 2. Exhibition of portable displays on vehicles (whether in motion or parked within the area), or held or carried by persons.
 3. Except for the purpose of door-to-door canvassing referred to in Note (2) above, displaying or wearing any propaganda material, e.g. badge, emblem, clothing, carrier bags or head-dress which:

- (a) may promote or prejudice the election of a candidate or candidates at the election; or
 - (b) makes direct reference to a body any member of which is standing as a candidate in the election or a prescribed body the registered name or registered emblem of which has been printed on ballot paper for the election.
- 4. Distribution of EAs.
- 5. Canvassing for votes by :
 - (a) talking to electors;
 - (b) Greeting electors by smiling, waving, nodding, shaking hands, etc.;
 - (c) shouting slogans or the name or number of a candidate or any appeal message;
 - (d) singing or chanting; or
 - (e) making signals or signs to electors.
- 6. Broadcast of audio or video recording to appeal to or induce electors to vote or not 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 induces electors to vote or not to vote.
- 8. Candidates wilfully stay or loiter in the NCZ and show goodwill to electors, which constitutes canvassing for votes.

**Conduct of Electioneering Activities and Election Meetings in
Premises under the Management of the Housing Department and
the Hong Kong Housing Society**

Candidates must obtain **prior approval** from a housing manager or a competent officer 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 election meeting/electioneering activity**, 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/election activities 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/electioneering activity 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;
- (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 Estate should send a copy of the letter of approval to the respective Returning Officer for record and for public inspection.



Guidance Note

香港個人資料私隱專員公署
Privacy Commissioner
for Personal Data, Hong Kong

Guidance on Election Activities for Candidates, Government Departments, Public Opinion Research Organisations and Members of the Public

1. Introduction

Collection, retention, processing and use of personal data are usually involved in election activities (including elector registration, candidate nomination, electioneering, public opinion researching, and casting and counting of votes). This guidance note provides assistance to candidates and their affiliated political bodies, government departments and public opinion research organisations in relation to compliance with the requirements under the Personal Data (Privacy) Ordinance (the Ordinance) when carrying out election activities. It also provides members of the public with advice on personal data protection in this regard.

2. Legal Liabilities of Candidates, Government Departments and Public Opinion Research Organisations as Principals

Candidates, government departments and public opinion research organisations (the Principals) may engage election agents, campaign staff, full-time or part-time employees, contractors and volunteers (the Agents) to assist in election-related activities. In such circumstances, the Principals are liable for the acts and practices of their Agents in the course of performing actions assigned

by them¹. The Principals are responsible for supervising their Agents to ensure compliance with the requirements under the Ordinance.

3. Guidance for Candidates and their Affiliated Political Bodies

Minimum Data Collection

- 3.1 When candidates collect personal data directly from an individual or indirectly from a third party (e.g. trade union, professional or political body) for election purposes (such as electioneering, organising an election forum, or fund raising), only adequate, and not excessive personal data, necessary for election purposes should be collected (for example, a Hong Kong Identity Card number should not be collected)².

Informed Collection

- 3.2 When a candidate or affiliated trade union, professional or political body solicits personal data directly from an individual for election purposes, the candidate should ensure that the individual is informed of the purpose of collection of the data and other matters³ set out in the Ordinance by, for example, providing a "Personal Information Collection Statement" (PICS) to the individual.

¹ According to section 65(1) and (2) of the Ordinance, any act done or practice engaged in by a person in the course of his employment or as agent for another person with the authority of that other person shall be treated as done or engaged in by his employer or that other person as well as by him.

² Data Protection Principle 1(1): 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.

³ Data Protection Principle 1(3): On or before a data user collects 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.

- 3.3 Candidates and their Agents may lobby electors by a variety of means⁴. In certain circumstances, the electors may have no previous dealings with the candidates and their Agents, and may be concerned as to where the candidates and their Agents obtained their personal data. When asked, candidates and their Agents should inform the electors as to how their personal data was obtained.

Case 1

The Election Committee members of a subsector, and Legislative Councillors of the functional constituency concerned, co-organised an election forum to provide a platform for electors of that subsector to exchange ideas on candidates' manifestoes. A complainant was dissatisfied that the organisers had failed to provide a PICS on the online registration form.

In response to the complaint, the forum organisers revised the online registration form by stating that personal data collected would be used only for enrolling participants, and the data would be destroyed after the event without it being transferred to third parties. Information on making data access and data correction requests was also made available on the registration form.

Lawful and Fair Collection

- 3.4 Candidates should not collect personal data for election purposes by deceptive means or by misrepresenting the purpose of the collection, for example, by collecting personal data on the pretext of assisting citizens to apply for government welfare.⁵

Collection Purpose

- 3.5 If a trade union, or a professional or political body intends to provide their members' personal data to candidates for election purposes, or to directly send election-related communication to their members, the proper course of action is for such bodies to determine whether this is a permitted purpose for which the personal data was collected. Prior notification to members of such use of their data, and the classes of possible transferees of the data, should be provided.

Case 2

After completing a training course organised by a political party, the complainant was asked to complete a questionnaire and provide his personal data for "communication purposes". Subsequently, the political party used the complainant's personal data in canvassing him to vote for a candidate.

In response to the complaint, the party revised the PICS in the questionnaire by explicitly stating that the personal data collected would be used for "election purposes".

Express Consent

- 3.6 Personal data may have been provided to candidates and their Agents for non-election purposes, such as in connection with the handling of building management matters, or requests for assistance. Should candidates or their Agents wish to use personal data so collected for an election purpose, express consent from the data subject must be obtained beforehand⁶.

Case 3

A resident of a building lodged a complaint with a political party in relation to the management of the building, and for this purpose supplied his personal data. Subsequently, the political party used his personal data in canvassing him to vote for a candidate in an election.

In response to the complaint, the political party undertook in future to obtain express and voluntary consent from any resident that had lodged a complaint with the party, before using their personal data for election purposes.

Registers of Electors

- 3.7 When using personal data from published registers of electors, candidates should ensure that such personal data is used only for election purposes as prescribed by the relevant election legislation. Using any information on the register for a purpose other than a purpose related to an election is an offence under the current electoral legislations and is liable to a fine at level 2 and to imprisonment for 6 months.

⁴ Such as telephone, fax messages, SMS/MMS or emails

⁵ Data Protection Principle 1(2): Personal data must be collected by means which are lawful and fair in the circumstances of the case

⁶ Data Protection Principle 3: Personal data shall not, without the prescribed consent of the data subject, be used for a new purpose. New purpose, in relation to the use of personal data, means any purpose other than the purpose, or a directly related purpose, for which the data was to be used at the time of the collection of the data.

Personal Data In Other Public Domains

- 3.8 Other than for the register of electors, personal data available in the public domain (such as professional registers) is generally not intended to be used for election purposes. Before using personal data obtained from the public domain, candidates must take into account the original purpose for which the public register was established, the restrictions on its use, and the reasonable privacy expectation⁷ of the data subjects.

Option to Decline

- 3.9 As a matter of good practice, when candidates and their Agents canvass for votes from individuals directly, or indirectly through a third party (such as a trade union, or a professional body or political body), the individuals should be given an option to decline receipt of any subsequent electioneering communication from the candidates in relation to the election concerned, so as to avoid receipt of unwanted electioneering communication from such candidates.

List of “No”

- 3.10 Candidates should also maintain a list of individuals who, to their knowledge, find election-related communication, such as phone calls, mail, fax messages, emails or visits, objectionable, and avoid approaching them to canvass for their votes.

Data Security

- 3.11 When conducting election activities, candidates and their Agents should take all practicable steps to protect personal data of electors against accidental or unauthorised access⁸. For example, they should safeguard electors’ personal data that they have obtained from the register of electors or government departments (such as a DVD of the “Candidate Mailing Label System”, and mailing labels of electors). If it is absolutely necessary to

access electors’ information outside office premises for an election purpose, only the minimal and necessary data should be taken away from the office premises. Furthermore, the data should be encrypted and protected from unauthorised access or retrieval. After use, the data should be returned to the office, or be delivered to a safe place for proper storage as soon as possible.

Case 4

A district councillor sent an email to a list of recipients canvassing votes for a candidate in an election without concealing the names and email addresses of the recipients. The complainant, being one of the recipients of that email, complained that his name and email address had been disclosed to all other recipients of the email.

In response to the complaint, the district councillor agreed to safeguard the security of the personal data of the electors when transmitting messages via electronic means (for example, by use of the “bcc” function).

Data Disposal

- 3.12 Personal data collected for election purposes should not be retained for a period beyond completion of all the election activities⁹. For example, after an election, candidates should dispose of all the electors’ personal data obtained from a published register of electors, or those provided by government departments for election purposes. When data processors¹⁰ are appointed or engaged by the candidates to destroy personal data of electors on their behalf, the candidates must use contractual or other means to prevent the personal data being transferred to data processors from: (i) being kept longer than is necessary for election purposes¹¹; and (ii) unauthorised or accidental access, processing, erasure, loss or use^{12, 13}.

⁷ Reference can be made to the *Guidance on Use of Personal Data Obtained from the Public Domain* issued by the office of the Privacy Commissioner for Personal Data, Hong Kong (PCPD)

⁸ Data Protection Principle 4(1): All practicable steps shall be taken to ensure that personal data (including data in a form in which access to or processing of the data is not practicable) held by a data user is protected against unauthorised or accidental access, processing, erasure, loss or use.

⁹ Data Protection Principle 2(2): Personal data shall not be 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.

¹⁰ “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.

¹¹ Data Protection Principle 2(3): 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 any personal data transferred to the data processor from being kept longer than is necessary for processing of the data.

¹² Data Protection Principle 4(2): 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.

¹³ Reference can be made to the information leaflet *Outsourcing the Processing of Personal Data to Data Processors* issued by the PCPD

4. Guidance for the Relevant Government Departments

Security Measures

- 4.1 In campaigns launched by government departments for the purpose of promotion of elector registration or the updating of electors' particulars, such activity may involve collection of personal data in paper form (such as collection of elector registration forms at pavement booths). Government departments should take practicable steps to safeguard personal data so collected against accidental or unauthorised access by unrelated parties¹⁴. For example, the responsible staff should be alert to data leakage risks in the surroundings when receiving completed forms. If notebook computers / tablets or portable storage devices are used, extra care must be taken (see paragraph 4.3 below for more details). After the activity, the data should be returned to the office or delivered to a safe place for proper storage as soon as possible.
- 4.2 Government departments should, at all times, adopt all practicable security measures to protect the voluminous and sensitive personal data of electors held by them against unauthorised or accidental access, processing, erasure, loss or use¹⁵. In addition to encrypting the database, government departments should also:
- Make available the personal data for access or use only on a "need-to-know" and "need-to-use" basis, especially when portable storage devices, such as notebook computers, are involved;
 - Adopt the principle of least-privileged rights, by which only staff authorised to handle identity verification are able to retrieve or access relevant personal data;
 - Strictly evaluate the necessity of downloading and copying electors' personal data, and establish approval procedures and standards;
- Monitor to ascertain if any system containing electors' personal data has been downloaded or copied without authorisation. Such systems and related servers should record all activity logs in order to trace access, use, downloading, editing and / or deletion of the data by a system user; and
 - Install monitoring and alarm mechanisms in all systems containing electors' personal data, and the related servers, so that if there is an irregularity (such as downloading or deletion of huge personal data), timely reporting of the case, as well as tracing and reviews can be performed.
- 4.3 In circumstances when accessing electors' personal data outside office premises is required, a risk assessment should be conducted to ascertain the actual need of storing electors' personal data in portable storage devices (such as in USB flash cards, notebook computers / tablets, portable hard drives or optical discs). If it is necessary to store electors' personal data by such means, effective technical security measures should be adopted commensurate with the quantity and sensitivity of the data by, for example, use of two-factor authentication for data access. Adequate physical security measures should also be effected to safeguard devices (such as affixing the device with a cable lock to an appropriate fixture, or avoidance of departmental logos on the devices)¹⁶.
- 4.4 Government departments should formulate, systematically review and update their current personal data security policies, procedures and practical guidelines, according to their functions and activities. Steps should be taken to effectively disseminate personal data security policies to all staff, and provide clear instructions as to how to access such policies. Government departments should also review and formulate a compliance check mechanism to ensure personal data security policies, procedures and practical guidelines are complied with.

¹⁴ See footnote 8

¹⁵ See footnote 8

¹⁶ Reference can be made to the *Guidance on the Use of Portable Storage Devices* issued by the PCPD

Case 5

A backup notebook computer of a government department prepared for use in an election was discovered missing at the fallback election venue. The computer stored the name of Election Committee members eligible to vote in the election, and also the personal data of all electors in Hong Kong.

While the Privacy Commissioner for Personal Data, Hong Kong considered the chance of leakage being low, as the personal data of the electors involved had already undergone multiple layers of encryption, the assessment and approval of the use of an enquiry system containing the electors' data was not well thought out or adapted to the special circumstances of the case. The data user had simply followed past practices and had failed to review, update or appraise the existing mechanism in light of the circumstances, in a timely manner. The investigation revealed that the data user lacked the requisite awareness and vigilance expected of it in protecting personal data. Rules of application and implementation of various guidelines had not been clearly set out or followed, and internal communication was not sufficiently effective. The data user failed to take all reasonably practicable steps in consideration of the actual circumstances, or to ensure that electors' personal data was protected from accidental loss, and thereby contravened Data Protection Principle 4(1)¹⁷ of the Ordinance. An enforcement notice was served on the government department to remedy and prevent recurrence of the contravention¹⁸.

- 4.5 When handling requests for information that involve the personal data of individuals, including electors, candidates or nominees, government departments must carefully assess if the release of the requested information would amount to a breach of Data Protection Principle 3¹⁹. In making such a determination, the exemptions provided in part 8 of the Ordinance²⁰ are applicable. If necessary, more information may be sought from the requestor to facilitate appropriate consideration.

5. Guidance for Public Opinion Research Organisations

Informed Collection

- 5.1 Public opinion research organisations may conduct opinion or mock polls to gauge public views on candidates' approval ratings or electors' voting preferences. An elector's voting preference is considered to be very sensitive personal data, and organisers of these activities should exercise due care to ensure that participants are informed of the purpose of collecting the personal data, and other matters required by the Ordinance²¹.

Case 6

A complainant provided his personal data in a signature campaign organised by a political body. He noticed that the purpose of collecting the personal data and data transfer arrangement was not stated on the form used for collecting personal data. According to the organiser, it had indicated on the form that "the personal data is collected solely for expressing views, and it would be destroyed afterwards".

In response to the complaint, the organiser undertook to take all practicable steps to supply relevant information to the participants in similar future events launched, including, for instance, the purpose for which the data is to be used, whether it is obligatory or voluntary for participants to provide the data, the classes of person to whom the data may be transferred, and their right to request access to a copy of their personal data and to request correction of the data.

¹⁷ See footnote 8

¹⁸ The investigation report (R17-6249) is available on the PCPD website

¹⁹ See footnote 6

²⁰ If application of Data Protection Principle 3 is likely to prejudice security, defence and international relations; crime prevention or detection; assessment or collection of any tax or duty; news activities; health; legal proceeding; due diligence exercise; handling life-threatening emergency situation, the relevant personal data is exempt from the use limitation requirements.

²¹ See footnote 3

Lawful and Fair Collection

- 5.2 When collecting personal data in opinion or mock polls, organisers should carefully assess if the means of data collection could confuse or mislead the participants. Vigilance should be exercised to avoid providing untrue or misleading information concerning the background and objectives of the activities. If the organisers fail to identify themselves as the data user to the participants, or fail to state the nature of the activities clearly (e.g. whether the activities are “official” or “of legal effect”), this could amount to unfair collection of personal data²².

Case 7

A political body commissioned a public opinion research organisation to launch a mock poll during the election, but the website of the activity did not state clearly that the mock poll was “non-official” or “of no legal effect.”

Furthermore, despite the claim on the website that the research team was commissioned by a political association to launch the activity, other parties or associations had publicly stated that they were involved in planning or participating in the activity. While the website carried the emblem of a university and a contact email with the university’s domain name, there was a footnote in small print stating the activity was unrelated to the university. No clear explanation of the purpose and lawful basis for the data collection was given by the activity organiser, and the true identity of the data user was not made known. The Privacy Commissioner took the view that such a manner of collection of personal data was unfair.

After intervention by the Privacy Commissioner, the activity organiser stated on the website: the purpose of collecting the participants’ personal data; made clear to the participants that the activity was initiated by community organisations; and it had no connection with the official election and the result was of no legal effect. Information related to the university, including the university’s emblem and email domain name, were deleted from the website and the name of the organiser was clearly stated.

Data Security

- 5.3 If collection of personal data is involved, organisers of opinion or mock polls should safeguard personal data collected against accidental or unauthorised access by unrelated parties.²³ When employing the use of computer programmes or software developed by third parties, assessment should be made to identify possible privacy risks (including, for example, the security issues related to data transmission and storage, technical safeguards of the system and network, and the restriction on data access by staff). Measures should be taken to ensure the personal data collected is appropriately protected.

Case 7 (continued)

In this case, before casting their votes in a mock poll, participants were required to install an instant messaging programme for identity verification, and then input in the voting system their password used for the said programme. By giving away the password, participants had in effect allowed third parties to read the messages they had sent or received with the programme. A security loophole was thus created.

Subsequently, to remedy the security problem revealed in this case, the organiser replaced the voting system in question.

Data Disposal

- 5.4 Organisers should not retain personal data collected in opinion or mock polls after completion of these activities²⁴. If data processors are appointed or engaged by the organisers to destroy the personal data of participants on their behalf, the organisers must comply with the relevant requirements under the Ordinance (see paragraph 3.12 above).

²² See footnote 5

²³ See footnote 8

²⁴ See footnote 9

6. Personal Data Protection Advice for Members of the Public

- 6.1 Upon receipt of emails or letters soliciting personal data in relation to election, members of the public must verify senders' identity to ensure there is no fraudulent collection of personal data in the name of government departments.
- 6.2 In submitting the completed elector registration form to the relevant authority, due care must be exercised regardless of the means of submission. For example, the envelope should be properly sealed and the information of recipients should be input correctly.
- 6.3 Members of the public may indicate on the elector registration form that emailing is their preference for receiving electioneering communications from the candidates. Otherwise, the email address provided would only be used by the relevant authority for communication purposes.
- 6.4 Electors may exercise their right to object to receipt of electioneering communications from the candidates and their affiliated political bodies.
- 6.5 Electors who have changed their registration particulars should report the change to the relevant authority as soon as possible for the record update.
- 6.6 If participants of opinion or mock polls need to provide personal data, they must ascertain if the organisers of these activities have clearly stated the nature of the activities (e.g. whether the activities are "official" or "of legal effect") and identified themselves. Participants are also reminded to check if the organisers have provided them with information such as the purpose of collecting the personal data, and other matters required by the Ordinance²⁵. In case of doubts, enquiries should be made to the organisers.
- 6.7 If personal data is collected by political bodies in their activities, participants should ascertain whether the data collected will be used in subsequent elections. If participants do not consent to such use, they should not provide their personal data.

7. A Final Note

In view of the huge volume and sensitive nature of the personal data collected or used in election activities, candidates, government departments, public opinion research organisations and members of the public must make the best efforts to avoid leakage.

Data users are recommended to formulate a policy on data breach handling and the giving of breach notifications²⁶. In the unfortunate event of a data breach, data users should consider issuing notifications to lessen the harm caused by the breach.

The office of the Privacy Commissioner for Personal Data, Hong Kong stands ready to offer assistance and respond to data breach notifications to all stakeholders. For enquiries, please visit our website from which all publications referred to in this guidance can be downloaded, or call our hotline at 2827 2827.

²⁵ See footnote 3

²⁶ Reference can be made to the *Guidance on Data Breach Handling and the Giving of Breach Notifications* issued by the PCPD



PCPD.org.hk

Enquiry Hotline : (852) 2827 2827
Fax : (852) 2877 7026
Address : 12/F, Sunlight Tower, 248 Queen's Road East, Wanchai, Hong Kong
Email : enquiry@pcpd.org.hk

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Disclaimer

The information and suggestions provided in this publication are for general reference only. They do not serve as an exhaustive guide to the application of the Personal Data (Privacy) Ordinance. For a complete and definitive statement of the law, direct reference should be made to the Ordinance itself. The Privacy Commissioner makes no express or implied warranties of accuracy or fitness for a particular purpose or use with respect to the information and suggestions set out in this publication. The information and suggestions provided will not affect the functions and powers conferred upon the Privacy Commissioner under the Ordinance.

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)
 December 2017 (Sixth Revision)

Guidance Note on Safe Conduct of Election-related Activities

Introduction

1. This guidance note serves to provide general advice to candidates and organisers of election related activities, to enable them to conduct such activities safely.

Election Meetings

2. The Public Order Ordinance (Cap 245) and Chapter 10 Part II of the ‘Guidelines on Election-related Activities in respect of the Legislative Council 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 10 Part III of the ‘Guidelines on Election-related Activities in respect of the Legislative Council Election’, organisers of election forums should be aware of the potential for possible instances of harassment of candidates.

5. In order to ensure that order, fairness and impartiality are maintained and to avoid any embarrassment, where a forum is to be held at private premises, prior precautions should be made with the owner, occupier, owners’ corporation, building management or the mutual aid committee concerned, to ensure the safety of all participants and the orderly proceeding of the forum. Where necessary, security guards should be employed at the forum venue.

Electioneering at Living or Working Places

6. Chapter 9 of the 'Guidelines on Election-related Activities in respect of the Legislative Council Election' relates to the conduct of electioneering activities at the living 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 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 conduct of the activity.

**Application for a Permit under S4(17)
of Summary Offences Ordinance, Cap 228
for Non-Charitable Purposes**

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. : _____

Email Address: _____

5. If this application is made on behalf of an organisation, please complete the following details : -

i) Name of organisation (English): _____

Name of organisation (Chinese): _____

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 (English): _____

Name of organisation (Chinese): _____

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 S 4(17) application(s) to the Secretary for Home Affairs by the applicant, or the organisations named in 5(i) and 6(i) above, or any of the persons named in 5(iii) and 6(iii) above :

<u>Name of Applicant</u>	<u>Date of Application</u>	<u>Approved or Rejected</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

14. State here any additional information which the applicant wishes to provide in support of this application (e.g. reasons for requesting that the administrative guidelines or licensing conditions for the issue of permit be waived in whole or in part.)

I declare that to the best of my knowledge and belief, the information supplied by me in this form is true and correct.

Signed : _____
(Applicant)

(Chop of organisation, if applicable) Date : _____

* Delete where applicable

(If there is not enough space in this form for the filling in of the required information, the applicant may provide details on a separate sheet of paper and attach it to the form.)

Note: If the activities concerned involve hawking in public places, please seek advice from the Food and Environmental Hygiene Department (Tel: 2867 5935) as to whether a temporary hawker licence is required.

July 2016

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

1. Applications for permission under Section 4(17) of the Summary Offences Ordinance (Cap 228) (“SOO”) 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.

2. Non-charitable fund raising activities without permits for fund-raising for non-charitable purposes are subject to prosecution by the Police under Section 4(17) of SOO, Cap 228.

A. Administrative Guidelines for Consideration

3. When considering an application for a public fund-raising permit under section 4(17) of the SOO, 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. The number of non-charitable fund-raising activities by the same person or organisation will not be excessive so as to avoid undue inconvenience to the public. As a general rule, each approved activity should not last for more than five days in any two consecutive weeks and that each applicant (by an individual or an organisation) would not be allowed to conduct more than 20 fund-raising activities within a 12-month period. For an activity to be conducted in more than one location, a permit will be required for each location; 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.

4. Each application will be considered on its own merits having regard to the above administrative guidelines.

B. Licensing Conditions

5. 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.

6. 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.

7. Upon approval of the application, the relevant details about the fund-raising activity including the name of the activity and the date, time and venue for conducting it will be uploaded on the GovHK website (<http://www.gov.hk/fundraising>) and Data.One (<http://data.one.gov.hk>)

July 2016

Observations made by the Court in an Election Petition relating to a Television Programme on 2010 Legislative Council By-election

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 Electoral Affairs Commission considers that the broadcaster should let the audience know: (a) the total number and the names of all candidates/lists of candidates in the same constituency in each relevant episode; and (b) the episode which will cover or has covered the candidate(s)/list(s) of candidates 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/lists of candidates in the same constituency even if they watch only one single episode instead of all episodes on the same constituency and that equal treatment will be given to all candidates/lists of candidates concerned.
4. Where appropriate, broadcasters are advised to follow the arrangement set out in para. 3 above when producing multi-episode programmes which are election-related.

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/lists of candidates competing in the same constituency. Merely saying that practical problems gave rise to the selective reporting will be viewed as a lame excuse, but if the other candidates/lists of 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/list of candidates of the same constituency. It is an idea that has to be examined in all the circumstances of each individual case. Where a candidate says more on a topic and another candidate says less, that can be truthfully and faithfully reported, and no reasonable-minded person will say that that is unequal reporting. Fairness and equality here are in the sense of **equal opportunity** being given to all candidates/lists of candidates competing in the same constituency alike, so as to help electors make informed choices.
5. If there is fair and equal treatment of all candidates/lists of candidates competing in the same constituency in a publication, its editorial line or the personal opinions of the writer on each of the candidates can be freely expressed, insofar as they are fair comments and based on true facts. Any newspaper is at full liberty to express its support for or disapproval of a candidate/list of candidates. 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:
 - (1) the float and vehicle outline, side, plan, front and rear view, with all major dimensions (both proposed and original) shown
 - (2) the means of entry/exit to and from the driver's compartment
 - (3) location of mirrors which will enable the driver to view both sides of the float
 - (4) location of exhaust outlets from any internal combustion engines
 - (5) location of any auxiliary power equipment installed
 - (6) means of communication with the passengers on the float
 - (7) 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 of the above mentioned Regulation.
- (8) 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: 3842 5729
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.

**Observations made by the Court of Final Appeal
in a case touching upon Election Expenses
(FACV No. 2 of 2012)**

1. Expenses are likely to qualify as “election expenses” if they meet the following five criteria:

- (a) They have been incurred by or on behalf of a candidate (as such a person is defined under s 2(1) of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) (“ECICO”)).
- (b) Having identified the activities or matters to which the relevant expenses relate, such activities or matters are referable to a specific election.
- (c) Such activities or matters go to the conduct or management of the election, in particular to the machinery of the election.
- (d) The expenses were incurred for the purpose of promoting the election of the relevant candidate or prejudicing the election of another candidate.
- (e) 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.

2. There are two further inquiries as well:

- (a) 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).
- (b) 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.

**Items of Expenses to be
Counted towards Election Expenses**

(Note: This list is by no means an exhaustive list of items of expenditure to 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. (Remarks: If the agents and/or assistants are staff members currently employed by an incumbent member of Legislative Council ("LegCo") who is seeking a new term in office, appropriate apportionment of the wages paid to the staff members concerned should be declared in the candidate's election return.)
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 ("EAs") 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 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 EAs including labour charges. If the EAs have not been removed by the deadline specified by the Electoral Affairs Commission, the removal costs for the EAs charged by the government departments should also be included.
5. Costs incurred by the relevant authorities for removal of EAs displayed without authorisation.

6. Costs incurred for renting space used in connection with the election campaign. (Remarks: (a) If the space used is part of the ward office of an incumbent member of LegCo who is seeking a new term in office, appropriate apportionment of the rentals paid should be declared in the candidate's election return and relevant invoice and receipt should be obtained from the landlord, instead of being issued by the incumbent member of LegCo. (b) If a candidate (who is not an incumbent member of LegCo) rents part of the ward office of an incumbent member of LegCo, appropriate apportionment of the rentals paid should be declared in the candidate's election return and relevant invoice and receipt should be obtained from the recipient of the apportioned rentals paid by the candidate.)
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.
10. Costs incurred for the hire of transport in connection with the election.
11. Costs incurred for publicity by vehicles. (Remarks: If a 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/her election return apart from reporting the free service or goods 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 ss 42C or 46 of the Legislative Council Ordinance (Cap 542) or s 22C of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap 541D); 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 LegCo, 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 political body or organisation of the candidate in promoting his/her election. (Note: Costs of meeting where the platform of the political body or organisation is publicised without specific reference to the candidate will not be counted as election expenses. Separately, for the avoidance of doubt, costs of electioneering activities (e.g. 造勢大會) participated by an uncontested candidate after declaration of the election result in respect of his/her constituency to promote other contested candidates will not be counted as election expenses of the uncontested candidate.)
18. Costs for obtaining legal/professional advice incurred in respect of the conduct or management of an election (e.g. (a) 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. (b) where a candidate engages building professional to advise on or carry out building works for erection of EAs). (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.

Collection of Election Donations

1. Any person or organisation^{Note} (including a political party) acting as an agent to solicit, receive or collect election donations for a candidate/list of candidates or some candidates/lists of candidates is advised to:

- (1) have the prior consent/authorisation of the candidate(s)/list(s) of candidates;
- (2) set up a dedicated ledger account for receiving and handling the election donations;
- (3) state the apportionment of the donations between candidates/lists of candidates or other parties if more than one candidate/list of candidates or other parties are involved;
- (4) comply with all the requirements under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) in respect of election donations as if the donations are received by the candidate(s)/list(s) of candidates direct. For example, if the donation is more than \$1,000, a receipt to the donor by the concerned candidate/list of candidates 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.

2. On the other hand, while candidates/lists of candidates would not be prohibited to solicit donations on the behalf of political parties or any other 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/lists of candidates themselves.

^{Note} All costs incurred by the person or organisation during the process of rendering the relevant service to the candidate(s)/list(s) of candidates in this regard should be counted towards election expenses and the relevant requirements governing appointment of election expense agents as set out in Chapter 7 must be complied with. If the person renders his/her service for the candidate/list of candidates free of charge, voluntarily, personally and in his/her own time, the service is regarded as "voluntary service" according to section 2 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554). The candidate/list of candidates is, therefore, not required to include such service costs in his/her/their election expenses (this exemption does not apply to the service rendered by an organisation).

**Guidelines for Mutual Aid Committees
Participating in Electioneering Activities**

1. Chapter 18 of the Electoral Affairs Commission's Guidelines on Election-related Activities in respect of the Legislative Council Election provides that a candidate must obtain the prior written consent from a person or an organisation before using the name or logo of that person or organisation, or a pictorial representation of that person in any of his/her election advertisements ("EAs") or activities as an indication of support from that person or organisation.

2. In this respect, Mutual Aid Committees ("MACs") should comply with the following procedures:

- (a) If the support is to be given to a candidate/list of candidates in the name of the MAC, the written consent should be approved at a general meeting convened in accordance with the Model Rules for the MAC¹, and signed by the incumbent Chairman of the MAC.
- (b) If the support to a candidate/list of candidates is to be given in the official capacity of an office-bearer of a MAC, that office-bearer should first obtain the approval of the MAC at a general meeting convened in accordance with the Model Rules for the MAC. Otherwise, that office-bearer should be careful not to give any impression or cause misunderstanding that the support in his/her official capacity represents the support of the MAC.
- (c) If the support to a candidate/list of candidates is to be given in the personal capacity of an office-bearer of the MAC and his/her official title will not be mentioned in the EAs of the candidate/list of candidates, it will not be necessary for that office-bearer to seek approval from the MAC or its executive committee.

3. All general meetings of the MAC should be convened in accordance with the procedures laid down in the Model Rules for the MAC.

4. Decisions made at the meetings of MACs must be properly recorded and the record must be prominently displayed in the block within 7 days after the meeting.

¹ The Model Rules for the MAC in this regard refer to Model Rules for a MAC in a Public Housing Estate or Model Rules for a MAC in a Private Building.

**Guidelines for Candidates on Sending Election Advertisements
to Registered Electors and Authorised Representatives
in the Custody of the Correctional Services Department**

(Note: The following guidelines serve to illustrate some of the articles which, if possessed by electors/authorised representatives (“ARs”) in the custody of the Correctional Services Department (“CSD”), may cause security hazards to penal institutions, 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 penal institutions, any electoral advertisements (“EA”) mailed to registered electors/ARs 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 penal institutions, or the escape by any inmate/prisoner from the penal institutions;
- (c) is of such a nature as to facilitate gambling in the penal institutions, or is otherwise detrimental to the rehabilitation of any of the electors/ARs 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/ARs 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 penal institutions; 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

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