

IMPORTANT

1. These Guidelines apply to all Legislative Council general elections and by-elections conducted under the Legislative Council Ordinance (Cap 542) to be held after publication, subject to any subsequent revisions.
2. The law stated in these Guidelines is that prevailing as at the date of publication (unless otherwise specified).
3. All specified forms referred to in these Guidelines are obtainable from the Registration and Electoral Office (tel: 2891 1001; fax: 2891 1180; e-mail: reoeng@reo.gov.hk) and its website at <https://www.reo.gov.hk>.
4. Electioneering, campaigning and canvassing activities referred to in these Guidelines include any positive and negative campaigning conducted for the purpose of promoting or prejudicing the election of a candidate or candidates at the election.
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>.

2021 LEGISLATIVE COUNCIL GENERAL ELECTION

Key Information

- (1) Polling Date : 19 December 2021
- (2) Period to Submit Application for Nominations Advisory Committee's Service by Prospective Candidates : 30 September to 27 October 2021
- (3) Nomination Period of Candidature : 30 October to 12 November 2021
- (4) Period to Submit Request for Printing of Particulars Relating to Candidates on Ballot Papers by Candidates : 30 October to 12 November 2021
- (5) Returning Officers' Lots Drawing Session for Candidates to Allocate Number/Letter of Alphabet on Ballot Papers and Designated Spots for Election Advertisements : 18 November 2021
- (6) Chairman's Online Briefing for Candidates : 19 November 2021
- (7) Maximum Amount of Election Expenses : Please refer to paragraph 17.16 of the Guidelines
- (8) Deadline to Remove all Election Advertisements on Display : Not later than 29 December 2021
- (9) Submission of Election Return by Candidates : Not later than 22 February 2022*
- (10) Submission of Claim for Financial Assistance by Candidates : Not later than 22 February 2022*
- (11) Deadline to Lodge Election Petition : Not later than 24 February 2022*
(if uncontested, not later than 26 January 2022#)

* Assuming that the election result is published in the Gazette on 24 December 2021

Assuming that the election result is published in the Gazette on 26 November 2021

ABBREVIATIONS

Amendment Ordinance	Improving Electoral System (Consolidated Amendments) Ordinance 2021
AR, ARs	authorised representative, authorised representatives
ARO, AROs	Assistant Returning Officer, Assistant Returning Officers
Basic Law	Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China
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
CEEO	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
CERC	Candidate Eligibility Review Committee
CFA	Court of Final Appeal

CFI	Court of First Instance
CMAB	Constitutional and Mainland Affairs Bureau
Committee on National Security	Committee for Safeguarding National Security of the Hong Kong Special Administrative Region
CPPCC members	Hong Kong Special Administrative Region members of the National Committee of the Chinese People's Political Consultative Conference
CRO	Chief Returning Officer
CSD	Correctional Services Department
DAS	Director of Accounting Services
DC	District Council
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
ECC	Election Committee constituency
ECICO	Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554)
EIC	Electoral Information Centre
election	general election or by-election as appropriate
election return	return and declaration of election expenses and election donations

EPR	Electronic Poll Register
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
JPOA	Junior Police Officers' Association
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
NPC	National People's Congress
NPC deputies	Hong Kong Special Administrative Region deputies to the National People's Congress
NPCSC	Standing Committee of the National People's Congress
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
SOO	The Summary Offences Ordinance (Cap 228)
TD	Transport Department
the Hong Kong National Security Law	the Law of the People's Republic of China on Safeguarding National Security in the HKSAR

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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 impartial, independent and apolitical body responsible for conducting and supervising public elections in accordance with the electoral law and strives to conduct public elections under the principles of openness, fairness and honesty. Although the EAC is responsible for making the subsidiary legislation on electoral procedures, guidelines on election-related activities, and related practical arrangements, it is not part of the Government. All along, the EAC does not formulate electoral policies nor take into account any political considerations, but considers whether the relevant arrangements do comply with the law and are reasonably practicable and will facilitate the smooth operation of the election. Under the EACO, the EAC shall perform its function through the Chief Electoral Officer (“CEO”). The Registration and Electoral Office (“REO”) is the executive arm of the EAC. Apart from making the practical arrangements for the elections, the REO also advises the EAC on the practicality on various electoral arrangements.

2. All electoral arrangements in Hong Kong are regulated under the relevant primary legislation and subsidiary legislation. The EAC must conduct and supervise the conduct of elections in strict compliance with the subsisting law. Under the present institution, matters relating to electoral policies and the system are under the purview of the executive authorities, whereas the legislature is responsible for the enactment and amendment of the primary legislation. On the other hand, pursuant to the principles and provisions in the primary legislation, the EAC makes the corresponding

subsidiary legislation to set out the detailed electoral procedures for the various elections. The EAC cannot act beyond the power conferred by the primary legislation. Where necessary, the EAC would provide its advice from practical and operational points of views for reference of the Government. Under the existing arrangement, any enactment or amendment of the primary legislation must be introduced by the Government in the form of bills to the Legislative Council (“LegCo”) for deliberation and resolution. Subsidiary legislation must also be submitted by the Government to LegCo by way of the negative vetting procedure.

3. The EAC is empowered by the law to issue guidelines on election-related activities. The electoral guidelines are not law, and cover the following two aspects: (1) to explain in simple language the subsisting electoral law so as to remind candidates and other stakeholders of the provisions and requirements under the electoral law. As the EAC is not a court of law, it has no authority to make judicial interpretation for disputed provisions of the statutes; and (2) with regard to election-related activities not stipulated by the law, to promulgate a code of conduct based on the principle of fairness and equality.

Legislation Aspect

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

5. In order to ensure the fairness of an election, safeguarding the autonomy and secrecy of the vote are the most important principles of the electoral law. 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, deception or obstruction; 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 well discuss among themselves their voting preference, but in no case involving any corrupt or illegal conduct.

6. Nomination of candidates is an important part of an election. According to Annex II to the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China ("Basic Law"), the Candidate Eligibility Review Committee ("CERC") shall be responsible for reviewing and confirming the eligibility of candidates for LegCo members (for details of the CERC, please refer to paras. 5.47 and 5.48 of Chapter 5). The CERC may request the Returning Officers ("ROs") to provide advice to the CERC regarding the nomination of candidates. It may also make decisions pursuant to the opinion of the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region ("Committee on National Security"). The Committee on National Security shall, on the basis of the review by the National Security Department of the Hong Kong Police Force, make findings regarding candidates' compliance with the legal requirements and conditions on "upholding the Basic Law and pledging allegiance to the Hong Kong Special Administrative Region ("HKSAR") of the People's Republic of China" and will issue an opinion to the CERC for those who fail to meet such legal requirements and conditions. According to Article 14 of the Law of the People's Republic of China on Safeguarding National Security in the HKSAR ("the Hong Kong National Security Law"), no institution, organisation or individual in the Region shall interfere with the work of the Committee on National Security. Information relating to the work of the Committee on National Security shall not be subject to disclosure. As

stipulated in Annex II to the Basic Law and the electoral law, no legal proceedings may be instituted in respect of a decision made by the CERC on the eligibility of a candidate pursuant to the opinion of the Committee on National Security. For details, please refer to Chapter 5.

7. Whether the nomination of a candidate is valid or not is solely determined by the CERC. The EAC is neither empowered nor involved in the making of such decision, and will not provide any advice. The EAC will only make practical arrangements for the election according to the validly nominated candidates determined by the CERC. 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 Legislative Council Ordinance (Cap 542) (“LCO”). However, as mentioned in para. 6 above, by virtue of Annex II to the Basic Law and the electoral law, no legal proceedings may be instituted in respect of a decision made by the CERC on the eligibility of a candidate pursuant to the opinion of the Committee of National Security.

8. Another important aspect of the law is to prescribe the maximum limit for election expenses. 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. According to the law, 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. 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.

9. 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 promote or prejudice the election of a candidate and 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).

10. EA has always been an important part of election expenses, and therefore it is necessary to regulate EAs for calculation of election expenses. 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.

11. 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.

12. The EAC will seek to provide a statement of principle on the compliance of the electoral law. 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

13. Apart from the electoral law, the EAC has promulgated guidelines on election-related activities based on the principle of fairness and equality. However, the guidelines promulgated by the EAC are not legally binding. Any breaches of the guidelines will not constitute a legal offence. Where necessary, the EAC will issue public statements of censure in order to inform the electors and the general public of important matters that have occurred during the elections. An important application of the principle of fairness and equality 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' corporations and mutual aid residents' associations should observe the principle of fairness and equality 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 fairly and equally. If a management organisation decided to allow a particular candidate to conduct electioneering activities in the common parts of the buildings under its management, it should also allow other candidate(s) in the same geographical constituency (“GC”)/functional constituency (“FC”)/the Election Committee constituency (“ECC”) 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, the same applications from other candidate(s) in the same constituency should also be rejected. However, this principle does not apply to election activities and EA concerning private properties.

14. 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.

15. The EAC will solemnly handle complaints against any breach of the principle of fairness and equality as set out in the electoral guidelines. Investigation must be based on factual evidence and be in accordance with the principle of procedural fairness. 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, the EAC’s 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.

16. If a complaint is substantiated, the EAC may, where necessary, issue public statements of censure in order to inform the electors and the general public of important matters that have occurred during the elections. 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.

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

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

19. The EAC appeals to members of the public to be acquainted with and to uphold the electoral law and electoral guidelines in order to carry on the good election culture in Hong Kong, so that an election can be conducted smoothly in a fair and equal manner.

SPECIAL VOTER REGISTRATION ARRANGEMENTS IN 2021

20. The Improving Electoral System (Consolidated Amendments) Ordinance 2021 (“Amendment Ordinance”) was published in the Gazette and came into effect on 31 May 2021. To tie in with the major changes in the composition and registration eligibilities of the LegCo FCs and EC subsectors, an exercise of “Special Voter Registration Arrangements” was conducted by the REO from 1 June to 5 July 2021. The relevant arrangements and initiatives are summarised as follows:

Before Commencement of the Amendment Ordinance

- (a) The Constitutional and Mainland Affairs Bureau (“CMAB”) submitted supplementary information to the LegCo on 29 April to explain the upcoming voter registration arrangements due to the Amendment Ordinance. Copies of the supplementary information were also made available to the public at the Electoral Information Centre (“EIC”) of the REO and the Home Affairs Enquiry Centres in 18 Districts;
- (b) To prepare for the verification and processing of voter registration applications to be received during the “Special Voter Registration Arrangements”, the REO collected from all the umbrella organisations of the FCs the information of eligible members or corporate members;
- (c) To facilitate submission of voter registration applications of individuals and bodies whose eligibility is affected and those who are newly eligible for registration during the “Special Voter Registration Arrangements”, the REO prepared explanatory notes for registration and “frequently asked questions” relating to voter

registration. The explanatory materials were uploaded to the REO website and the Voter Registration website for reference by the general public;

- (d) The REO re-designed the registration forms for use by individuals and bodies whose eligibility is affected and those who are newly eligible for registration according to the composition, registration eligibilities and registration procedures of the FCs;
- (e) The REO updated documents, letters, notices, etc. relating to voter registration. The computer system for processing voter registrations was also updated to ensure timely notification from the REO to the applicants about progress of their applications and to enable effective processing of voter registrations; and
- (f) To facilitate effective handling of enquiries by frontline staff manning the hotline, the REO provided training for them when the above-mentioned preparation work was completed and before the “Special Voter Registration Arrangements” commenced.

After Commencement of the Amendment Ordinance

- (a) The REO issued a press release on the commencement date of the Amendment Ordinance to explain that the “Special Voter Registration Arrangements” was launched on the same day. As stated in the press release, individuals and bodies whose eligibility was affected and those who were newly eligible for registration had to update their voter registration, and the applications must be submitted before the deadline for the special voter registration;

- (b) After the launch of the “Special Voter Registration Arrangements”, the REO strengthened the hotline services in order to handle enquiries in a timely manner;
- (c) The EAC and the REO published the details of the registration of FCs in a press release on 7 June, and uploaded the reference materials on the changes of voter registration eligibilities (including the voter registration arrangements for the FCs affected by the Amendment Ordinance, the details of the deleted FCs and the repealed registration eligibilities of relevant FCs) to the EAC website and the REO website. Copies of the reference materials were also made available to the public in the EIC and the Home Affairs Enquiry Centres in 18 Districts;
- (d) To promote the “Special Voter Registration Arrangements”, the CMAB and the REO produced and broadcast announcements in the public interest on television and radio, displayed posters, buntings and banners in each district, displayed advertisements in public transportation facilities and disseminated electronic advertisements through social media as well as websites and mobile applications that are frequently used by the public;
- (e) The REO sent letters, new registration forms and posters of the “Special Voter Registration Arrangements” to umbrella organisations to appeal to eligible umbrella organisations and/or their eligible members or corporate members to register as electors;
- (f) The REO briefed officers of the Correctional Services Department (“CSD”) on the voter registration exercise under the “Special Voter Registration Arrangements”, and provided penal

institutions with reference folders of voter registration eligibilities to facilitate their handling of relevant enquiries from persons imprisoned or held in custody; and

- (g) The REO issued press releases again on 29 and 30 June to appeal to all individuals/bodies whose eligibility was affected and those who were newly eligible for registration to submit their voter registration applications by 5 July so that their registration particulars can be included in the 2021 final registers of electors.

CHAPTER 1

INTRODUCTION

PART I : THE LEGISLATIVE COUNCIL ELECTION

1.1 The LegCo of the HKSAR is constituted under the 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. The second to sixth terms of the LegCo began on 1 October of the year in which the LegCo general election was held (for the term of office of the sixth and seventh terms of the LegCo, please see para. 1.3 below). 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]. *[Amended in October 2007, June 2012, June 2016, June 2020 and October 2021]*

1.3 The sixth term of the LegCo began on 1 October 2016 and was to end on 30 September 2020. The CE originally specified 6 September 2020 as the date of the general election for the seventh term of the LegCo. Thereafter, amid the severe COVID-19 epidemic situation, the CE in Council invoked the Emergency Regulations Ordinance (Cap 241) to make the Emergency (Date of General Election) (Seventh Term of the Legislative Council) Regulation (Cap 241L) to postpone the election. The Standing Committee of the National People's Congress ("NPCSC") made a decision on 11 August 2020 that the sixth term of the LegCo would continue to discharge its duties for not less than one year until the commencement of the seventh term of the LegCo. On 11 March 2021, the National People's Congress ("NPC") passed the "Decision of the NPC on Improving the Electoral System of the HKSAR". The NPCSC on 30 March 2021 adopted the amended Annex I and Annex II to the Basic Law, revising the method for the selection of the CE and the formation of the LegCo. Among others, the LegCo composition will include the ECC to be returned by members of the Election Committee ("EC") and all candidates in LegCo elections must be subscribed by EC members. Therefore, there is a need for the LegCo general election to be held after the 2021 Election Committee Subsector Ordinary Elections. On 14 April 2021, the Government introduced the Improving Electoral System (Consolidated Amendments) Bill 2021 to the LegCo. Among others, it was recommended to amend the Emergency (Date of General Election) (Seventh Term of the Legislative Council) Regulation to change the date of the general election for the seventh term of the LegCo to 19 December 2021. The Amendment Ordinance was passed by the LegCo on 27 May 2021. It was published in the Gazette and came into operation on 31 May 2021. Pursuant to the changes provided under the Amendment Ordinance to the composition of the LegCo and the method for its formation, this set of Guidelines has been updated to reflect the new arrangements and procedures of LegCo elections. *[Added in October 2021]*

1.4 In accordance with the revised Annex II to the Basic Law adopted by the NPCSC on 30 March 2021, the seventh term of the LegCo shall be composed of 90 members and the composition shall be as follows:

(a)	Members returned by GCs through direct elections	20
(b)	Members returned by FCs	30
(c)	Members returned by the ECC	40

[Amended in January 2010, June 2012 and October 2021]

Geographical Constituency

1.5 The HKSAR is divided into 10 GCs, each having 2 seats. The GCs are geographically based and a total of 20 LegCo members will be returned through the following GCs: Hong Kong Island East, Hong Kong Island West, Kowloon East, Kowloon West, Kowloon Central, New Territories South East, New Territories North, New Territories North West, New Territories South West and New Territories North East. The “double seats and single vote” voting system is adopted and each GC shall return 2 members. Each elector may vote for 1 candidate and the 2 candidates who obtain the greatest numbers of votes shall be returned as members for the respective GC. [Ss 18, 19 and 49 of the LCO] Details of the features of GC elections are set out in Chapter 2. *[Amended in July 2008, June 2012, June 2016 and October 2021]*

Functional Constituency

1.6 For the seventh term of the LegCo, 30 LegCo members are to be returned through a total of 28 FCs representing different economic, social, or professional sectors of the community. The 28 FCs are as follows: (1) Heung Yee Kuk; (2) Agriculture and Fisheries; (3) Insurance; (4) Transport; (5) Education; (6) Legal; (7) Accountancy; (8) Medical and Health Services; (9) Engineering; (10) Architectural, Surveying, Planning and Landscape; (11) Labour; (12) Social Welfare; (13) Real Estate and Construction; (14) Tourism;

(15) Commercial (first); (16) Commercial (second); (17) Commercial (third); (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) Technology and Innovation; (27) Catering; and (28) HKSAR Deputies to the NPC (“NPC deputies”), HKSAR Members of the National Committee of the Chinese People’s Political Consultative Conference (“CPPCC members”) and Representatives of Relevant National Organisations. For these 28 FCs, the Labour FC is to return 3 members while the remaining 27 FCs are to return 1 member each. The “first past the post” voting system is adopted. [Ss 20, 21 and 51 of the LCO] Details of the features of FC elections are set out in Chapter 3. *[Amended in June 2012, June 2016, June 2020 and October 2021]*

Election Committee Constituency

1.7 The ECC of the seventh term of the LegCo is to return a total of 40 members. The “block vote” system for voting is adopted, i.e. each EC member shall vote for not more than or less than 40 candidates on the ballot paper. The 40 candidates who obtain the greatest numbers of votes shall be returned in the election. [Ss 21A, 21B and 52A of the LCO] Details of the features of ECC elections are set out in Chapter 4. *[Added in October 2021]*

Governing Legislation

1.8 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”).

1.9 The LCO provides for the constitution and membership of LegCo, establishment of GCs/FCs/the ECC, registration of electors, conduct of elections, financial assistance for candidates, election petitions and other related matters. *[Amended in October 2021]*

1.10 The EACO tasks the EAC with making recommendations regarding the delineation of GCs for LegCo elections and demarcation of their boundaries¹. 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.

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

1.12 These ordinances are complemented by 9 pieces of subsidiary legislation, including those set out in paras. 1.13 to 1.20 below, which provide the detailed procedures for the conduct of LegCo elections. *[Amended in October 2007]*

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

1.14 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 LegCo elections.

¹ Due to the urgency of holding the 2021 LegCo General Election, s 18(5) of the EACO stipulates that the EAC is not required to submit its recommendations regarding the delineation of GCs for the general election for the seventh term of the LegCo and demarcation of their boundaries to the CE.

1.15 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 eligibility of the prospective candidates for nomination for LegCo elections.

1.16 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 LegCo elections.

1.17 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 LegCo elections for GCs and FCs.

1.18 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. *[Amended in October 2007]*

1.19 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 a candidate or his/her election expense agent(s) for a LegCo election. *[Added in October 2007, and amended in July 2008 and October 2021]*

1.20 The Legislative Council (Election Petition) Rules (Cap 542F) set out the procedures for the lodgement of an election petition against the result of LegCo elections to the High Court. *[Added in October 2007]*

PART II : THE GUIDELINES

1.21 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, any other person assisting a candidate or any other person;
- (c) election expenses;
- (d) the display or use of EAs or other publicity material; and
- (e) the procedure for making a complaint.

1.22 The aim of this set of Guidelines is: (1) to explain in simple language the subsisting electoral law so as to remind candidates and other stakeholders of the provisions and requirements under the electoral law; and (2) with regard to election-related activities not stipulated by the law, such as media report and conduct of electioneering activities in buildings, to promulgate a code of conduct based on the principles of fairness and equality, and provide standard good practices. The Guidelines are also issued for reference by members of the public, so as 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.

[Amended in June 2012, June 2020 and October 2021]

1.23 This set of Guidelines applies to LegCo general elections and by-elections. It explains the various electoral arrangements for LegCo elections, and the legislative provisions and regulations as well as guidelines to be observed by all relevant parties before, during and after an election (in relation to machinery of the election). The Guidelines also provide the procedure for

lodging an election-related complaint. An action checklist for candidates is set out at **Appendix 1**.

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

PART III : SANCTION

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

1.26 The EAC always strives to conduct public elections under the principles of openness, fairness and honesty. If the EAC comes to know that any candidate or person has breached the Guidelines, it may notify the relevant authorities for actions to be taken and, furthermore, 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. Should any offences under the electoral law be committed, the candidate, the person or other parties concerned will also incur criminal responsibility accordingly. *[Amended in July 2008]*

CHAPTER 2

COMPOSITION, REGISTRATION OF ELECTORS AND VOTING SYSTEM FOR GEOGRAPHICAL CONSTITUENCIES

PART I : GENERAL

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

2.2 Only registered electors for a GC whose names appear on the final register (“FR”) of electors may vote at an election for the GC. Registered electors for GCs may visit the Online Voter Information Enquiry System (“OVIES”) (www.voterinfo.gov.hk) at any time to check their registration particulars. The FR is updated in every voter registration cycle.
[Added in June 2020]

2.3 The application for change of registration particulars and application for new voter registration in 2021 were closed on 2 April 2021 and 2 May 2021 respectively, i.e. before the enactment of the Amendment Ordinance. The Amendment Ordinance subsequently provided for major changes to the composition of the EC, EC subsectors and LegCo FCs. Hence, the REO launched the “Special Voter Registration Arrangements”, which ran from 1 June 2021 to 5 July 2021, for eligible persons² to submit applications

² In accordance with s 2AA of the EAC (ROE) (GC) Reg, eligible persons include individuals who are:

- (a) eligible to be registered as an ex-officio member of the EC;
- (b) eligible to be registered as a voter for an EC subsector;
- (c) eligible to be registered as an elector in the FCs of (i) NPC deputies, CPPCC members and Representatives of Relevant National Organisations, or (ii) Medical and Health Services;
- (d) appointed by eligible corporate electors/voters or relevant corporate applicants as their authorized representatives; or
- (e) eligible to be nominated as an EC member in any of the four EC subsectors below:
 - (i) Accountancy subsector: Hong Kong Accounting Advisors appointed by the Ministry of Finance of the People’s Republic of China;
 - (ii) Chinese Medicine subsector: Hong Kong members of the Council of the World Federation of Chinese Medicine Societies;
 - (iii) Legal subsector: Hong Kong members of the Council of the China Law Society; and
 - (iv) Technology and Innovation subsector: Hong Kong academicians of the Chinese Academy of Sciences or the Chinese Academy of Engineering.

for registration as GC electors in order to be included in the 2021 registers of electors for GCs. Starting from the 2022 voter registration cycle, the regular deadlines for applications for new voter registration and report on change of registration particulars are both set at 2 June of the year. *[Added in October 2021]*

2.4 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. *[Added in June 2020]*

2.5 The 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 voter 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. *[Added in June 2020]*

2.6 Nevertheless, in order to ensure the accuracy of the particulars in the register of electors, it is the registered electors’ civic responsibility to provide their updated residential addresses as soon as possible to the REO after moving residence. It is a statutory requirement to provide an address proof when submitting the application form for change of address. With effect from

1 May 2022, provision of address proof will also be mandatory for new voter registration applications. Although address proof is not required for new voter registration before 1 May 2022, the Electoral Registration Officer (“ERO”) may still request the applicant to provide address proof if the application is considered as a suspicious or unclear case. *[Added in June 2020 and amended in October 2021]*

2.7 REO has all along conducted checking along with the mechanism in place. If an elector is suspected to have moved and has not reported his/her new principal residential address, the REO will include the elector in the statutory inquiry procedure. If the elector responds to the inquiry and provides 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”). *[Added in June 2020]*

2.8 Before the FR is published, the REO will publish a copy of the provisional register (“PR”) and OL for inspection by specified persons (for details of the court judgment and court order of a related judicial review case and the relevant arrangements for the inspection of registers, please refer to paras. 2.37, 2.38 below and **Appendix 2**). The procedure for objections and claims in respect of eligibility for voter registration will also commence at the same time. Any person who queries the eligibility of an elector may make an objection and the Revising Officer³ will make a determination on the case. For persons having applied for registration as an elector, if they notice their names missing or their particulars incorrectly recorded in the PR, they may make a claim for determination by the Revising Officer. Electors whose names have been included in the OL may also make a claim with the Revising Officer, and the elector’s voter registration can be maintained if the grounds for the claim are accepted by the Revising Officer. Sufficient information about

³ The Revising Officer, appointed by the Chief Justice, may be any magistrate, former magistrate, retired magistrate or any legal officer as defined by the Legal Officers Ordinance (Cap 87) [s 77(1) of the LCO].

the objection or claim must be provided by the applicant to inform the Revising Officer of the grounds of the case. *[Added in June 2020 and amended in October 2021]*

2.9 As an established requirement by the law, the person who raises an objection or claim shall, in general, attend the hearing (except for incontrovertible cases), otherwise the Revising Officer may dismiss the objection or claim (see para. 2.44 below for details). However, under the Special Voter Registration Arrangements in 2021, all objections and claims cases in relation to the PR will be determined by the Revising Officer on the basis of written submissions only without holding a hearing. Unless the Revising Officer's approval is obtained to retain the voter registration, electors whose names are listed on the OL will be excluded from the subsequently published FR. *[Amended in October 2021]*

PART II: COMPOSITION OF GEOGRAPHICAL CONSTITUENCIES

2.10 In the general election for the seventh term of the LegCo, the following 10 GCs are to return 20 of the 90 members of the LegCo, with 2 members returned for each GC:

- (a) the Hong Kong Island East GC;
- (b) the Hong Kong Island West GC;
- (c) the Kowloon East GC;
- (d) the Kowloon West GC;
- (e) the Kowloon Central GC;

- (f) the New Territories South East GC;
- (g) the New Territories North GC;
- (h) the New Territories North West GC;
- (i) the New Territories South West GC; and
- (j) the New Territories North East GC.

[Amended in July 2008, June 2012, June 2016 and October 2021]

2.11 In view of the change in the number of GCs and the urgency of holding the 2021 LegCo General Election, s 18(5) of the EACO stipulates that the EAC is not required to submit its recommendations regarding the delineation of GCs and the demarcation of their boundaries to the CE for the general election for the seventh term of the LegCo. The boundaries of the 10 GCs for the seventh term of the LegCo have been delineated by the Government based on the constituency boundaries for the 2019 District Council (“DC”) Ordinary Election as recommended by the EAC and approved by the CE in Council, and have been passed by the LegCo. The boundaries follow the established criteria to ensure that each GC comprises a number of contiguous whole DC constituencies and that the projected population of each GC does not deviate from the resulting number (i.e. multiplying the population quota by the number of members to be returned by that GC) by more than 15%. With effect from the LegCo general election for the eighth term of the LegCo, the EAC will continue to perform its statutory functions of reviewing the GC boundaries in accordance with the existing requirements of the EACO.

[Added in October 2021]

PART III : REGISTRATION OF ELECTORS

Key Dates in Voter Registration

2.12 For the voter registration arrangements in respect of GCs, the timetable in 2021 is different from the regular one to be adopted from the 2022 voter registration cycle onwards, as detailed below:

Statutory Deadline	Ordinary Voter Registration Arrangements in 2021 (Applicable to individuals other than the eligible persons as specified in para. 2.3 above)	Special Voter Registration Arrangements in 2021 (Applicable to the eligible persons as specified in para. 2.3 above)	Regular Voter Registration Arrangements from 2022 onwards
Submission of applications for change of particulars	2 April	5 July (not applicable to change of registered address)	2 June
Electors to apply for de-registration	2 May	2 May	2 June
Submission of applications for new registration	2 May	5 July	2 June
Electors to respond to inquiry letters to retain their voter registration	2 May	19 September	2 June
Publication of the PR and OL of GCs	26 September		1 August

Statutory Deadline	Ordinary Voter Registration Arrangements in 2021 (Applicable to individuals other than the eligible persons as specified in para. 2.3 above)	Special Voter Registration Arrangements in 2021 (Applicable to the eligible persons as specified in para. 2.3 above)	Regular Voter Registration Arrangements from 2022 onwards
Claims and objections period	26 September to 9 October		1 to 25 August
Publication of the FR of GCs	29 October		25 September

[Added in October 2021]

Eligibility to Vote

2.13 Under the existing voter registration arrangements in Hong Kong, a self-declaration system is adopted to facilitate the registration of eligible persons 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 commits an offence and violates s 22 of the EAC (ROE) (GC) Reg, no matter whether he/she subsequently votes at an election or not. If that person does vote at an election, he/she contravenes s 16 of the ECICO and shall be liable to a more serious penalty. *[Added in June 2020]*

2.14 Only a registered elector has the right to vote at a LegCo election. A registered elector is a person whose name appears on the FR of GCs that is in force at the time of election as compiled and published by the ERO under the LCO. A registered elector may only vote at an election for the GC for which

he/she is registered as an elector in the FR. [S 48(1) of the LCO] *[Amended in January 2010]*

Qualifications for Registration as an Elector

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

- (a) for the 2021 voter registration cycle — he/she has to be aged 18 years or above as at 25 July 2021; starting from the 2022 voter registration cycle — he/she has to be aged 18 years or above as at 25 September next following his/her application for registration [s 29 of the LCO]; *[Amended in October 2007]*
- (b) he/she is a permanent resident of Hong Kong [s 27 of the LCO];
- (c) (i) he/she ordinarily resides in Hong Kong (for the definition of “ordinarily residing in Hong Kong”, please see paras. 2.27 to 2.30 below) 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 of his/her last dwelling-place in Hong Kong [s 28(1A) and (1B) of the LCO]. *[Amended in January 2010]*
- (d) he/she holds an identity document or has applied for a new identity document or a replacement of 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.

[Amended in June 2012 and October 2021]

2.16 A person who is **already registered** in the existing FR of GCs **need not re-apply** for registration as an elector in a GC as his/her name and residential address will appear in the next register (a PR) if he/she remains eligible to be registered [s 8(1) of the EAC (ROE) (GC) Reg]. However, he/she is not eligible to be registered as an elector in the next register of GCs if:

- (a) he/she has ceased to ordinarily reside in Hong Kong (for the definition of “ordinarily residing in Hong Kong”, please see paras. 2.27 to 2.30 below) [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. 2.31 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 he/she has left the penal institution after the end of the imprisonment without reporting his/her new residential address to the ERO [s 9(2A) of the EAC (ROE) (GC) Reg] [*Amended in January 2010*]; or
- (e) he/she is disqualified from being registered as an elector by virtue of s 31 of the LCO.

[Amended in June 2012]

Disqualifications

2.17 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 that GC (see paras. 2.15 and 2.16 above) [ss 27, 28 and 53(1) of the LCO];
- (b) is found under the Mental Health Ordinance (Cap 136) to be incapable, by reason of mental incapacity, of managing and administering his/her property and affairs [ss 31(1) and 53(5) of the LCO]⁴; or

⁴ Regarding persons with other mental health problems, except for the condition stipulated in para. 2.17(b) above, the law imposes no restriction on such person's right to vote, provided that each must cast the vote on his/her own. If an elector is unable to mark the ballot paper on his/her own, the elector may request the Presiding Officer ("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 (please refer to para. 6.58 of Chapter 6 for details).

(c) is a member of any armed forces [ss 31(1) and 53(5) of the LCO].

[Amended in January 2010 and June 2012]

Application for Registration and De-registration

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

2.19 A person may, by completing the specified form⁵, send his/her application for voter registration to the ERO at any time of the year. A person who was previously de-registered (e.g. due to failure to respond to the inquiry letter from the REO after a move of residence) but is presently eligible for voter registration may submit an application for new registration to be registered again as an elector. Starting from 1 May 2022, when submitting an application for voter registration, the applicant is required to provide at the same time the documentary evidence of his/her residential address to prove that the address stated in the application is the applicant's principal residential address [s 4(1A) of the EAC (ROE) (GC) Reg]. (The legislative provision has been enacted and published in the Gazette to take effect from 1 May 2022.) The address proof must comply with specific requirements, such as that it must be issued within the last 3 months⁶. *[Amended in June 2020 and October 2021]*

2.20 For de-registration as an elector, the elector may make an application in person at the REO. If he/she prefers to apply in writing, no specified form is required. The elector may inform the REO of the de-registration by a written notice which must contain his/her personal particulars and be signed by him/her. De-registration will not take immediate

⁵ The form of "Application for New Registration/Report on Change of Particulars by an Elector in a Geographical Constituency" (REO-GC) is available at the website of the REO (www.reo.gov.hk).

⁶ For details of documents acceptable as address proof, please refer to the guidance notes on the form of "Application for New Registration/Report on Change of Particulars by an Elector in a Geographical Constituency" (REO-GC).

effect upon the REO's receipt of the application. After receipt of a written notice, the REO will contact the elector concerned to verify the application. Only after verification will the elector's name be included in the OL. The elector so 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 inspection period. If in need, the elector can lodge a claim with supporting proof to request for reinstatement of his/her elector status. If the REO is unable to process and complete the verification of the application for de-registration, the name of the elector will remain on the PR in that year. Given that the elector has not been de-registered, he/she may choose to vote or not on the polling day. The pending application for de-registration will be processed in the next voter registration cycle. *[Added in June 2020 and amended in October 2021]*

2.21 The applications mentioned in paras. 2.19 and 2.20 above may be submitted at any time to the REO. However, if any person wishes his/her name to be included in or excluded from the FR of GCs published in a current year, the application must reach the ERO **on or before** the deadline as specified in para. 2.12 above. Applications received by the ERO after the deadline will be regarded as requests for registration or de-registration for the FR of GCs of the next year. [Ss 4 and 9 of the EAC (ROE) (GC) Reg] *[Amended in June 2016, June 2020 and October 2021]*

2.22 All application forms for registration received will be processed by the ERO. In case of incomplete or incorrect information on an application form, the ERO will send written requests to the applicant for further particulars or proof [s 5(2) of the EAC (ROE) (GC) Reg]. An applicant who qualifies for registration as an elector will be allocated to a GC based on 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]. Applicants not qualified for registration will also be informed by the REO of the result accordingly by post [s 5(9) of the EAC (ROE) (GC) Reg]. *[Amended in January 2010 and June 2016]*

2.23 The names and principal residential addresses of all eligible electors will be entered in the registers of electors.

Change of Residential Address and Other Registered Particulars

2.24 A registered elector is not required 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 in order to update his/her registration particulars in the register for the next year. *[Amended in January 2010 and June 2012]*

2.25 Apart from his/her principal residential address, a registered elector should also notify the ERO of any change of his/her other particulars (e.g. name, telephone numbers or email address). *[Amended in January 2010]*

2.26 An elector should notify the ERO of any change of his/her registration particulars by submitting a specified form for processing. If applying for change of principal residential address recorded in the FR⁷, the elector must provide relevant documentary evidence to prove that the address stated in the application is his/her principal residential address⁸ [s 10A(3) of the EAC (ROE) (GC) Reg]. The address proof must comply with specific requirements, such as that it is issued within the last 3 months⁹. An elector who has reported a change of particulars will be notified by the ERO about the confirmation of 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

⁷ The form of “Application for New Registration/Report on Change of Particulars by an Elector in a Geographical Constituency” (REO-GC) is available at the website of the REO (www.reo.gov.hk).

⁸ For electors who are 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, their applications for change of registered address may be exempted from the address proof requirement provided that the reported new residential addresses match the tenancy records of the authorities concerned.

⁹ For details on documents acceptable as address proof, please refer to the guidance notes on the form of “Application for New Registration/Report on Change of Particulars by an Elector in a Geographical Constituency” (REO-GC).

registration particulars to the ERO to update 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. *[Amended in January 2010, June 2016, June 2020 and October 2021]*

“Ordinarily Residing in Hong Kong”

2.27 One of the criteria for a person to be eligible to be registered as an elector for a GC is that he/she must “ordinarily reside in Hong Kong” [s 28 of the LCO]. The definition of “ordinarily residing in Hong Kong” is not set out in the subsisting electoral law. In assessing whether a person “ordinarily resides in Hong Kong”, one needs to take into account a host of factors and the specific situation of each case, and determine according to the relevant judgments of the Court, and the conclusion cannot be generalised. One cannot say someone does not “ordinarily reside in Hong Kong” simply because he/she has a place of residence abroad. According to a court precedent¹⁰, a person is considered ordinarily residing in a place if he/she remains in that place legally, voluntarily and for a settlement purpose (such as for education, employment or residence), regardless of the duration, and even if he/she is temporarily absent from that place for some reasons. The Court also pointed out that a person may ordinarily reside in two places at the same time. *[Added in October 2021]*

2.28 Generally speaking, for a Hong Kong permanent resident who used to reside in Hong Kong all along, if he/she has now set up for personal reasons another residence elsewhere but still returns to live in Hong Kong from time to time (such as for handling personal matters, social gatherings or family reunion), then he/she can still be regarded as maintaining a reasonable connection with Hong Kong. A condition which must be considered in

¹⁰ *Lau San Ching v Liu, Apollonia* [1995] 5 HKPLR 23 citing *R. v. Barnet London Borough Council, ex parte Shah* [1983] 2 AC 309

parallel is that in accordance with the electoral law, that person must provide, for the purpose of registration as an elector, a residential address which is his/her only or principal residence in Hong Kong (i.e. not a correspondence address but a residential address where he/she habitually resides when he/she is in Hong Kong). Under such circumstances, whether the person still satisfies the statutory requirement of “ordinarily residing in Hong Kong” must be determined according to the actual circumstances of individual case. *[Added in October 2021]*

2.29 On the other hand, if a Hong Kong permanent resident has left Hong Kong to reside in another place without maintaining connections with Hong Kong or any intention to reside in Hong Kong again, or no longer having an only or principal residence in Hong Kong, then he/she no longer meets the statutory eligibility requirements for registration. *[Added in October 2021]*

2.30 To sum up, the individual circumstances of the person must be considered when determining whether that person is “ordinarily residing in Hong Kong”, and it is not a matter which could be summarily determined. If it encounters relevant cases in the course of voter registration work, the REO will examine the details and actual circumstances surrounding the cases carefully, and seek legal advice where necessary. *[Added in October 2021]*

Inquiry Procedures

2.31 While it is not a mandatory requirement under the law, the REO has been appealing to registered electors to fulfil their civic duty by notifying the ERO of any change in their principal residential address in Hong Kong in a timely manner and submitting 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 initiate the statutory inquiry procedure 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]. If the elector fails to respond to the inquiry; or fails to provide the information requested by the ERO; or if the ERO, based on the information so received or otherwise obtained, is satisfied on reasonable grounds that the elector is no longer eligible to be registered, then **the elector's name and other registration particulars will be entered on the OL and may be removed from the next register of electors** [s 9 of the EAC (ROE) (GC) Reg]. A person whose name is recorded in the existing register of electors is still a registered elector for the relevant GC at any election held before the publication of the next register [s 33 of the LCO]. In voter registration, it is of utmost importance to provide the ERO with information that is true, accurate and updated. It is an offence for a person to knowingly or recklessly give false or misleading information for voter registration no matter whether he/she subsequently votes at an election. Offenders are liable to a fine at level 3 (\$10,000) and to imprisonment for 2 years. [S 22 of the EAC (ROE) (GC) Reg] *[Added in January 2010, and amended in June 2016, June 2020 and October 2021]*

Provisional Register and Omissions List

2.32 The content of the PR for GCs shall include:

- (a) the names and principal residential addresses of those eligible electors whose names appear in the FR for GCs in force at the time, with appropriate updates or correction by the ERO based on information reported or otherwise received (if applicable); 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 the statutory deadline for new registration in the year of compiling the register.

A copy of the PR is **available for inspection by specified persons** during ordinary business hours at specified offices of the REO (please refer to paras. 2.37, 2.38 below and **Appendix 2** for details). [Ss 12 and 13 of the EAC (ROE) (GC) Reg] (S 13 has been enacted and published in the Gazette to take effect from 1 May 2022.) *[Amended in January 2010, June 2016, June 2020 and October 2021]*

2.33 At the same time when the PR for GCs is published, the ERO will also publish a copy of the OL for inspection by specified persons (please refer to paras. 2.37, 2.38 below and **Appendix 2** for details). The OL contains the names and principal residential addresses of persons who were formerly registered as GC electors but are struck out of the PR and proposed to be omitted from the next FR, because the ERO, based on the information obtained, is satisfied on reasonable grounds that they are disqualified from or no longer qualified for registration (such as persons who have passed away, persons who have informed the ERO that they do not wish to be registered anymore, or persons who have changed their principal residential addresses without the ERO's knowing the new addresses) [s 32(4)(a) and (b) of the LCO and s 9(1) and (2) of the EAC (ROE) (GC) Reg]. *[Amended in June 2020 and October 2021]*

2.34 For an elector who was an imprisoned person using the address of his/her last dwelling-place in Hong Kong or the address last recorded under the Registration of Persons Regulations as his/her address for registration as an elector, if the ERO is satisfied on reasonable grounds that he/she has served the sentence of imprisonment and left the penal institution without informing the ERO of his/her new residential address, the ERO shall enter the name and principal residential address of the elector in the OL according to the procedures prescribed in the relevant legislation. [S 9(2A) of the EAC (ROE) (GC) Reg] *[Amended in January 2010 and June 2016]*

2.35 The names and principal residential addresses of persons

included in the OL will be excluded from 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 the elector status is invalidated with immediate effect. If the elector lodges a claim to the ERO and the Revising Officer accepts the grounds submitted and approves the claim, the elector status will be retained (see paras. 2.42 to 2.44 below). *[Added in January 2010, and amended in June 2016 and June 2020]*

2.36 The time and place(s) for inspection of the copy of the PR and the OL will be published in a notice in the Gazette and newspapers. Publication of the notice is to be treated as the publication of the PR. [Ss 10 and 13 of the EAC (ROE) (GC) Reg] *[Added in June 2020]*

2.37 On 15 October 2019, the Junior Police Officers' Association ("JPOA") of the Hong Kong Police Force applied to the Court of First Instance ("CFI") of the High Court for grant of judicial review (HCAL 3042/2019), seeking to prohibit the release by the ERO of any extract of FR containing the names and principal residential addresses (referred to as "linked information") of registered electors for public inspection or to candidates. The JPOA also applied to the court for an urgent interim injunction to stop the ERO from making the FR containing the linked information available for public inspection or providing such electors' information to any person. After the trial was concluded in the CFI, an appeal was brought to the Court of Appeal for review. The Court of Appeal handed down the judgment on 21 May 2020 and made an order at the hearing on 27 May 2020 (CACV 73/2020). Pursuant to the judgment and order handed down in that judicial review case, only validly nominated candidates, political parties¹¹ and members of the press¹²

¹¹ There is no official definition of "political party" in the subsisting law related to voter registration (i.e. the EAC (ROE) (GC) Reg and the EAC (ROE) (FCSEC) Reg). The REO has put in place practical arrangements to make the registers of electors available for inspection by relevant political parties for election-related purposes. Generally speaking, for the purpose of the inspection of the registers of electors, a body is regarded as a political party if it-

- (a) was represented by a candidate at a relevant previous election;
- (b) was provided an extract of the registers for a purpose related to a relevant previous election; or
- (c) has publicly declared an intention to arrange for any person (including a person yet to be specified) to stand as a candidate at a relevant coming election.

¹² As regards members of the press, the Court of Appeal accepts the practice of the REO in adopting the list of subscribers to the Government News and Media Information System.

are allowed, for election-related purposes, to inspect FRs that show the linked information of individual electors. In response to the above court judgment and order, the REO has put in place interim measures for the inspection of registers. *[Added in October 2021]*

2.38 The Government has amended the relevant legislation relating to the inspection of the registers of electors. Starting from the 2022 voter registration cycle, only specified persons (i.e. validly nominated candidates, political parties and members of the press) (detailed at **Appendix 2**) are allowed to inspect the copy of registers for GCs (including the OL, PR and FR). Only the first character/word of the elector's name (whether in Chinese or English) and his/her registered residential address will be shown on the registers for inspection. [Ss 10, 13 and 20 of the EAC (ROE) (GC) Reg] (The relevant legislative provisions have been enacted and published in the Gazette to take effect from 1 May 2022.) Before the legislative amendments take effect, the inspection of registers shall be conducted in compliance with the above court judgment and order. *[Added in October 2021]*

2.39 Upon request by a person imprisoned or held in custody by a law enforcement agency and if the ERO considers it appropriate to do so, 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 a part of the PR and OL for that person's inspection subject to paras. 2.37 and 2.38 above. *[Added in June 2020 and amended in October 2021]*

2.40 The ERO may require persons who wish to inspect the copy of the PR and/or OL to produce an identity document and complete a form specified by the ERO. [Ss 10(4) and 13(5) of the EAC (ROE) (GC) Reg] *[Added in June 2020]*

Online Voter Information Enquiry System

2.41 Registered electors may log on to the OVIES (www.voterinfo.gov.hk) at any time to check their latest registration particulars including their registered addresses and respective constituencies, and find out whether they are included in the statutory inquiry procedure. *[Added in June 2016]*

Appeals – Objections and Claims

2.42 Members of the public may deliver in person at the office of the ERO a notice of objection in the specified form as regards any entries in the relevant PR within the period for making objections or claims [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 inspection period. An applicant who claims that he/she is entitled to be registered as an elector and has applied for registration but whose name has not been listed in the PR or has been included in the OL, or an elector whose particulars have not been correctly recorded in the PR, may deliver in person at the office of the ERO a notice of claim in the specified form within a specified period in respect of the entry or any omission concerning himself/herself [s 15(1), (2) and (7) of the EAC (ROE) (GC) Reg]. If a person imprisoned or held in custody by a law enforcement agency wishes to make such an objection or claim, 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]. *[Amended in June 2020 and October 2021]*

2.43 The REO will issue reminding letters to electors on the OL. A message in red that reads “Immediate action required Your voting right is at stake” will be printed on the envelope, so as to draw the electors’ attention to the requirement that they must submit a notice of claim or send back the reply slip by the specified deadline to confirm the validity of the existing registered addresses or to update their registered addresses (submission of address proof is

required for the update of registered address). If an elector is listed on the OL due to the statutory inquiry procedure, when he/she logs on to the OVIES to inspect his/her registration particulars, a system-generated reminder will prompt the elector to respond to the reminding letter from the REO as soon as possible to confirm his/her current residential address or to update his/her residential address. *[Added in June 2020]*

2.44 Cases of objections and claims will be referred to the Revising Officer for consideration. The Revising Officer will deliberate on each objection or claim and make a ruling on the inclusion, exclusion or revision of the entry concerned in the relevant FR. [Ss 34 and 77 of the LCO and Part 3 of the EAC (ROE) (GC) Reg] The appellant must provide sufficient information so as to inform the Revising Officer of the grounds of the objection or claim, and attend the hearing (except for incontrovertible cases¹³), otherwise the Revising Officer may dismiss the objection or claim. However, under the Special Voter Registration Arrangements in 2021, objections and claims cases will be determined by the Revising Officer on the basis of written submissions only without holding a hearing. [Ss 2(5A), 2A and 2B of the Registration of Electors (Appeals) Regulation (Cap 542B)] *[Amended in January 2010, June 2016, June 2020 and October 2021]*

Final Register

2.45 The FR for GCs consists of entries shown in the PR and incorporates, for the relevant year, all revised names and principal residential addresses of electors based on new registration applications and reports on change of registration particulars, as well as those updated or corrected in accordance with the Revising Officer's decisions on claims and objections

¹³ In accordance with s 2A of the Registration of Electors (Appeals) Regulation, for an incontrovertible objection or claim, including cases where the person who lodges the objection or claim has not provided any ground in his/her notice, where the grounds submitted by the person are irrelevant to registration eligibilities, or where 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.

[s 19(1) of the EAC (ROE) (GC) Reg]. The ERO will also take the opportunity to delete entries of electors who are known to have passed away and to revise any incorrect information in the relevant PR. The FR shall remain in force until the publication of the next FR in the following year. *[Amended in June 2020 and October 2021]*

2.46 The time and place(s) for inspection of the copy of the FR will be published in a notice in the Gazette and newspapers. Publication of the notice is to be treated as the publication of the FR. The inspection of the FR shall be arranged as detailed in paras. 2.37 and 2.38 above. Upon request by a person imprisoned or held in custody by a law enforcement agency and if the ERO considers it appropriate to do so, 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 a part of the FR for that person's inspection subject to paras. 2.37 and 2.38 above. The ERO may require persons who wish to inspect the FR to produce an identity document and complete a form specified by the ERO. [S 20 of the EAC (ROE) (GC) Reg] *[Amended in January 2010, June 2016, June 2020 and October 2021]*

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** prescribed by the electoral law. 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].

PART IV : THE VOTING SYSTEM FOR GEOGRAPHICAL CONSTITUENCIES

2.47 The “double seats and single vote” voting system is adopted in GC elections. Each GC will return 2 members, and each elector of a GC may vote for 1 candidate. The 2 candidates who obtain the greatest and the next greatest numbers of votes shall be returned as members for the respective GC. [S 49(1) and (2) of the LCO] *[Amended in October 2021]*

2.48 When the number of validly nominated candidates contesting in the election is more than the number of members to be returned for a GC, a poll will be held for that GC. 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, the poll will no longer be necessary and electors of the constituency need not go to the relevant polling stations to vote. If no candidates were validly nominated or the number of candidates 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 held.

2.49 If, after the counting is finished at an election for a GC, the number of the most successful candidates having an equal number of votes exceeds the number of members to be returned for the constituency, the RO must determine the result of the election by drawing lots and the candidate(s) on whom the lot falls is/are to be returned. [S 49(4) of the LCO] *[Amended in October 2021]*

2.50 When the election result has to be determined by the drawing of lots, 10 table-tennis balls each marked with a number from 1 to 10 will be put

into an empty opaque bag, to be provided by the RO. Firstly, one of the candidates 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 procedures are repeated for the other candidates until all candidates have drawn the table-tennis ball. The RO will draw the lot on behalf of the candidate if he/she is absent at the time of the draw. The candidate on whom the lot falls, as specified below, is to be returned at the election:

- (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 round(s) of draw 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 wins. If, on the other hand, 2 or more candidates have drawn the same larger number and the remaining candidate(s) has/have drawn a smaller number, a second round of draw will be held. Only those candidates who have drawn the same larger number in the first round will participate in the second round of draw.
- (c) Where there are 2 vacancies to be filled and there are 3 or more candidates having the equal number of votes, if each candidate has drawn different numbers respectively in the first round of draw, the 2 candidates who have drawn the largest and the larger numbers will get the 2 vacancies, and the remaining candidate(s) will be declared defeated. Similarly, if 2 of the candidates have drawn 2 larger equal numbers and the remaining candidate(s)

has/have drawn smaller number(s), then those 2 candidates will be declared elected. If 1 candidate has drawn a larger number and the remaining candidates have drawn equal smaller numbers, the candidate who has drawn the larger number will be declared elected and the remaining candidates will participate in a second round of draw.

[Amended in June 2020 and October 2021]

2.51 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 GC

2.52 After the CERC has decided that a candidate is validly nominated but before the polling day, if proof is given to the satisfaction of the RO that the candidate has died, the RO must give notice of the death of the candidate. Where the notice of validly nominated candidates has already been published by the CERC, the RO must publicly declare that the candidate has died and further declare which candidate(s) is/are validly nominated for the relevant GC election. Besides, if proof is given to the satisfaction of the CERC that a validly nominated candidate is disqualified from being nominated, the CERC must vary its decision to the effect that the candidate is not validly nominated, and the RO should issue such a notice to the CEO and each candidate who remains validly nominated for the relevant GC election. Where the notice of validly nominated candidates has already been published by the CERC, the CERC must publicly declare that the decision has been varied and further declare which candidate(s) is/are validly nominated for the relevant GC election. [S 42B of the LCO and ss 22A and 22B of the EAC (EP) (LC) Reg]

[Added in June 2016 and amended in October 2021]

2.53 If, on the polling day but before the election result is declared, proof is given to the satisfaction of the RO that a validly nominated candidate has died or proof is given to the satisfaction of the CERC that a validly nominated candidate is disqualified from being elected, the proceedings for the GC election shall continue as if the death or disqualification had not occurred. 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 that constituency has failed or has failed to the extent that the number of candidates returned at the election for the constituency is less than the number of members to be returned for the constituency. [Ss 46A, 49(6) and (7) of the LCO and ss 83(2), (3) and 97A of the EAC (EP) (LC) Reg] *[Amended in June 2016 and October 2021]*

CHAPTER 3

COMPOSITION, REGISTRATION OF ELECTORS AND VOTING SYSTEM FOR FUNCTIONAL CONSTITUENCIES

PART I : GENERAL

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

3.2 Only registered electors for an FC or authorised representatives (“ARs”) whose names appear on the FR of electors may vote at an election for the FC. Registered electors for FCs may visit the OVIES (www.voterinfo.gov.hk) at any time to check their registration particulars. The FR is updated in every voter registration cycle. *[Added in June 2020]*

3.3 The application for change of registration particulars and application for new voter registration in 2021 were closed on 2 April 2021 and 2 May 2021 respectively, i.e. before the enactment of the Amendment Ordinance. The Amendment Ordinance subsequently provided for major changes to the composition of the EC, EC subsectors and LegCo FCs. Hence, the REO launched the “Special Voter Registration Arrangements”, which ran from 1 June 2021 to 5 July 2021, for eligible individuals and bodies to submit applications for registration in order to be included in the 2021 registers of electors for FCs. The arrangements are as follows:

- (a) For electors who have been directly removed from the registers of FC electors due to the abolition of their original FCs (namely the former DC (first) FC, former DC (second) FC and former Information Technology FC), if they meet the registration

eligibilities of other FCs, they may submit applications to register in another FC for which they are eligible;

- (b) For electors who have been removed from the FCs for which they are no longer eligible, if they meet the registration eligibilities of other FCs, they may submit applications to register in another FC for which they are eligible;
- (c) For individuals and bodies who/which are eligible to be registered as electors in the 3 newly created FCs (namely the Commercial (third) FC, Technology and Innovation FC, and NPC Deputies, CPPCC Members and Representatives of Relevant National Organisations FC), they may submit applications to register in these FCs (whether or not they are currently registered as FC electors); and
- (d) For individuals and bodies eligible to be registered as electors in the 6 FCs the registration eligibilities of which have changed (namely the Agriculture and Fisheries FC, Transport FC, Tourism FC, Catering FC, Sports, Performing Arts, Culture and Publication FC, and Medical and Health Services FC), they may submit applications to register in these FCs regardless of whether or not they are currently registered as FC electors.

Starting from the 2022 voter registration cycle, the regular deadlines for applications for new voter registration and report on change of particulars are both set at 2 June of the year. *[Added in October 2021]*

3.4 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. It is also an

offence for an elector to vote despite knowing that he/she is disqualified from being registered as an elector, even if his/her name is still on the FR. *[Added in June 2020]*

3.5 A registered elector for an FC (including an individual elector or an AR of a corporate elector) must be a registered elector for a GC, or be eligible to be registered as an elector 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 III of Chapter 2. *[Added in June 2020]*

3.6 REO has all along conducted checking along with the mechanism in place. If an elector is suspected to be no longer eligible to be registered in the relevant FC, the REO will include the elector in the statutory inquiry procedure. If the elector responds to the inquiry and provides valid proof of his/her/its eligibility for voter registration by the deadline, his/her/its name may remain on the register for the relevant FC. If the elector fails to respond to the inquiry and provide the relevant proof of his/her/its eligibility for voter registration by the deadline, his/her/its name will be included in the OL for the relevant FC. *[Added in June 2020 and amended in October 2021]*

3.7 Pursuant to the major changes to the composition of FCs, under the Special Voter Registration Arrangements in 2021, electors on the 2020 FR of FCs are subject to the following arrangements:

- (a) Since the former DC (first) FC, former DC (second) FC and former Information Technology FC have been abolished, all registered electors of these FCs are directly removed from the FC register without undergoing the procedure of receiving an inquiry letter or inclusion in the OL; and
- (b) Electors who have been removed from the FCs for which they are no longer eligible are subject to the inquiry procedure and will be

included in the OL. If they meet the registration eligibilities of other FCs, they must submit an application during the period of the Special Voter Registration Arrangements (see para. 3.3 above) to register in another FC for which they are eligible in order to be included in the 2021 register of FCs.

[Ss 22(4A), 24 and 28AA of the EAC (ROE) (FCSEC) Reg] *[Added in October 2021]*

3.8 Before the FR is published, the REO will publish a copy of the PR and OL for inspection by specified persons (for details of the court judgment and court order of a related judicial review case and the relevant arrangements for the inspection of registers, please refer to paras. 3.42, 3.43 below and **Appendix 2**). The procedure for objections and claims in respect of eligibility for voter registration will also commence at the same time. Any person who queries the eligibility of an elector may make an objection and the Revising Officer¹⁴ will make a determination on the case. For individuals/bodies having applied for registration as an elector, if they notice their names missing or their particulars incorrectly recorded in the PR, they may make a claim for determination by the Revising Officer. Electors whose names have been included in the OL may also make a claim with the Revising Officer, and the elector's voter registration can be maintained if the grounds for the claim are accepted by the Revising Officer. Sufficient information about the objection or claim must be provided by the applicant to inform the Revising Officer of the grounds of the case. *[Added in June 2020 and amended in October 2021]*

3.9 As an established requirement by the law, the person who raises an objection or claim shall, in general, attend the hearing (except for incontrovertible cases), otherwise the Revising Officer may dismiss the

¹⁴ The Revising Officer, appointed by the Chief Justice, may be any magistrate, former magistrate, retired magistrate or any legal officer as defined by the Legal Officers Ordinance [s 77(1) of the LCO].

objection or claim (see para. 3.49 below for details). However, under the Special Voter Registration Arrangements in 2021, all objections and claims cases in relation to the PR will be determined by the Revising Officer on the basis of written submissions only without holding a hearing. Unless the Revising Officer's approval is obtained to retain the voter registration, electors whose names are listed on the OL will be excluded from the subsequently published FR. *[Added in October 2021]*

PART II : COMPOSITION OF FUNCTIONAL CONSTITUENCIES

3.10 In the general election for the seventh term of the LegCo, the 28 FCs are to return 30 of the 90 members of the LegCo. *[Amended in July 2008, June 2012, June 2016, June 2020 and October 2021]*

3.11 The electorates of the 28 FCs are from particular business, social, professional or other groups. Except the Labour FC that is to return 3 members to the LegCo, each of the other 27 FCs will return 1 member [s 21 of the LCO]. The FCs and their electorates are provided for in ss 20A to 20ZD of and Schedules 1 to 1D to the LCO, and are set out in **Appendix 3**. *[Amended in June 2012 and October 2021]*

PART III : REGISTRATION OF ELECTORS

Key Dates in Voter Registration

3.12 For the voter registration arrangements in respect of FCs, the timetable in 2021 is different from the regular one to be adopted from the 2022 voter registration cycle onwards, as detailed below:

Statutory Deadline	Ordinary Voter Registration Arrangements in 2021 (Applicable to individuals and bodies other than the eligible ones as specified in para. 3.3 above)	Special Voter Registration Arrangements in 2021 (Applicable to the eligible individuals and bodies as specified in para. 3.3 above)	Regular Voter Registration Arrangements from 2022 onwards
Submission of applications for change of particulars	2 April	5 July (not applicable to change of registered residential address)	2 June
Electors to apply for de-registration	2 May	2 May	2 June
Submission of applications for new registration	2 May	5 July	2 June
Electors to respond to inquiry letters to retain their voter registration	2 May	19 September	2 June
Publication of the PR and OL of FCs	26 September		1 August
Claims and objections period	26 September to 9 October		1 to 25 August
Publication of the FR of FCs	29 October		25 September

[Added in October 2021]

Eligibility to Vote

3.13 Under the existing voter registration arrangements in Hong Kong, a self-declaration system is adopted to facilitate the registration of eligible individuals/bodies 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 commits an offence and violates s 42 of the EAC (ROE) (FCSEC) Reg, no matter whether he/she subsequently votes at an election or not. If that person does vote at an election, he/she contravenes s 16 of the ECICO and shall be liable to a more serious penalty. *[Added in June 2020]*

3.14 Only a registered elector has the right to vote at a LegCo election. A registered elector refers to an individual or AR of a corporate elector whose name appears on the FR of FCs that is in force at the time of the election. A registered individual elector or AR of a corporate elector may only vote at an election for the FC for which the elector is registered in the FR. [S 48 (1) of the LCO] *[Amended in June 2020]*

Qualifications for Registration as an Elector

Electors of the 28 FCs

3.15 An elector who is eligible to be registered for an FC may be a natural person (i.e. an individual) or a body. A person who is one specified in column 2 of Appendix 3 opposite an FC is eligible to be registered as an elector for that FC. For the case of 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, and is not disqualified from being registered. (For qualifications for registration as an elector for a GC, please refer to para. 2.15 of Chapter 2.) [S 25(1) of the LCO]

3.16 If a person/body is **already registered** in the FR for an FC and is eligible to do so, and is not disqualified from being registered as an elector for the FC, then he/she/it **need not re-apply** for registration as an elector in that FC as his/her name and principal residential address/its name and business address will appear in the next PR for the relevant FC. [S 23(1) of the EAC (ROE) (FCSEC) Reg] *[Amended in June 2012 and June 2020]*

3.17 A body specified in item 3, 11, 20, 21(1) or 27 of Appendix 3 is eligible to be registered as a corporate elector for the relevant FC only if it has been operating as such a body for the 3 years immediately before making its application for registration as an elector. [S 25(4) of the LCO] *[Amended in October 2007 and October 2021]*

3.18 A corporate member of a body specified in item 2(1), 13 to 19, 21(2), 22(1) or (3), 23, 24(1) or (2), or 25 of Appendix 3 is eligible to be registered as a corporate elector for the relevant FC only if it has been a corporate member of the body and has been operating for the 3 years immediately before making its application for registration as an elector. [S 25(5) of the LCO] *[Amended in October 2021]*

3.19 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 to be registered in any one of the 9 FCs specified in paras. 3.20 and 3.21 below. [S 25(2) and (3) of the LCO] *[Amended in October 2021]*

3.20 If a person is eligible to be registered in the Heung Yee Kuk FC as well as other FCs, he/she can only be registered in the former and not in the other FCs. Besides, if a person is eligible to be registered in the newly created “NPC Deputies, CPPCC Members and Representatives of Relevant National Organisations FC” as well as other FCs (except the Heung Yee Kuk FC), he/she can only be registered in the former and not in the other FCs. [S 25(3) of the LCO] *[Amended in October 2021]*

3.21 If a body is eligible to be registered in one of the following 7 FCs as well as other FCs, the body can only be registered in one of the former 7 FCs and not in the other FCs:

- (a) Agriculture and Fisheries FC;
- (b) Insurance FC;
- (c) Transport FC;
- (d) Finance FC;
- (e) Sports, Performing Arts, Culture and Publication FC;
- (f) Technology and Innovation FC; and
- (g) Catering FC.

[S 25(3) of the LCO] [*Amended in June 2012 and October 2021*]

Authorised Representatives of Corporate Electors

3.22 Every corporate elector is required to appoint an eligible individual to be its AR for the purpose of casting its vote at an election, otherwise it may not 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 for a GC;
- (b) has a substantial connection with the corporate elector;

- (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. 3.25 below).

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

3.23 A person who is an AR of a corporate elector is not eligible to be appointed as the AR of another corporate elector. [S 26(3) of the LCO]

3.24 An AR must be registered with the ERO. **The corporate elector, when applying for registration as a corporate elector, must notify the ERO in its application form the appointment of its AR.** A decision to appoint, replace or substitute an AR of a corporate elector may only be made by the governing authority (by whatever name called) of the corporate elector. Registered corporate electors may from time to time appoint a new AR by submitting a specified form, which must reach the ERO at least 14 days before the polling day of the FC election. [S 26(4), (5), (6) and (8) of the LCO and s 20(5) of the EAC (ROE) (FCSEC) Reg] This 14-day deadline may be relaxed to not later than 3 working days before the relevant polling day if the ERO is satisfied that the original AR has died, has suffered a serious illness, or has suffered physical or mental incapacity [s 20(6) of the EAC (ROE) (FCSEC) Reg]. [*Amended in October 2021*]

Disqualifications

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

- (a) is no longer eligible to be registered as an elector for a GC (see para. 2.16 of Chapter 2);

- (b) has ceased to be eligible to be registered as an elector for the FC (this does not apply to an AR or a GC elector) [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 [ss 31(1) and 53(5) of the LCO]¹⁵; or
- (d) is a member of any armed forces [ss 31(1) and 53(5) of the LCO].

[Amended in January 2010 and June 2020]

3.26 A consular post to which any privilege or immunity is accorded under the Consular Relations Ordinance (Cap 557), or 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 not eligible to be registered as a corporate elector and, for the purpose of this 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] *[Added in June 2012]*

¹⁵ Regarding persons with other mental health problems, except for the condition stipulated in para. 3.25 (c) above, the law imposes no restriction on such person's rights to vote, provided that each elector must cast the vote on his/her own. If an elector is unable to mark the ballot paper on his/her own, the elector may request 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 (please refer to para. 6.58 of Chapter 6 for details).

Application for Registration and De-registration

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

3.28 A person (either an individual or a body) may, by completing the specified form¹⁶, send his/her/its application for voter registration to the ERO at any time of the year. Starting from 1 May 2022, when submitting an application for voter registration, an individual applicant is required to provide at the same time the documentary evidence of his/her residential address to prove that the address stated in the application is the applicant's principal residential address [s 19(1D) of the EAC (ROE) (FCSEC) Reg] (the legislative provision has been enacted and published in the Gazette to take effect from 1 May 2022). The address proof must comply with specific requirements, such as that it must be issued within the last 3 months¹⁷. Any individual or body who/which was previously de-registered (e.g. due to failure to respond to the inquiry letter from the REO after a move of residence) but is presently eligible for voter registration may submit an application for new registration to be registered again as an FC elector. *[Amended in June 2020 and October 2021]*

3.29 For de-registration as an FC elector, the elector may make an application in person at the REO. If the elector prefers to apply in writing, no specified form is required. The elector may inform the REO of the de-registration by a written notice, which must contain the elector's particulars and be signed¹⁸ by the elector. De-registration will not take immediate effect upon the REO's receipt of the application. After receipt of a written notice, the REO

¹⁶ The forms of "Functional Constituency Elector (Individual) Application for New Registration/Report on Change of Particulars" (REO-FC(I)) and "Functional Constituency Elector (Body) Application for New Registration/Report on Change of Particulars" (REO-FC(B)) are available at the website of the REO (www.reo.gov.hk).

¹⁷ For details of documents acceptable as address proof, please refer to the guidance notes on the form of "Application for New Registration/Report on Change of Particulars by an Elector in a Geographical Constituency" (REO-GC).

¹⁸ For a corporate elector, the application for de-registration from the FC must be signed by the responsible person of the body concerned.

will contact the elector concerned to verify the application. Only after verification will the elector's name be included in the OL for the relevant FC. The elector so included in the OL for the FC may inspect his/her/its voter registration particulars during the inspection period (i.e. from the day of publication of the PR and OL till the end of the inspection period). If in need, the elector can lodge a claim with supporting proof to request for reinstatement of his/her/its elector status. If the REO is unable to process and 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. Given that the elector has not been de-registered, the elector may decide whether to vote or not for the relevant FC on the polling day. The pending application for de-registration will be processed in the next voter registration cycle. *[Added in June 2020 and amended in October 2021]*

3.30 The applications mentioned in paras. 3.28 and 3.29 above may be submitted at any time to the REO. However, if a person (either an individual or a body) wishes to be included in or excluded from the FR of FCs published in a current year, the application must reach the ERO **on or before** the deadline as specified in para. 3.12 above. Applications received by the ERO after the deadline will be regarded as requests for registration or de-registration for the FR of FCs of the next year. [Ss 19 and 20 of the EAC (ROE) (FCSEC) Reg] *[Amended in June 2016, June 2020 and October 2021]*

3.31 All applications forms for registration received will be processed by the ERO. In case of incomplete or incorrect information on an application form, the ERO will send written requests to the applicant for further particulars or proof [s 21(2) of the EAC (ROE) (FCSEC) Reg]. An applicant who qualifies for registration as an elector will be allocated to an FC based on his/her/its qualification and choice (if so entitled), and the REO will notify him/her/it of the result by post [s 21(8) of the EAC (ROE) (FCSEC) Reg]. Applicants not qualified for registration will also be informed by the REO of the result

accordingly by post [s 21(9) of the EAC (ROE) (FCSEC) Reg]. *[Amended in January 2010, June 2016 and June 2020]*

3.32 The names and principal residential addresses (for individual electors)/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. *[Amended in June 2012 and June 2020]*

Change of Residential Address and Other Personal Particulars

3.33 A registered elector (either an individual or a body) is not required to re-apply for registration every year. *[Amended in January 2010]*

3.34 Nevertheless, a registered individual elector is advised to take note of the following:

- (a) In the case of a change in his/her principal residential address in the FR, he/she should **notify the ERO of his/her new principal residential address** in Hong Kong in order to update his/her registration particulars in the register for the next year.
- (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 the information provided by the elector, the ERO will decide whether he/she is still eligible to be registered, and if so, for which constituency he/she is eligible.
- (c) Apart from his/her principal residential address, a registered elector should also notify the ERO of any change of his/her other particulars (e.g. name, telephone numbers or email address).

- (d) He/She should notify the ERO of any change of the above registration particulars by submitting a specified form for processing. If the elector applies for a change of principal residential address recorded in the FR¹⁹, the elector must provide relevant documentary evidence to prove that the address stated in the application is his/her principal residential address²⁰ [s 26A(3) of the EAC (ROE) (FCSEC) Reg]. The address proof must comply with specific requirements, such as that it is issued within the last 3 months²¹ [s 26A(12) of the EAC (ROE) (FCSEC) Reg]. An elector who has reported a change of particulars will be notified by the ERO about the confirmation of 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 residential address in Hong Kong** or no longer ordinarily resides in Hong Kong (for the definition of “ordinarily residing in Hong Kong”, please see paras. 2.27 to 2.30 of Chapter 2), **his/her name and particulars may be removed from the register of electors.**

[Amended in January 2010, June 2012, June 2016, June 2020 and October 2021]

3.35 A registered corporate elector should also notify the ERO of any changes in its particulars (e.g. name, address or telephone numbers) by

¹⁹ The forms of “Application for New Registration/Report on Change of Particulars by an Elector in a Geographical Constituency” (REO-GC) and “Functional Constituency Elector (Individual) Application for New Registration/Report on Change of Particulars” (REO-FC(I)) are available at the website of the REO (www.reo.gov.hk).

²⁰ For electors who are 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, their applications for change of registered address may be exempted from the address proof requirement provided that the reported new residential addresses match the tenancy records of the authorities concerned.

²¹ For details on documents acceptable as address proof, please refer to the guidance notes on the form of “Application for New Registration/Report on Change of Particulars by an Elector in a Geographical Constituency” (REO-GC).

submitting the specified form²². In other words, para. 3.34 (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. 3.34 (a), (b), (c) and (e) above apply to the change in his/her personal particulars. *[Added in January 2010]*

Inquiry Procedures

3.36 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 initiate the statutory inquiry procedure to ascertain whether the elector whose name is contained 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]. If the elector (either an individual or a body) fails to provide the information requested by the ERO, or if the ERO, based on the information so received or otherwise obtained, is satisfied on reasonable grounds that the elector is no longer eligible to be registered, **then the elector's name will be entered on the OL for the relevant FC and may be removed from the next register of electors** [s 24(1) and (3) of the EAC (ROE) (FCSEC) Reg]. Before the publication of the next register, a person whose name is recorded in the existing register of electors is still a registered elector for the relevant FC [s 33 of the LCO]. In voter registration, it is of utmost importance to provide the ERO with information that is true, accurate and updated. It is an offence for a person to knowingly or recklessly give false or misleading information for voter registration no matter whether he/she subsequently votes at an election. Offenders are liable to a fine at level 3 (\$10,000) and to imprisonment for 2 years. [S 42 of the EAC (ROE) (FCSEC) Reg] *[Added in June 2020 and amended in October 2021]*

²² The form of "Functional Constituency Elector (Body) Application for New Registration/Report on Change of Particulars" (REO-FC(B)) is available at the website of the REO (www.reo.gov.hk).

Provisional Register and Omissions List

- 3.37 The content of the PR for FCs shall include:
- (a) the names and principal residential addresses/business addresses of those eligible electors whose names appear in the FR for FCs in force at the time, with appropriate updates or correction by the ERO based on information reported or otherwise received (if applicable);
 - (b) the names and principal residential addresses/business addresses of the eligible new individual and body applicants respectively who have applied for registration in the FC concerned on or before the statutory deadline for new registration in the year of compiling the register; and
 - (c) the names of the ARs of corporate electors.

A copy of the PR for the 28 FCs is **available for inspection by specified persons** during ordinary business hours at specified offices of the REO (please refer to paras. 3.42 and 3.43 below and **Appendix 2** for details). [Ss 27 and 29 of the EAC (ROE) (FCSEC) Reg] (S 29 has been enacted and published in the Gazette to take effect from 1 May 2022) [*Amended in January 2010, June 2016, June 2020 and October 2021*]

3.38 At the same time when the PR for FCs is published, the ERO will also publish a copy of the OL for inspection by specified persons (please refer to paras. 3.42 and 3.43 below and **Appendix 2** for details). The OL contains the names and principal residential addresses/business addresses of persons (either individuals or bodies) who were formerly registered as FC electors but are struck out of the PR and proposed to be omitted from the next FR, because the ERO, based on the information obtained, is satisfied on reasonable grounds that they

are disqualified from or no longer qualified for registration (such as persons who have passed away, individuals/bodies which have informed the ERO that they do not wish to be registered anymore, individuals who have changed their principal residential address without the ERO's knowing the new addresses, or individuals/bodies which are no longer an eligible member of a listed body in the relevant FC) [s 32(4)(a) and (b) of the LCO and s 24(1) and (3) of the EAC (ROE) (FCSEC) Reg]. *[Amended in January 2010, June 2016, June 2020 and October 2021]*

3.39 For an elector who was an imprisoned person using the address of his/her last dwelling-place in Hong Kong or the address last recorded under the Registration of Persons Regulations as his/her address for registration as an elector, if the ERO is satisfied on reasonable grounds that he/she has served the sentence of imprisonment and left the penal institution without informing the ERO of his/her new residential address, the ERO shall enter the name and principal residential address of the elector on the OL according to the procedures prescribed in the relevant legislation. [S 9(2A) of the EAC (ROE) (GC) Reg] *[Amended in January 2010, June 2016 and June 2020]*

3.40 The names and principal residential addresses/business addresses of persons (either individuals or bodies) included in the OL of an FC will be excluded from the PR of the FC [s 32(4)(a) and (b) of the LCO and s 24(1) of the EAC (ROE) (FCSEC) Reg]. However, the inclusion of an elector in the OL does not mean that the elector status is invalidated with immediate effect. If the elector lodges a claim to the ERO and the Revising Officer accepts the grounds submitted and approves the claim, the elector status will be retained (see paras. 3.47 to 3.49 below). *[Amended in June 2012, June 2016 and June 2020]*

3.41 The time and place(s) for inspection of the copy of the PR and the OL will be published in a notice in the Gazette and newspapers. Publication of the notice is to be treated as the publication of the PR. [Ss 25 and 29 of the EAC (ROE) (FCSEC) Reg] *[Added in June 2020]*

3.42 On 15 October 2019, the JPOA of the Hong Kong Police Force applied to the CFI of the High Court for grant of judicial review (HCAL 3042/2019), seeking to prohibit the release by the ERO of any extract of FR containing the names and principal residential addresses (referred to as “linked information”) of registered electors for public inspection or to candidates. The JPOA also applied to the court for an urgent interim injunction to stop the ERO from making the FR containing the linked information available for public inspection or providing such electors’ information to any person. After the trial was concluded in the CFI, an appeal was brought to the Court of Appeal for review. The Court of Appeal handed down the judgment on 21 May 2020 and made an order at the hearing on 27 May 2020 (CACV 73/2020). Pursuant to the judgment and order handed down in that judicial review case, only validly nominated candidates, political parties²³ and members of the press²⁴ are allowed, for election-related purposes, to inspect FRs that show the linked information of individual electors. Regarding those parts of FRs not showing individual electors’ linked information, such as a part of a register of FCs that shows the information of corporate electors, they may be made available for inspection by the public. In response to the above court judgment and order, the REO has put in place interim measures for the inspection of registers. *[Added in October 2021]*

3.43 The Government has amended the relevant legislation relating to the inspection of the registers of electors. Starting from the 2022 voter registration cycle, only specified persons (i.e. validly nominated candidates, political parties and members of the press) (detailed at **Appendix 2**) are allowed

²³ There is no official definition of “political party” in the subsisting law related to voter registration (i.e. the EAC (ROE) (GC) Reg and the EAC (ROE) (FCSEC) Reg). The REO has put in place practical arrangements to make the registers of electors available for inspection by relevant political parties for election-related purposes. Generally speaking, for the purpose of the inspection of the registers of electors, a body is regarded as a political party if it:

- (a) was represented by a candidate at a relevant previous election;
- (b) was provided an extract of the registers for a purpose related to a relevant previous election; or
- (c) has publicly declared an intention to arrange for any person (including a person yet to be specified) to stand as a candidate at a relevant coming election.

²⁴ As regards members of the press, the Court of Appeal accepts the practice of the REO in adopting the list of subscribers to the Government News and Media Information System.

to inspect the copy of registers for FCs containing the entries of individual electors (including the OL, PR and FR). Only the first character/word of the name of an individual elector (whether in Chinese or English) and his/her registered residential address will be shown on the registers for inspection. A copy of the registers for FCs which contains only the entries of corporate electors will be made available for inspection by the public. [Ss 25, 29 and 38 of the EAC (ROE) (FCSEC) Reg] (The relevant legislative provisions have been enacted and published in the Gazette to take effect from 1 May 2022) Before the legislative amendments take effect, the inspection of registers shall be conducted in compliance with the above court judgment and order. *[Added in October 2021]*

3.44 Upon request by a person imprisoned or held in custody by a law enforcement agency and if the ERO considers it appropriate to do so, 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 a part of the PR and OL for that person's inspection subject to paras. 3.42 and 3.43 above. *[Added in June 2020 and amended in October 2021]*

3.45 The ERO may require persons who wish to inspect the copy of the PR and/or OL to produce an identity document and complete a form specified by the ERO. [Ss 25(6) and 29(5) of the EAC (ROE) (FCSEC) Reg] *[Added in June 2020]*

Online Voter Information Enquiry System

3.46 Registered electors (either an individual or a body) and ARs may log on to the OVIES (www.voterinfo.gov.hk) at any time to check their latest registration particulars, including their registered addresses and respective constituencies, and find out whether they are included in the statutory inquiry procedure. *[Added in June 2016 and amended in June 2020]*

Appeals – Objections and Claims

3.47 Members of the public may deliver in person at the office of the ERO a notice of objection in the specified form as regards any entries in the relevant PR within the period for making objections or claims [s 30(2) of the EAC (ROE) (FCSEC) Reg]. The procedures for making claims or objections are provided in the REO website (www.reo.gov.hk) during the inspection period. An applicant who claims that he/she/the relevant body is entitled to be registered as an elector and has applied for registration but whose name has not been listed 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 deliver in person at the office of the ERO a notice of claim in the specified form in respect of the entry or any omission concerning himself/herself/the relevant body by the deadline [s 31(1), (2) and (7) of the EAC (ROE) (FCSEC) Reg]. If a person imprisoned or held in custody by a law enforcement agency wishes to make such an objection or claim, 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]. *[Amended in January 2010, June 2016, June 2020 and October 2021]*

3.48 The REO will issue reminding letters to electors on the OL. A message in red that reads “Immediate action required – Your voting right is at stake” will be printed on the envelope, so as to draw the electors’ attention to the requirement that they must submit a notice of claim or provide valid documentary proof to confirm their eligibility for registration in the relevant FC by the specified deadline. If an elector is listed on the OL due to the statutory inquiry procedure, when he/she logs on to the OVIES to inspect his/her registration particulars, a system-generated reminder will prompt the elector to respond to the reminding letter from the REO as soon as possible to confirm the eligibility of registration in the relevant FC. *[Added in June 2020]*

3.49 Cases of objections and claims will be referred to the Revising Officer for consideration. The Revising Officer will deliberate on each objection

or claim and make a ruling on the inclusion, exclusion or revision of the entry concerned in the relevant FR. [Ss 34 and 77 of the LCO and Part VI of the EAC (ROE) (FCSEC) Reg] The appellant must provide sufficient information so as to inform the Revising Officer of the grounds of the objection or claim, and attend the hearing (except for incontrovertible cases²⁵); otherwise the Revising Officer may dismiss the objection or claim. However, under the Special Voter Registration Arrangements in 2021, objections and claims cases will be determined by the Revising Officer on the basis of written submissions only without holding a hearing. [Ss 2(5A), 2A and 2B of the Registration of Electors (Appeals) Regulation] *[Added in June 2020 and amended in October 2021]*

Final Register

3.50 The FR for FCs consists of entries shown in the relevant PR and incorporates, for the relevant year, all revised names and principal residential addresses/ business addresses of electors based on new registration applications and reports on change of registration particulars, as well as those updated and corrected in accordance with the Revising Officer's decisions on claims and objections [s 35(1) of the EAC (ROE) (FCSEC) Reg]. The ERO will also take the opportunity to delete entries of electors who are known to have passed away and to revise any incorrect information in the relevant PR. The FR may also contain notations to show if a person registered for a GC is also registered in an FC. The FR for FCs shall remain in force until the publication of the next FR in the following year. *[Amended in June 2020 and October 2021]*

3.51 The time and place(s) for inspection of the copy of the FR will be published in a notice in the Gazette and newspapers. Publication of the notice is

²⁵ In accordance with s 2A of the Registration of Electors (Appeals) Regulation, for an incontrovertible objection or claim, including cases where the person who lodges the objection or claim has not provided any ground in his/her notice, where the grounds submitted by the person are irrelevant to registration eligibilities, or where 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.

to be treated as the publication of the FR. The inspection of the FR shall be arranged as detailed in paras. 3.42 and 3.43 above. Upon request by a person imprisoned or held in custody by a law enforcement agency and if the ERO considers it appropriate to do so, 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 a part of the FR for that person's inspection subject to paras 3.42 and 3.43 above. The ERO may require persons who wish to inspect the FR to produce an identity document and complete a form specified by the ERO. [S 38 of the EAC (ROE) (FCSEC) Reg] [*Amended in January 2010, June 2016, June 2020 and October 2021*]

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** prescribed by the electoral law. 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

3.52 When the number of validly nominated candidates contesting in the election is more than the number of members to be returned for an FC, a poll will be held for that FC. Where no more candidates have been validly nominated than the number of members to be returned for the FC, the validly nominated candidates will be declared elected by the RO [s 46(1) of the LCO]. In such a case, the poll will no longer be necessary and electors of the FC need not go to the relevant polling stations to vote. If no candidates were validly nominated or the number of candidates validly nominated was less than the number of

members 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 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 held. *[Added in June 2020]*

3.53 The “first past the post” voting system is adopted in FC elections. An elector may vote for as many candidates as there are vacancies and no more. The candidate who obtains the greatest number of votes shall be deemed elected, followed by the candidate with the next greatest number of votes, and so on, until all vacancies are filled. [S 51(2), (3) and (4) of the LCO] Out of the 28 FCs, only the Labour FC has 3 seats to be filled and electors of that FC can therefore vote for up to 3 candidates. In each of the remaining 27 FCs, only 1 seat is to be filled and the elector can only vote for 1 candidate. In the event that 2 or more candidates have the equal highest number of votes, the RO shall arrange the drawing of lots to determine which one of these candidates should be elected to fill the vacancy [s 51(6) of the LCO]. *[Amended in October 2021]*

3.54 When the election result has to be determined by the drawing of lots, 10 table-tennis balls each marked with a number from 1 to 10 will be put into an empty opaque bag, to be provided by the RO. Firstly, one of the candidates 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 procedures are repeated for the other candidates until all candidates have drawn the table-tennis ball. The RO will draw the lot on behalf of the candidate if he/she is absent at the time of the draw. The candidate on whom the lot falls, as specified below, 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 round(s) of draw 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 wins. If, on the other hand, 2 or more candidates have drawn the same larger number and the remaining candidate(s) has/have drawn a smaller number, a second round of draw will be held. Only those candidates who have drawn the same larger number in the first round will participate in the second round of draw.
- (c) Where there are only 2 vacancies to be filled and there are 3 candidates having the 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 will get the 2 vacancies, and the remaining candidate will be declared defeated. If the 3 candidates have drawn respectively 2 larger equal and 1 smaller numbers, then the 2 candidates who have drawn the larger equal numbers will get 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 get 1 of the vacancies, and the remaining 2 candidates will participate in a second round of draw to determine who will get the remaining vacancy. The same principle also applies to the situation where there are more than 3 candidates having an equal number of votes competing for 3 vacancies to be filled (such as the Labour FC).

[Amended in June 2020]

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

Death or Disqualification of a Candidate for FC

3.56 After the CERC has decided that a candidate is validly nominated but before the polling day, if proof is given to the satisfaction of the RO that the candidate has died, the RO must give notice of the death of the candidate. Where the notice of validly nominated candidates has already been published by the CERC, the RO must publicly declare that the candidate has died and further declare which candidate(s) is/are validly nominated for the relevant FC election. Besides, if proof is given to the satisfaction of the CERC that a validly nominated candidate is disqualified from being nominated, the CERC must vary its decision to the effect that the candidate is not validly nominated, and the RO should issue such a notice to the CEO and each candidate who remains validly nominated for the relevant FC election. Where the notice of validly nominated candidates has already been published by the CERC, the CERC must publicly declare that the decision has been varied and further declare which candidate(s) is/are validly nominated for the relevant FC election. [S 42B of the LCO and ss 22A and 22B of the EAC (EP) (LC) Reg] *[Added in June 2016 and amended in June 2020 and October 2021]*

3.57 If, on the polling day but before the election result is declared, proof is given to the satisfaction of the RO that a validly nominated candidate has died or proof is given to the satisfaction of the CERC that a validly nominated candidate is disqualified from being elected, the proceedings for the relevant FC election shall continue as if the death or disqualification had not occurred. 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 FC concerned has failed or has failed to the extent that the number of candidates returned at the election for the FC is less than the number of members to be returned. [Ss 46A, 51(8) and (9) of the LCO, and ss 83(2), (3) and 97A of the EAC (EP) (LC) Reg] *[Amended in June 2016 and October 2021]*

CHAPTER 4

COMPOSITION AND VOTING SYSTEM FOR THE ELECTION COMMITTEE CONSTITUENCY

PART I : GENERAL

4.1 This chapter details the composition and the electoral procedures of the ECC of the LegCo. *[Added in October 2021]*

4.2 Only EC members whose names appear on the FR of EC members are entitled to vote at an election for the ECC of the LegCo. The FR will be published on the date on which the term of office of the new EC commences. For the year of 2021, the FR should be published on the date on which the EC is constituted (i.e. 22 October 2021). *[Added in October 2021]*

PART II : COMPOSITION OF THE ELECTION COMMITTEE CONSTITUENCY

4.3 At the general election for the seventh term of the LegCo, 40 out of the 90 members of the LegCo are to be returned for the ECC [s 21B of the LCO]. *[Added in October 2021]*

4.4 The electorate of the ECC is composed of all members of the EC [s 21A of the LCO]. In accordance with s 2 of the Schedule to the Chief Executive Election Ordinance (Cap 569) (“CEEEO”), the EC comprises 1 500 members from 5 sectors, or 40 subsectors in total. Each sector consists of a number of subsectors with the details set out in **Appendix 4**. *[Added in October 2021]*

PART III : CONSTITUTION OF THE ELECTION COMMITTEE

4.5 EC members are returned by the following 3 methods: registering as ex-officio members, being nominated by the designated bodies of the relevant subsectors, and being elected by eligible corporate voters or individual voters in the subsectors. Details are as follows:

(a) Ex-officio members

The ex-officio members shall consist of NPC deputies, CPPCC members, Hong Kong members of the Committee for the Basic Law of the HKSAR under the NPCSC, members of the LegCo, university vice-chancellors/presidents/chairpersons of the board of governors or the councils of universities, and responsible persons of statutory bodies, major advisory committees and other relevant bodies of certain subsectors as specified in the electoral law.

(b) Members to be returned by nomination

The members to be returned by nomination shall consist of all the members of the religious subsector and the representatives of associations of Hong Kong residents in the Mainland subsector, and some of the members of the technology and innovation subsector, the accountancy subsector, the legal subsector, the sports, performing arts, culture and publication subsector and the Chinese medicine subsector, where nominations are made by the designated bodies in the subsectors.

(c) Members to be returned by election

Other than those mentioned in paras. (a) and (b) above, the rest of the EC members shall be elected by eligible corporate voters or individual voters of the respective subsectors.

[Added in October 2021]

4.6 The term of office of the EC is 5 years. The next EC shall be constituted on 22 October 2021 and its term shall end on 21 October 2026 [s 9 of the CEEO]. *[Added in October 2021]*

4.7 Apart from returning 40 members for the ECC of the LegCo, the EC of the new term is also responsible for electing the CE of a new term (5-year). If a CE vacancy arises for a reason other than the expiry of the term of office, the current-term EC will be responsible for electing a new CE²⁶. Before a by-election is held to elect a CE, a subsector by-election and/or supplementary nomination will be held to update the register of EC members if there are vacancies in the membership of the EC. Besides, an EC subsector by-election and/or supplementary nomination to fill EC vacancies will be required for the sake of the next LegCo general election if the end of the current term of the LegCo is more than 12 months away from the constitution date of the EC or the date of publication of the EC PR for an EC by-election [ss 4 and 5 of the Schedule to the CEEO] (S 4 has been enacted and published in the Gazette to take effect from 1 May 2022). *[Added in October 2021]*

4.8 For details on the registration of EC ex-officio members, nomination of members, subsector elections and compilation of registers, please refer to the Guidelines on Election-related Activities in respect of the Election Committee Subsector Elections. *[Added in October 2021]*

PART IV : ELIGIBILITY TO VOTE

4.9 An EC member is eligible to vote at an election for the ECC of the LegCo unless he/she has become disqualified from doing so because he/she:

²⁶ If an election for a CE of a new term (5-year) is to be held within 6 months after a vacancy in the office of the CE has arisen, it will not be necessary to hold a CE by-election.

- (a) has resigned from the membership of the EC (other than an ex-officio member) by giving written notice of resignation to the ERO;
- (b) has ceased to have a substantial connection with the subsector concerned;
- (c) has ceased to be registered or eligible to be registered as an elector for a GC;
- (d) is found under the Mental Health Ordinance to be incapable, by reason of mental incapacity, of managing and administering his/her property and affairs;
- (e) is a member of the armed forces of the People's Republic of China or any other country or territory;
- (f) has breached the written oath of EC members;
- (g) has failed, or has been declared or decided in accordance with any law to have failed, to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the HKSAR of the People's Republic of China; or
- (h) his/her functions as an EC member are suspended under s 43A(2) of the Schedule to the CEEO.

[S 53(3A) of the LCO] (The legislative provisions relating to items (f), (g) and (h) above have been enacted and published in the Gazette to take effect from 22 October 2021) [*Added in October 2021*]

Online Voter Information Enquiry System

4.10 EC members may visit the OVIES (www.voterinfo.gov.hk) at any time to check their registration particulars. *[Added in October 2021]*

PART V : THE VOTING SYSTEM FOR THE ELECTION COMMITTEE CONSTITUENCY

4.11 When the number of validly nominated candidates contesting in the election is more than the number of members to be returned for the ECC, a poll will be held 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, the poll will no longer be necessary and EC members need not go to the relevant polling stations to vote. If no candidates were validly nominated or the number of candidates validly nominated was less than the number of members to be returned for the ECC, 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 held. *[Added in October 2021]*

4.12 The “block vote” voting system is adopted in the ECC election. At a general election, each EC member shall vote for not more than and not less than 40 candidates on the ballot paper. A ballot paper marked with more than or less than 40 choices will be deemed as invalid. The 40 candidates who obtain the greatest and next 39 greatest numbers of votes shall be returned as members for the ECC. [S 52A of the LCO] *[Added in October 2021]*

4.13 At an ECC by-election, the number of candidates to be voted for by an EC member shall be the same as the number of members to be returned at the by-election, otherwise the ballot paper will be deemed as invalid. If the number of members to be returned at the by-election is N, then the N candidates

who obtain the greatest numbers of votes shall be deemed elected. If, after the counting of votes is finished, there is 1 or more than 1 vacancy to fill for the constituency but the most successful candidates remaining have an equal number of votes, then the RO must determine the result of the election by drawing lots and the candidate(s) on whom the lot falls is/are to be returned. [S 52A of the LCO] *[Added in October 2021]*

4.14 When the election result has to be determined by the drawing of lots, 10 table-tennis balls each marked with a number from 1 to 10 will be put into an empty opaque bag, to be provided by the RO. Firstly, one of the candidates 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 procedures are repeated for the other candidates until all candidates have drawn the table-tennis ball. The RO will draw the lot on behalf of the candidate if he/she is absent at the time of the draw. The candidate on whom the lot falls, as specified below, is to be returned at the election:

- (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 round(s) of draw 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 wins. If, on the other hand, 2 or more candidates have drawn the same larger number and the remaining candidate(s) has/have drawn a smaller number, a second round of draw will be held. Only those candidates who have drawn the same larger number in the first round will participate in the second round of draw.

- (c) Where there are 2 vacancies to be filled and there are 3 candidates having the 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 will get the 2 vacancies, and the remaining candidate will be declared defeated. If the 3 candidates have drawn respectively 2 larger equal and 1 smaller numbers, then the 2 candidates who have drawn the larger equal numbers will get 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 get 1 of the vacancies, and the remaining 2 candidates will participate in a second round of draw to determine who will get the remaining vacancy. The same principle also applies to the situation where there are N candidates having an equal number of votes competing for vacancies of which the number is smaller than N.

[Added in October 2021]

4.15 As soon as practicable after the result of the election has been determined, the RO must publicly declare the successful candidates as elected.

[Added in October 2021]

Death or Disqualification of a Candidate for ECC

4.16 After the CERC has decided that a candidate is validly nominated but before the polling day, if proof is given to the satisfaction of the RO that the candidate has died, the RO must give notice of the death of the candidate. Where the notice of validly nominated candidates has already been published by the CERC, the RO must publicly declare that the candidate has died and further declare which candidates are validly nominated for the election for the constituency. Besides, if proof is given to the satisfaction of the CERC that a validly nominated candidate is disqualified from being nominated, the CERC

must vary its decision to the effect that the candidate is not validly nominated, and the RO should issue such a notice to the CEO and each candidate who remains validly nominated for the election for the constituency. Where the notice of validly nominated candidates has already been published by the CERC, the CERC must publicly declare that the decision has been varied and further declare which candidate or candidates is/are validly nominated for the relevant election. [S 42B of the LCO and ss 22A and 22B of the EAC (EP) (LC) Reg] *[Added in October 2021]*

4.17 If, on the polling day but before the election result is declared, proof is given to the satisfaction of the RO that a validly nominated candidate has died or proof is given to the satisfaction of the CERC that a validly nominated candidate is disqualified from being elected, the proceedings for the election for the constituency shall continue as if the death or disqualification had not occurred. 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 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, 52A(9) and (10) of the LCO, and ss 83(2), (3) and 97A of the EAC (EP) (LC) Reg] *[Added in October 2021]*

CHAPTER 5

NOMINATION OF CANDIDATES

PART I : GENERAL

5.1 On 11 March 2021, the NPC passed the “Decision of the NPC on Improving the Electoral System of the HKSAR”. Pursuant to the Decision, the HKSAR shall establish a CERC which is responsible for assessing and validating the eligibility of candidates for EC members, the CE and LegCo members; and the HKSAR shall improve the system and mechanisms related to qualification review so as to ensure that the qualifications of candidates are in conformity with the Basic Law, the Hong Kong National Security Law, the NPCSC’s interpretation of Article 104 of the Basic Law, the NPCSC’s decision on the qualification of HKSAR LegCo members, and provisions of relevant local laws of the HKSAR. *[Added in October 2021]*

5.2 As stipulated in Annex II to the Basic Law, the CERC is responsible for reviewing and confirming the eligibility of candidates for LegCo members. The CERC may request the ROs to provide advice to the CERC regarding the nominations of candidates. It may also make decision pursuant to the opinion of the Committee on National Security. The Committee on National Security shall, on the basis of the review by the National Security Department of the Hong Kong Police Force, make findings as to whether a candidate standing for a LegCo election meets the legal requirements and conditions on “upholding the Basic Law and pledging allegiance to the HKSAR of the People's Republic of China”, and issue an opinion to the CERC in respect of candidates who fail to meet such legal requirements and conditions. According to Article 14 of the Hong Kong National Security Law, no institution, organisation or individual in the Region shall interfere with the work of the Committee on National Security. Information relating to the work of the Committee on National Security shall not be subject to

disclosure. By virtue of Annex II to the Basic Law and the electoral law, no legal proceedings may be instituted in respect of a decision made by the CERC on the eligibility of a candidate pursuant to the opinion of the Committee on National Security. *[Added in October 2021]*

5.3 Legislative provisions governing the eligibility for being nominated as a candidate at the LegCo election, the disqualification from being nominated as a candidate or from being elected as a LegCo member, and the requirements to be complied with by nominated candidates are set out respectively in ss 37, 39 and 40 of the LCO (see Parts II, III and V of this chapter). *[Amended in October 2007, June 2020 and October 2021]*

5.4 As stipulated in s 40(1)(b)(i) of the LCO, the nomination of a candidate is invalid unless a declaration is made in the nomination form to the effect that he/she will uphold the Basic Law and pledge allegiance to the HKSAR²⁷. 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, and shall be subject to criminal liability upon conviction. *[Added in June 2020 and amended in October 2021]*

5.5 Under the subsisting law, the validity of a candidate's nomination is solely determined by the CERC. The EAC is neither empowered nor involved in the making of such decision and will not provide any advice. The EAC will only make practical arrangements for the election according to the list of validly nominated candidates determined by the CERC. In accordance with s 19 of the EAC (EP) (LC) Reg, if the CERC decides that a nomination is invalid, the CERC

²⁷ Upholding the Basic Law means to uphold all the provisions of the Basic Law, including:
 Article 1: The Hong Kong Special Administrative Region is an inalienable part of the People's Republic of China.
 Article 12: 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.
 Article 159(4): No amendment to this Law shall contravene the established basic policies of the People's Republic of China regarding Hong Kong.
 Please see s 3AA of the Interpretation and General Clauses Ordinance (Cap 1) for the detailed explanation of references to "upholding the Basic Law and bearing allegiance to the HKSAR".

must endorse on the nomination form the decision and the reason(s) for it, and the RO will make available a copy of the nomination form 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. However, as mentioned in para. 5.2 above, by virtue of Annex II to the Basic Law and the electoral law, no legal proceedings may be instituted in respect of a decision made by the CERC on the eligibility of a candidate pursuant to the opinion of the Committee on National Security. *[Added in June 2020 and amended in October 2021]*

5.6 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 for GCs and FCs 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 (if applicable), he/she should make sure that 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 must not indicate himself/herself as a non-affiliated candidate on the ballot papers).

5.7 It is worth noting that it is imperative for any candidate claiming to be “independent” or “non-affiliated” (or other similar descriptions) to have factual basis for the claim. There were, for that matter, legal proceedings involving disputes over the political affiliation of candidates. In an election petition handled by the High Court in respect of the 2019 DC Ordinary Election (HCAL 3665/2019), the judge stated in the judgment that:

“A statement that a candidate in an election is ‘獨立’ (independent) may mean different things depending on the context. It may mean, amongst

others, that the candidate: (1) is not affiliated with any political party; or (2) is not running on a political party's ticket in the election; or (3) is not supported by any political party in the election; or (4) is not affiliated with any body or organisation, or political body or organisation, irrespective of whether it is strictly a political party or purports to be one; or (5) is not affiliated with any 'prescribed body' (訂明團體) as that term is defined in s 2(1) of the Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) Regulation, Cap 541M, i.e. a 'prescribed political body' (訂明政治性團體) or a 'prescribed non-political body' (訂明非政治性團體).”

If a candidate would like to claim himself/herself to be “independent” for electioneering publicity purpose, it is his/her responsibility to ensure unambiguous factual substantiation for such claim to prevent misunderstanding. To avoid doubt or dispute, the candidate may consider a more prudent approach by illustrating the meaning and background for claiming himself/herself to be “independent” in his/her self-introduction or publicity materials. *[Added in October 2021]*

5.8 In the judgment on the election petition case (HCAL 3665/2019) mentioned in para. 5.7 above, the judge also pointed out that:

“... the expression ‘political party’ does not have a generally defined legal meaning. (1) There is no definition of that expression in the Interpretation and General Clauses Ordinance, Cap 1. (2) The expression ‘political party (政黨)’ is given a circular definition in s 31 of the Chief Executive Election Ordinance, Cap 569, to mean (a) a political body or organisation (whether operating in Hong Kong or elsewhere) which purports to be a political party; or (b) a body or organisation the principal function or main object of which is to promote or prepare a candidate for election as a member of the Legislative Council or any District Council. (3) The expression ‘political body’ (政

治性團體) is defined in both the Societies Ordinance, Cap 151, and the Electoral Affairs Commission Ordinance, Cap 541, to mean (i) a political party or an organisation that purports to be a political party, or (ii) an organisation whose principal function or main object is to promote or prepare a candidate for an election. (4) The expression ‘prescribed political body’ (訂明政治性團體) is defined in the Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) Regulation, Cap 541M, to mean a body or organisation operating in Hong Kong (a) that is a political party; (b) that purports to be a political party; or (c) the principal function or main object of which is to promote or prepare a candidate for election as a member. The above definitions are, however, for the purposes of those specific Ordinances only.”

Although these definitions are given only for the purposes of those specific ordinances, they could serve as reference for candidates in assessing the actual circumstances they are under. If candidates have any doubts about the political affiliation information to be provided for the nomination form and the Introduction to Candidates or the particulars related to them to be shown on ballot papers (if applicable), they should seek independent legal advice before drawing up and providing the information. *[Added in October 2021]*

5.9 A candidate who makes a false statement about his/her political affiliation in an election-related document (e.g. the nomination form, Introduction to Candidates, ballot papers) commits an offence, and shall be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months upon conviction [s 103 of the EAC (EP) (LC) Reg]. *[Added in June 2020]*

PART II : ELIGIBILITY AND DISQUALIFICATION FOR NOMINATION

Eligibility

5.10 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. 5.16 below);
- (d) have ordinarily resided in Hong Kong for the 3 years immediately preceding the date of his/her nomination (for the definition of “ordinarily residing in Hong Kong”, please refer to paras. 5.13 to 5.15 below); 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]

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

- (a) satisfy para. 5.10(a) to (e) above, save that para. 5.10(e) does not apply to the following 12 FCs:

- (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; and
- (b) (i) be both registered and eligible to be registered as an elector for the relevant FC; or
- (ii) satisfy the RO for the constituency that he/she has a substantial connection with that FC.

[S 37(2) and (3) of the LCO] *[Amended in June 2012, June 2016 and October 2021]*

5.12 A person is eligible to be nominated as a candidate at an election for the ECC if he/she satisfies the requirements as set out in para. 5.10(a) to (e) above [s 37(3A) of the LCO]. A candidate of the ECC is not required to be an EC member. *[Added in October 2021]*

5.13 The definition of “ordinarily residing in Hong Kong” is not set out in the subsisting electoral law. In assessing whether a person “ordinarily resides in Hong Kong”, one needs to take into account a host of factors and the specific situation of each case, and determine according to the relevant judgments of the Court, and the conclusion cannot be generalised. One cannot say someone does

not “ordinarily reside in Hong Kong” simply because he/she has a place of residence abroad. According to a court precedent²⁸, a person is considered ordinarily residing in a place if he/she remains in that place legally, voluntarily and for a settlement purpose (such as for education, employment or residence), regardless of the duration, and even if he/she is temporarily absent from that place for some reasons. The Court also pointed out that a person may ordinarily reside in two places at the same time. *[Added in October 2021]*

5.14 Generally speaking, for a Hong Kong permanent resident who used to reside in Hong Kong all along, if he/she has now set up for personal reasons another residence elsewhere but still returns to live in Hong Kong from time to time (such as for handling personal matters, social gatherings or family reunion), then he/she can still be regarded as maintaining a reasonable connection with Hong Kong. A condition which must be considered in parallel is that in accordance with the electoral law, the person must provide, for the purpose of registration as an elector, a residential address which is his/her only or principal residence in Hong Kong (i.e. not a correspondence address but a residential address where he/she habitually resides when he/she is in Hong Kong). Under such circumstances, whether the person still satisfies the statutory requirement of “ordinarily residing in Hong Kong” must be determined according to the actual circumstances of individual case. *[Added in October 2021]*

5.15 To sum up, the individual circumstances of the person must be considered when determining whether that person is “ordinarily residing in Hong Kong”, and it is not a matter capable of summary determination. A prospective candidate who is doubtful about his/her eligibility for nomination should consult his/her independent legal adviser. In a LegCo general election, a prospective candidate may also seek the advice of the Nominations Advisory Committees (“NAC”) within a specified period (see paras. 5.34 to 5.41 below). *[Amended in June 2016 and October 2021]*

²⁸ *Lau San Ching v. Liu Apollonia* (1995) 5 HKPLR 23 citing *R.v. Barnet London Borough Council, ex parte Shah* [1983] 2 AC 309

Disqualification

5.16 A person is disqualified from being nominated as a candidate at a LegCo election, and from being elected as a LegCo member, if he/she:

- (a) is a judicial officer, or a prescribed public officer²⁹;
- (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 pardon³⁰;
- (d) has been convicted of treason;
- (e) on the date of nomination, or of the election, is serving a sentence of imprisonment;

²⁹ 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
- (h) any person holding an office, whether permanent or temporary, in a government department or bureau and employed in the department or bureau.

³⁰ On 21 June 2012, the Court of First Instance handed down a written judgment on *Wong Hin Wai & another v. Secretary for Justice* (HCAL 51 & 54/2012), declaring section 39(1)(b) of the LCO (i.e. para. 5.16(c) above) to be unconstitutional. On 12 July 2012, the Government announced its decision not to appeal against the judgment. Future LegCo elections will be conducted in accordance with the prevailing legislation. Any person who wishes to be nominated as a candidate for a LegCo election and is doubtful about his/her eligibility for nomination may seek independent legal advice and, where appropriate, apply to the NAC appointed by the EAC for advice in a LegCo general election.

- (f) is or has been convicted within 5 years before the date of the election:
 - (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 conduct or illegal conduct in contravention of the ECICO;
 - (iii) of an offence against Part II of the Prevention of Bribery Ordinance (Cap 201) (“POBO”); or
 - (iv) of any offence prescribed by regulations in force under the EACO;
- (g) is ineligible or disqualified because of the 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; *[Amended in July 2008]*

- (k) within the 5 years before the date of election, has vacated an office or has been disqualified from entering on an office under the law for declining or neglecting to take a specified oath³¹, or has been declared or decided in accordance with any law:
 - (i) to be in breach of a specified oath; or
 - (ii) to have failed to fulfil the legal requirements and conditions on upholding the Basic Law and bearing allegiance to the HKSAR of the People's Republic of China; *[Added in October 2021]*
- (l) 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
- (m) at a by-election, has resigned or was taken to have resigned from office as a LegCo 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. *[Added in June 2016]*

[S 39(1), (1A), (2) and (2A) of the LCO] *[Amended in July 2008, June 2016 and October 2021]*

5.17 In respect of FC elections, a person is also disqualified from being elected as a LegCo member for an 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]. *[Amended in June 2012 and October 2021]*

³¹ Specified oath means an oath taken under the law that the oath-taker will uphold the Basic Law and bear allegiance to the HKSAR of the People's Republic of China.

PART III : WHEN AND HOW TO NOMINATE

When to Nominate

5.18 Any person who intends to stand as a candidate may submit a nomination form during the **nomination period** specified in the notice published in the Gazette [ss 4, 5 and 6A 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 form of an “Action Checklist for Candidates” (see **Appendix 1**) will be provided to each candidate by the RO for the relevant constituency. The ROs shall receive nominations during the ordinary business hours (i.e. from 9 am to 5 pm from 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 advised to submit their nominations in good time before the end of the nomination period to allow time for any errors in their nomination forms to be corrected.** *[Amended in October 2007, June 2016 and June 2020]*

How to Nominate

5.19 Nomination forms specified by the EAC are available from any District Office (“DO”) or the REO and may also be downloaded from the website of the REO (<https://www.reo.gov.hk>). *[Amended in October 2007]*

5.20 The nomination form comprises the parts of (a) nomination and (b) candidate(s)’ consent to nomination and declaration of eligibility.

(a) **The Nomination**

5.21 In respect of **GC elections**, a candidate standing for election in a GC must be nominated by electors for that GC and members of the EC. The part on nomination in the candidate's nomination form must be subscribed by:

- (a) **not less than 100 but not more than 200 registered electors for that GC** (other than the candidate himself/herself) assenting to the nomination [s 7(1)(a) of the LC Subscribers & Deposit Reg]. An elector is entitled to subscribe only 1 nomination form in respect of his/her own GC [s 7(5)(a) of the LC Subscribers & Deposit Reg]; and
- (b) **not less than 10 but not more than 20 EC members** (other than the candidate himself/herself) assenting to the nomination and there must be not less than 2 but not more than 4 members representing each of the 5 sectors of the EC [s 7(1)(b) of the LC Subscribers & Deposit Reg]. An EC member is entitled to subscribe only 1 GC nomination form in his/her capacity as an EC member. Also, in his/her own capacity as a GC elector, the EC member is entitled to subscribe 1 nomination form in respect of his/her own GC. For details, please refer to para. 5.24 below [s 7(5)(a) and (c)(i) of the LC Subscribers & Deposit Reg].

[Amended in October 2021]

5.22 In respect of **FC elections**, a candidate standing for election in an FC must be nominated by electors for that FC and members of the EC. The part on nomination in the candidate's nomination form must be subscribed by:

- (a) **not less than 10 but not more than 20 registered electors for that FC** (other than the candidate himself/herself) [s 7(2)(a) of the LC

Subscribers & Deposit Reg]. An elector is entitled to subscribe a number of nomination forms up to the number of seats in the FC concerned [s 7(5)(b) of the LC Subscribers & Deposit Reg]. Thus, an elector for the Labour FC may subscribe up to 3 nomination forms because there are 3 seats in that FC. For other FCs, with 1 seat each, an elector may only subscribe 1 nomination form and;

- (b) **not less than 10 but not more than 20 EC members** (other than the candidate himself/herself) assenting to the nomination and there must be not less than 2 but not more than 4 members representing each of the 5 sectors of the EC [s 7(2)(b) of the LC Subscribers & Deposit Reg]. An EC member is entitled to subscribe only 1 FC nomination form in his/her capacity as an EC member. In case the EC member is also an FC elector, he/she is also entitled to subscribe for the FC concerned 1 nomination form (or up to 3 nomination forms in the case of the Labour FC). For details, please refer to para. 5.24 below [s 7(5)(b) and (c)(ii) of the LC Subscribers & Deposit Reg].

[Amended in June 2012 and October 2021]

5.23 In respect of an **ECC election**, the part on nomination in the nomination form of a candidate must be subscribed by **not less than 10 but not more than 20 EC members** (other than the candidate himself/herself) and there must be not less than 2 but not more than 4 members representing each of the 5 sectors of the EC [s 7(3) of the LC Subscribers & Deposit Reg]. Each EC member can only subscribe 1 nomination form in respect of an ECC election [s 7(5)(c)(iii) of the LC Subscribers & Deposit Reg]. *[Added in October 2021]*

5.24 Generally speaking, each EC member can subscribe up to 5³² nomination forms in different capacities in total, as illustrated below:

Constituency	Subscription as an EC member	Subscription as a GC/ FC elector	Maximum number of forms that an EC member may subscribe in different capacities
GC	for any GC: 1	for his/her own GC: 1	2 ³³
FC	for any FC: 1	for his/her own FC: 1 (Labour FC: 3)	2 ³⁴ (EC member cum Labour FC elector: 4)
ECC	1		1

[Added in October 2021]

5.25 In any of the cases of paras. 5.21, 5.22 and 5.23 above, where the number of persons subscribing a nomination has exceeded the required number of qualified subscribers to effect the nomination of the candidate, the surplus subscribers over the required number will be regarded as not having subscribed the nomination concerned [s 7(4) of the LC Subscribers & Deposit Reg]. As such, the

³² An EC member who is also the AR of a corporate elector may sign 1 more nomination form in his/her capacity as that corporate elector's AR.

³³ Specifically, an EC member can nominate 1 candidate for his/her own GC in his/her capacity as a GC elector, and also nominate another candidate within or outside his/her own GC in his/her capacity as an EC member. Alternatively, an EC member can exclusively nominate 1 candidate only for his/her own GC by using both his/her capacities as an EC member and a GC elector to subscribe that single candidate's nomination form.

³⁴ Specifically, an EC member can nominate 1 candidate for his/her own FC in his/her capacity as an FC elector (or up to 3 candidates in the case of the Labour FC), and at the same time nominate another candidate within or outside his/her own FC in his/her capacity as an EC member. Alternatively, an EC member can exclusively nominate 1 candidate only by using both his/her capacities as an EC member and an FC elector to subscribe that single candidate's nomination form.

electors or EC members in the surplus may subscribe another nomination instead. If the nomination subscribed by an elector or EC member has been held to be invalid, or the candidate has withdrawn his/her nomination, the elector or EC member may subscribe another nomination instead before the end of the nomination period, and his/her signature shall not be inoperative on the latter nomination form. On the other hand, if he/she subscribes more nomination forms than the number he/she is entitled to subscribe as an elector or EC member in contravention of the regulations, his/her signature shall be operative only on the first one delivered [s 7(6) of the LC Subscribers & Deposit Reg]. *[Amended in June 2012 and October 2021]*

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, so as to avoid the risk of invalidation of the nomination should any of the subscribers be subsequently found not qualified as subscribers. A candidate should ensure that the electors and EC members subscribing his/her nomination form are eligible to do so and that the electors have not previously subscribed another GC or FC nomination in their capacity as GC or FC electors (except for the Labour FC; see para. 5.22(a) above for details) and the EC members have not previously subscribed in their capacity as EC members the nomination form of another candidate who runs for an election of the same type of constituency. *[Amended in October 2021]*

Each elector and EC member subscribing a nomination shall sign the nomination form **personally**. A candidate must not sign as a subscriber in his/her own nomination form. *[Amended in October 2007, June 2016, June 2020 and October 2021]*

No unlawful means shall be used to procure an elector or EC member to subscribe or not to subscribe a nomination. Intimidation is an offence under s 24 of the Crimes Ordinance (Cap 200). Offenders are liable on summary conviction to a fine and to imprisonment for 2 years, or on conviction upon indictment to imprisonment for 5 years. Engaging in bribery, which is a corrupt conduct, is also liable to a fine and to imprisonment. *[Added in October 2007, amended in June 2012, June 2020 and October 2021]*

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 to the nomination forms held by them. They should take all practicable steps to ensure that the aforesaid personal data are protected against accidental or unauthorised access, processing, erasure, loss or use. *[Added in June 2012, amended in June 2016 and June 2020]*

(b) Candidate’s Consent to Nomination and Declaration of Eligibility

5.26 According to the LCO and the EAC (EP) (LC) Reg, a candidate must duly complete the nomination form and the declarations, which shall be attested by a witness³⁵. The candidate must sign and make the following **declarations** and promissory oath: *[Amended in June 2020]*

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

³⁵ A witness can be any person aged 18 years or above and in possession of an identity document. 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.

- (b) 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;
- (c) 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. 5.16 above and becoming a member of any armed forces;
- (d) a declaration to the effect that the candidate is eligible to be nominated as a candidate for the GC/FC concerned or the ECC; is not disqualified from being so nominated; and consents to being so nominated; and *[Amended in June 2012 and October 2021]*
- (e) a declaration to the effect that the candidate has ordinarily resided in Hong Kong for the 3 years immediately preceding the date of his/her nomination. *[Amended in June 2012 and October 2021]*

Otherwise, he/she is not validly nominated as a candidate. [Ss 37(1)(d) and 40(1)(b) of the LCO and ss 10(4) and (5), 11(4) and (5) and 12A(4) and (5) of the EAC (EP) (LC) Reg]

IMPORTANT :

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

5.27 A person who, in an election-related document (including the nomination form and the declarations), makes a statement which he/she knows to be false in a material particular or recklessly makes a statement which is incorrect in a material particular, or omits a material particular from an election-related document, commits an offence and shall be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months [s 103 of the EAC (EP) (LC) Reg]. *[Added in June 2020]*

5.28 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 a candidate mentions the name of any organisation when stating his/her political affiliation, the consent of the organisation concerned must be sought beforehand. Candidates should make sure that their nomination forms are properly completed before submission. Information (such as occupation and political affiliation) provided by a candidate in the grid paper for the Introduction to Candidates or in the specified form for requesting to print particulars relating to the candidate on ballot papers³⁶ (if applicable) 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) and should be true. *[Amended in October 2007, June 2012, June 2016 and June 2020]*

5.29 Candidates should take heed of the guidelines in paras 5.6 to 5.8 above when drawing up and providing the relevant information, and pay extra attention to ensure that there is factual basis. *[Added in October 2021]*

³⁶ The specified form is known as REO/BP/7 Form, i.e. “Request by a Candidate for a Legislative Council Geographical Constituency, a Legislative Council Functional Constituency or a District Council Constituency to Print Particulars relating to the Candidate on a Ballot Paper”.

5.30 Each nomination form must be submitted to the RO for the constituency concerned together with the payment of the prescribed sum of election deposit (see Part V of this chapter for details). The RO may refuse to accept any nomination form bearing material alteration to its content.

5.31 The completed nomination form must be submitted to the RO for the constituency concerned by the candidate **in person** during ordinary business hours (i.e. from 9 am to 5 pm from Monday to Friday, and from 9 am to 12 noon on a Saturday) on a working day (i.e. any day other than a general holiday) within the nomination period. In exceptional circumstances (e.g. the candidate's temporary absence from Hong Kong or incapacity due to illness), the CEO may authorise other manner of submission of the nomination form to the RO [s 10(12), 11(14) and 12A(13) of the EAC (EP) (LC) Reg]. *[Amended in June 2012, June 2016 and October 2021]*

5.32 The RO will make available copies of the nomination forms for public inspection free of charge at the specified address during ordinary business hours until the relevant notice of the election result is published [s 14 of the EAC (EP) (LC) Reg]. If the CERC decides that a nomination is invalid (see Part VII below), it must endorse on the relevant nomination form the decision and the reasons for it [s 19(1) of the EAC (EP) (LC) Reg]. If the CERC's decision that the nomination of the candidate is invalid is made pursuant to the opinion of the Committee on National Security, such decision shall be endorsed on the nomination form specifying that the decision is based on the opinion of the Committee on National Security. Under such circumstances, as stipulated in Annex II to the Basic Law and the electoral law, no legal proceedings may be instituted in respect of the decision made by the CERC. *[Added in June 2016 and amended in October 2021]*

False Declarations

5.33 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 is in breach of s 103 of the EAC (EP) (LC) Reg. The provision 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. The provision also specifies that an election-related document means a form, declaration, etc. required or used for the purposes of the EAC (EP) (LC) Reg. Besides, a person making a false statement in any statutory document is in breach of s 36 of the Crimes Ordinance and shall 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. 17.65 and 18.38 of the Guidelines). *[Amended in October 2007, June 2016 and June 2020]*

PART IV : NOMINATIONS ADVISORY COMMITTEES

5.34 The EAC is empowered to appoint NACs to provide advice, upon request, to prospective candidates and the ROs on whether a candidate is eligible for nomination [ss 2 and 3 of the EAC (NAC) (LC) Reg]. In line with the established practice, each NAC is in the charge of either a Senior Counsel or a legal practitioner of not less than 10 years' standing who, in the opinion of the EAC, is independent and impartial without any connection with any candidate or political organisation in Hong Kong. *[Amended in October 2007]*

5.35 The NACs may provide advice to prospective candidates and the 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 on its part to give any such advice does not preclude a person from seeking nomination as a candidate or proceeding with a nomination. [S 9 of the EAC (NAC) (LC) Reg] *[Added in June 2020]*

5.36 Notwithstanding this, according to s 1(2) of the EAC (NAC) (LC) Reg, the NACs are not empowered to advise on matters provided for under s 40 of the LCO (including the declarations by candidates on upholding the Basic Law and pledging allegiance to the HKSAR, and the lodging of deposit by candidates). The advice provided by the NAC on whether a prospective candidate is eligible to be nominated as a candidate does not indicate the validity of his/her nomination. The validity of the nomination is ultimately a matter for the CERC to decide. *[Added in June 2020 and amended in October 2021]*

The NAC's Service to Prospective Candidates

5.37 The NAC provides service to prospective candidates **at a LegCo general election only**. During a period specified by the EAC [s 3(4) of the EAC (NAC) (LC) Reg] (which generally ends before the commencement of the nomination period), a prospective candidate may apply, by completing a specified form which can be obtained from the REO/any DOs or downloaded from the REO website within the specified period, 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 a LegCo general election. Each prospective candidate can only make 1 application in respect of all GCs as a whole, 1 application in respect of each FC and 1 application in respect of the ECC [s 5(6) of the EAC (NAC) (LC) Reg]. For the avoidance of doubt, a prospective candidate may apply for the advice of the NAC in respect of more than 1 FC [s 5(9) of the EAC (NAC) (LC) Reg]. *[Amended in June 2016 and October 2021]*

5.38 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 specified by the EAC. [S 5(4) of the EAC (NAC) (LC) Reg] [*Amended in June 2012*]

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

5.40 Where an applicant does not make available the information, particulars or evidence required by the NAC, or fails to present himself/herself before the NAC as requested, the NAC may:

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

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

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

The NAC's Service to ROs

5.42 The NAC provides service to the ROs at both **LegCo general elections and by-elections**. During a period specified by the EAC (which generally spans from the commencement of the nomination period to 1 day after the end of the nomination period), the ROs may, if necessary, apply for the NAC's advice 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 matters provided for under s 40 of the LCO (see para. 5.36). The applications shall be submitted to the NAC in writing through the CEO. The NAC will, not later than a date specified by the EAC, advise the RO as to whether the candidate concerned is eligible to be nominated. [S 6 of the EAC (NAC) (LC) Reg] *[Amended in June 2020]*

5.43 In forming an opinion on whether a person is eligible to be, or is disqualified from being, nominated as a candidate, the RO must take into account the advice given by the NAC on the candidate [s 17 of the EAC (EP) (LC) Reg and s 6(5) of the EAC (NAC) (LC) Reg]. That said, the validity of the nomination is ultimately a matter for the CERC to decide [s 16 of the EAC (EP) (LC) Reg]. *[Amended in October 2021]*

PART V : ELECTION DEPOSIT

Lodging of Election Deposit

5.44 When submitting a nomination form, each candidate must lodge an election deposit by cash, cashier order or cheque, in such an amount as prescribed

by the regulations [ss 40(3) and 82(2)(b) of the LCO]. The election deposits are prescribed by s 2 of the LC Subscribers & Deposit Reg are as follows:

(a)	GC candidate	\$50,000
(b)	FC candidate	\$25,000
(c)	ECC candidate	\$25,000

[Amended in June 2012 and October 2021]

5.45 A nomination form submitted to the RO will not be accepted unless it is accompanied by the prescribed election deposit payable.

IMPORTANT :

Candidates should pay their election deposits by cash or cashier order as far as practicable, although crossed cheques are also acceptable. In the event that a cheque is dishonoured, the nomination will be ruled invalid unless the unpaid amount of deposit is settled before the end of the nomination period. Please note that the RO may not have sufficient time to inform the candidate concerned to rectify the dishonoured cheque before the end of the nomination period. To avoid the risk of invalid nominations rendered by dishonoured cheques, candidates should pay the election deposit by cash or cashier order as far as practicable. *[Amended in June 2012]*

Return of Election Deposit

5.46 The deposit will be returned to the candidate if:

- (a) he/she is not validly nominated;
- (b) he/she withdraws his/her candidature;

- (c) he/she dies or is disqualified from being validly nominated after his/her nomination is confirmed valid for the election and before the specified date of the election; *[Amended in June 2016 and October 2021]*
- (d) the election has failed;
- (e) he/she is duly elected; or
- (f) the number of votes received by the candidate in his/her favour is not less than 3% of the total number of valid ballot papers received in the constituency.

The deposit will be forfeited if none of the above conditions is satisfied (for details, please see ss 3 and 4 of the LC Subscribers & Deposit Reg). Candidates are required to complete a specified form for return of election deposit, and submit it together with the original receipt of the election deposit to the relevant RO for action. *[Amended in June 2016 and October 2021]*

PART VI: CANDIDATE ELIGIBILITY REVIEW COMMITTEE

5.47 As stipulated in Annex II to the Basic Law and the LCO, the CERC is responsible for reviewing and confirming the eligibility of candidates for LegCo members. The CERC may request the ROs to provide advice to the CERC regarding the nominations of candidates. It may also make decisions pursuant to the opinion of the Committee on National Security. The Committee on National Security shall, on the basis of the review by the National Security Department of the Hong Kong Police Force, make findings as to whether a candidate meets the legal requirements and conditions on “upholding the Basic Law and pledging allegiance to the HKSAR of the People's Republic of China”, and issue an opinion to the CERC in respect of candidates who fail to meet such legal requirements and

conditions. According to Article 14 of the Hong Kong National Security Law, no institution, organisation or individual in the Region shall interfere with the work of the Committee on National Security. Information relating to the work of the Committee on National Security shall not be subject to disclosure. By virtue of Annex II to the Basic Law and the electoral law, no legal proceedings may be instituted in respect of a decision made by the CERC on the eligibility of a candidate pursuant to the opinion of the Committee on National Security. *[Added in October 2021]*

5.48 Under s 9A of the CEEO, the CERC consists of the chairperson, at least 2 but not more than 4 official members and at least 1 but not more than 3 non-official members. Each member of the CERC is appointed by the CE by notice published in the Gazette. Only a principal official appointed pursuant to a nomination under Article 48(5) of the Basic Law is eligible for appointment as the chairperson or an official member. Only a person who is not a public officer is eligible for appointment as a non-official member. Besides, the CE shall report any appointment made to the Central People's Government for record. [S 9A of the CEEO] *[Added in October 2021]*

PART VII : VALIDITY OF NOMINATIONS

5.49 Whether a nomination is valid or not is determined by the CERC. The CERC must make a decision on the validity of a nomination as soon as practicable after receipt of a nomination form, and publish a notice stating which persons are validly nominated as candidates within 14 days after the close of the nomination period [s 42A of the LCO and s 21(1) of the EAC (EP) (LC) Reg]. *[Amended in October 2021]*

5.50 In determining whether a candidate is validly nominated, the CERC may request the RO to advise the CERC on whether the candidate is eligible to be nominated or disqualified from being nominated under the LCO [s16(3A)(a) and

(3B)(g)of the EAC (EP) (LC) Reg]. However, while providing advice to the CERC on whether a candidate satisfies the general requirements of standing for the election, the RO is not to advise on whether a candidate has complied with s 40(1)(b)(i) of the LCO [s 16(3C) of the EAC (EP) (LC) Reg]. *[Added in October 2021]*

5.51 In the case of doubt as to whether a particular candidate satisfies the general requirements of standing for the election, the RO may apply for advice from the NAC (see para. 5.42 above).

5.52 If the RO detects on a nomination form an error which may amount to a ground for deciding that the nomination form is invalid, and if the error can be rectified before the close of the nomination period, the RO may, before forming an opinion as to whether the nomination form is valid, as far as practicable, give the candidate a reasonable opportunity to rectify it [s 18 of the EAC (EP) (LC) Reg]. For example, if the qualification of a subscriber to a submitted nomination form is in doubt, the prospective candidate may, where possible, be allowed to find another subscriber in substitution as soon as practicable. However, no substitution of subscriber or re-submission of a nomination form is allowed after the close of the nomination period. *[Amended in October 2021]*

5.53 A nomination may be ruled invalid if the errors on the nomination form are not rectified before the close of the nomination period.

5.54 To enable the CERC to be satisfied that the candidate is eligible to be nominated or otherwise as to the validity of a nomination, the RO may require a candidate to furnish any other information that the RO considers appropriate. Moreover, in deciding whether a candidate is validly nominated for a constituency, the CERC may require the candidate to furnish any other information that the CERC considers appropriate to be satisfied that the candidate is eligible to be nominated as a candidate for the constituency concerned or otherwise as to the validity of the nomination [s10(10), 11(11), 12A(10) and 16(3A) of the EAC (EP) (LC) Reg]. *[Amended in October 2021]*

5.55 A nomination will be invalid unless the nomination form contains all information and signatures required or other information required by the RO and the candidate has made the declarations and oath referred to in para. 5.26 above. *[Amended in June 2012]*

5.56 Without prejudice to ss 37, 39 and 40 of the LCO³⁷, the CERC may determine a nomination of a candidate to be invalid only when:

- (a) the number or qualifications of subscribers on the nomination form do not meet the requirements under s 7 of the LC Subscribers & Deposit Reg;
- (b) the nomination form, including the parts on nomination, declarations and oath thereof, has not been completed or signed as required under s 40 of the LCO and ss 10, 11 and 12A of the EAC (EP) (LC) Reg;
- (c) the CERC is satisfied that the candidate is not eligible to be, or is disqualified from being, nominated as a candidate under the LCO; *[Amended in June 2012 and October 2021]*
- (d) the candidate has been nominated for another constituency in the same election and the CERC is not satisfied that he/she has withdrawn that candidature; *[Amended in July 2008, June 2012 and October 2021]*
- (e) the candidate has not lodged the appropriate election deposit (e.g. because the cheque for the payment of the candidate's election deposit is dishonoured and the unpaid amount has not been settled before the close of the nomination period); or

³⁷ Please see paras. 5.10, 5.11, 5.16, 5.26, 5.27 and 5.33 for reference.

- (f) the RO is satisfied that the candidate has died.

[S 16 of the EAC (EP) (LC) Reg] *[Amended in July 2008, June 2012, June 2016, June 2020 and October 2021]*

5.57 If, after the CERC has made a decision that a candidate is validly nominated for election for a constituency but before the polling day, proof is given to the satisfaction of the RO that the candidate has died, the RO must publicly declare that the candidate has died and further declare which candidate(s) is/are validly nominated for the relevant constituency. The RO does not have to make any such declaration if the candidate who has died is uncontested in the election for the relevant constituency 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] *[Amended in June 2012 and October 2021]*

5.58 If, after the CERC has made a decision that a candidate is validly nominated for election for a constituency, but before the polling day, proof is given to the satisfaction of the CERC that the candidate is disqualified from being nominated as a candidate, the CERC must vary the decision to the effect that the candidate is not validly nominated. The CERC must also publicly declare that the decision has been varied and further declare which candidate(s) is/are validly nominated for the relevant constituency. The CERC does not have to vary the decision if the candidate who has been disqualified is uncontested in the election for the relevant constituency 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]. *[Amended in June 2012]*

PART VIII : WITHDRAWAL OF CANDIDATURE

5.59 A candidate may withdraw his/her candidature only before the close of the nomination period. He/She is required to complete and sign a specified form

entitled “Notice of Withdrawal of Candidature”, which must 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]. Under the subsisting law, candidates are not allowed to withdraw their candidature after the close of the nomination period and there is no such mechanism as the so-called “abandonment of election”. Even if a candidate has made public his/her claim about the so-called “abandonment of election”, his/her name will still be shown on the ballot papers for electors to vote for if they so wish. All candidates must comply with the election-related legislation, including reporting all election expenses. *[Amended in June 2012, June 2020 and October 2021]*

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 IX : NOTICE OF VALID NOMINATIONS

5.60 The CERC must, within 14 days after the close of the nomination period, publish a notice in the Gazette stating the name and address³⁸ of each of all the validly nominated candidates for each constituency. In the case of a contested election, the number or the letter of the alphabet allocated to each candidate by the drawing of lots (please see para. 5.79) (and the code or the abbreviation assigned to the relevant FC as well if it is an FC election) will also be stated in the notice in the Gazette [s 21 of the EAC (EP) (LC) Reg]. These numbers or letters of the alphabet pertaining to candidates will also be shown on the ballot papers. In the case of an uncontested election, the RO must publish a notice in the Gazette to

³⁸ The address is the address provided by the candidates in the nomination form. For details, please refer to the notes on completion of the nomination form.

declare the candidates as being duly elected as LegCo members for that constituency [s 22 of the EAC (EP) (LC) Reg]. The RO must also send a notice of the CERC's decision as to whether a person is validly nominated as a candidate to each validly nominated candidate for the constituency concerned [s 19 of the EAC (EP) (LC) Reg]. *[Amended in June 2012, June 2016, June 2020 and October 2021]*

PART X : PARTICULARS RELATING TO CANDIDATES ON BALLOT PAPERS

5.61 Under the PCBP (LC & DC) Reg, candidates for GCs/FCs 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 the registered names (or abbreviation of the names) and emblems of prescribed bodies³⁹, the registered emblems of prescribed persons⁴⁰, words indicating that a candidate is an independent candidate or a non-affiliated candidate, and the personal photographs of candidates. This regulation does not apply to ECC elections. *[Amended in October 2007 and October 2021]*

Request to Print Particulars Relating to Candidates on Ballot Papers

5.62 A candidate for a GC or an FC may request the EAC to print on the ballot papers his/her personal photograph and one 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. 5.63 below);

³⁹ A prescribed body means a prescribed political body or a prescribed non-political body.

⁴⁰ 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.

- (b) the registered emblem relating to the candidate; or
- (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. 5.63 below).

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

In any case, a candidate can also choose to print the words “Independent Candidate” or “Non-affiliated Candidate” on ballot papers. In requesting to print particulars relating to him/her on the ballot papers, including the words “independent” or “non-affiliated”, the candidate should ensure that there is factual basis for the claim, as mentioned in paras. 5.6 to 5.8 above. *[Amended in October 2007, June 2012, June 2016 and October 2021]*

5.63 A request must be made in the specified form and signed by the requestor. Where the subject of request relates to 1 or more prescribed bodies, the request 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 request includes a photograph, the request must be accompanied by 2 photographs with the name of the candidate shown on the back of the photographs. [S 3(4) of the PCBP (LC & DC) Reg] *[Amended in October 2007 and June 2020]*

Application for Registration of Name and Emblem

5.64 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. *[Added in October 2007]*

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

5.65 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. 5.69, 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]

5.66 An application must be made in the specified form and signed by the applicant. It must indicate whether 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 bearing the body's name issued to the body by an authority or regulatory organisation that regulates the body under the laws of Hong Kong. [S 8(2) of the PCBP (LC & DC) Reg] *[Amended in October 2007]*

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

5.67 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]. *[Amended in June 2016]*

5.68 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

5.69 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 July 2021 for the annual registration cycle ending on 31 December 2021; and
- (b) 15 June of the year for any subsequent annual registration cycle.

[S 2 of the PCBP (LC & DC) Reg] *[Amended in October 2007, July 2008, June 2012, June 2016 and October 2021]*

Processing of Application

5.70 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] *[Amended in October 2007, July 2008 and June 2012]*

5.71 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 the EAC should not refuse to grant the application [ss 12 and 13(1) and (2) of the PCBP (LC & DC) Reg]. *[Amended in October 2007]*

5.72 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 must 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] *[Amended in October 2007]*

5.73 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. *[Amended in October 2007]*

5.74 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]

5.75 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]. *[Amended in October 2007]*

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

5.76 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. The CEO must make 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]. *[Amended in October 2007]*

5.77 The EAC may deregister the name, the abbreviation of the name and the emblem that are 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] *[Amended in October 2007]*

5.78 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] *[Amended in October 2007]*

PART XI : CANDIDATES' BRIEFING AND INTRODUCTION TO CANDIDATES

5.79 The EAC will conduct a briefing for all validly nominated candidates on important matters related to the election. After the end of the nomination period, the RO will inform all validly nominated candidates of the date and time of the lots drawing session and the Candidates' Briefing. In the case of a contested election, the RO will draw lots to determine for each of the validly nominated candidates the candidate number or the letter of the alphabet to be shown on the ballot papers, and the designated spots allocated to each of them to display EAs (please refer to para. 9.39). *[Amended in June 2016 and October 2021]*

5.80 The REO will publish an **Introduction to Candidates**. The candidate number or the letter of the alphabet allocated to each candidate by the drawing of lots and to be shown on the ballot papers will also be shown on the Introduction to Candidates, which will be mailed to the electors/ARs together with the poll cards before the polling day. Copies of the Introduction to Candidates will be made available in the CSD and other law enforcement agencies for electors/ARs imprisoned or held in custody. *[Amended in July 2008, January 2010, June 2012 and June 2016]*

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

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

If a candidate does not submit the grid paper, the Introduction to Candidates will only show his/her name and candidate number or letter of the alphabet allocated, with the sentence “Relevant information has not been provided by the candidate” printed in the space provided for his/her electoral message. *[Amended in October 2007, July 2008, June 2016 and October 2021]*

5.82 The contents, nature and presentation of a candidate’s message in the Introduction to Candidates are exclusively the idea and work of the candidate himself/herself. They will not be subject to alteration or editing by the REO unless they are considered obscene, immoral, indecent, offensive, defamatory, unlawful or containing information irrelevant to the promotion of the candidature of the candidate concerned. *[Amended in July 2008, June 2012 and June 2020]*

5.83 To assist persons with visual impairment in reading 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 will 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 a candidate does not provide the typed text for preparing the text version of the Introduction to Candidates, the website will only show his/her name and the number/letter of the alphabet allocated with the remark that the candidate has not provided a text version of his/her 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 the electoral messages. *[Added in June 2016, amended in June 2020 and October 2021]*

CHAPTER 6

POLLING AND COUNTING ARRANGEMENTS

PART I : GENERAL

6.1 An elector/AR can only vote at the polling station allocated to him/her by the REO. In general, the polling station allocated will be within his/her constituency and close to his/her registered residential address. For LegCo elections, a polling station for a GC is normally situated within the boundaries of the constituency and seldom outside the constituency. However, previously used polling stations may or may not be re-used in the current election because it is subject to venue owners/management's decision whether the venues are available for use again, and it also depends on whether other more suitable venues are identified by the REO. *[Added in June 2020]*

6.2 If an elector/AR with mobility difficulty is assigned to a polling station that is not accessible for him/her, the elector/AR may apply to the REO for re-assigning to a barrier-free special polling station. Please refer to para. 6.26 below for details. *[Added in June 2020]*

6.3 A No Canvassing Zone ("NCZ") will be designated outside each polling station to ensure that electors/ARs 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. *[Added in June 2020]*

6.4 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 refer to Part III of this chapter for details. *[Added in June 2020]*

6.5 The CEO will designate by notice in the Gazette the polling hours at least 10 days before the polling day. About 30 minutes before the commencement of poll (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, the PRO will lock and seal the ballot boxes in the presence of the candidates and their agents, if any. The count will only commence when polling at all polling stations of the same constituency as a whole has closed. *[Added in June 2020 and amended in October 2021]*

6.6 Only electors/ARs and designated/authorised persons are allowed entry to a polling station. Electors/ARs requiring assistance from others for entering a polling station may make a request to the PRO for discretionary arrangements as appropriate. *[Added in June 2020]*

6.7 In order to be more flexible, efficient and accurate in the issuance of ballot papers, an electronic poll register (“EPR”) system will generally be adopted for issuing ballot papers at polling stations (except for dedicated polling stations). Upon entry to a polling station, electors/ARs should follow the instructions on site and collect ballot papers at any of the ballot paper issuing desks. Please refer to Parts VI and VII of this chapter for details. *[Added in June 2020 and amended in October 2021]*

6.8 The ballot is autonomous and secret. No one may use any force or threaten to use force against a person to make him/her vote or not 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. *[Added in June 2020]*

6.9 After collecting the ballot paper, an elector/AR should immediately proceed to a voting compartment to mark his/her vote on the ballot paper. Each voting compartment can only be used by one elector/AR at any one time. Based on the principle of the autonomous and secret ballot, it is prohibited by the law to have anyone (not even the relative or friend of the elector/AR) to accompany or assist the elector/AR to vote. If an elector/AR has difficulty in marking his/her vote, he/she may, as stipulated under 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. Please refer to para. 6.58 below for details. *[Added in June 2020]*

6.10 No one is allowed to display, circulate, share or discuss with others any material containing the name and/or number of a candidate inside the polling station or the NCZ. Such acts are against the law. Nevertheless, it is not prohibited by the law for an elector/AR to enter the polling station with a memorandum containing the name or number of the candidate of his/her choice (such as a leaflet bearing the information of the candidate or a reminder note commonly known as “thunder in the palm (掌心雷)”) for that elector/AR's own reference to mark the ballot paper inside the voting compartment. *[Added in June 2020]*

6.11 Under no circumstances is anyone allowed to induce an elector/AR to vote or not to vote for a particular candidate or particular candidates by offering advantages, food, drink or entertainment, by using force or duress against a person, or by a deception, and to wilfully obstruct or prevent

an elector/AR from voting at the election. Such acts violate the ECICO. There are occasions when electors/ARs may require assistance from others or transportation service in accessing the polling station. However, in the course of the assistance and service, it must not involve the aforesaid unlawful acts under any pretext to induce an elector/AR to vote or not to vote for a particular candidate or particular candidates. For details about corrupt conduct to wilfully obstruct or prevent another person from voting at an election, please refer to para.18.27 of Chapter 18. *[Added in June 2020 and amended in October 2021]*

6.12 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/ARs need not disclose to the organisations concerned which candidates they have voted for unless they wish to do so. Please see Chapter 16 for matters relating to exit polls. *[Added in June 2020]*

6.13 Polling stations are classified into 5 types:

- (a) **Ordinary Polling Stations** – for use by general electors/ARs to cast their votes. The ordinary polling stations will be converted to 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 for sorting and counting.
- (b) **ECC Polling Station** – for use by ECC electors (i.e. EC members) to cast their votes. Since only one GC ballot box will be provided at the ECC polling station for EC members of different GCs to cast votes for their respective GCs, the ECC polling station will be converted to a ballot paper sorting station immediately after the close of poll for sorting the GC ballot papers. GC ballot papers of the same constituency will be placed into the same receptacle (i.e. a green document box) before they

are delivered to the designated main counting station and mixed with other ballot papers of the same GC before counting. Meanwhile, ECC ballot papers and FC ballot papers will be delivered to the central counting station for sorting (of FC ballot papers) and counting.

- (c) **Dedicated Polling Stations** – set up inside penal institutions or other suitable places (e.g. police stations) for registered electors/ARs who are imprisoned or held in custody by the law enforcement agencies on the polling day to cast their votes. Vote counting will not be carried out at dedicated polling stations. GC ballot papers cast therein will subsequently be counted at the main counting stations of the relevant constituencies. Since only one GC ballot box will be provided at each dedicated polling station for electors of different GCs to cast their votes, the GC ballot papers received must first be delivered to a ballot paper sorting station for sorting. Electoral staff of the ballot paper sorting station will open the ballot boxes from dedicated polling stations and place 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 counting station and be mixed with other ballot papers of the same GC for counting. As to the ECC ballot papers and FC ballot papers, they will be delivered to the central counting station for sorting (of FC ballot papers) and counting.
- (d) **Special Polling Stations** – for electors/ARs with mobility difficulty who have applied for re-assigning a barrier-free polling station because the originally assigned one is not accessible by wheelchairs. For LegCo elections, as there are many polling stations in a constituency, the special polling station will be set up

in a barrier-free ordinary polling station within the same constituency. Electors/ARs allocated with a special polling station will cast their votes into the ballot boxes being used by the ordinary polling station, and the votes will be counted together with the ballot papers of the same constituency in the ballot boxes.

- (e) **Small Polling Stations** – referring to polling stations at which less than 500 electors are assigned to vote, and they are only designated for polling and votes cast will not be counted there. After the close of poll, GC ballot boxes of a small polling station will be delivered to the designated main counting station and the GC ballot papers inside will be mixed with other ballot papers in that main counting station before counting. FC ballot papers will be delivered to the central counting station for counting.

[Added in June 2020 and amended in October 2021]

PART II: BEFORE THE POLL

Gazettal of Notice

6.14 In each of the 10 GCs, a number of polling stations will be designated to serve both GC and FC elections. For the ECC election, a separate ECC polling station will be set up. Dedicated polling stations will be set up inside penal institutions or designated police stations and allocated to registered electors/ARs who are imprisoned or held in custody by the law enforcement agencies on the polling day to cast their votes. The ECC polling station and dedicated polling stations will be used for the polling of ECC, GC and FC elections simultaneously (see para. 6.19 below for details of the

combined polling arrangements). Polling stations, with the exception of small polling stations, the ECC polling station and dedicated polling stations, will be converted to counting stations for the count of GC ballot papers. A central counting station will be set up for counting the FC and ECC ballot papers and any misplaced GC ballot papers found in FC or ECC ballot boxes. *[Amended in January 2010, June 2012, June 2020 and October 2021]*

6.15 The CEO must designate by notice in the Gazette place(s) as polling stations (including small polling stations, ECC polling station and special polling stations), dedicated polling stations, ballot paper sorting stations⁴¹ or counting stations at least 10 days before the polling day. A single place may be designated to serve as both a polling station and a counting station. Polling stations at which less than 500 electors are assigned to vote will be designated as **small polling stations**. A polling station (other than a small polling station and a dedicated polling station) will be designated as a **main counting station** for the purpose of counting GC votes cast at the designated polling station, small polling stations, the ECC polling station and/or dedicated polling stations. Nonetheless, 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 or the ECC polling station is to take place for the constituency contested by the candidates [ss 2(6), 65(3) and (5) of the EAC (EP) (LC) Reg]. *[Amended in July 2008, January 2010, June 2016, June 2020 and October 2021]*

⁴¹ A ballot paper sorting station may be set up to sort GC ballot papers received from dedicated polling stations or the ECC polling station according to GCs before the ballot papers are delivered to the respective main counting stations for counting of votes.

6.16 Where premises occupied by any school or organisation/association/body receiving grant from the Government's general revenue are concerned, the CEO may require by written notice the owner or occupier to allow an authorised person to carry out site visits. If the CEO considers the premises suitable for use as a polling station or a counting station, the CEO may require by written notice the owner or occupier to make available the premises for use as a polling station or a counting station in the LegCo election and allow an authorised person to carry out preparatory work and store materials at the premises. Anyone who fails to comply with the above requirements is liable to a fine of \$50,000. [Ss 28 and 28A of the EAC (EP) (LC) Reg] Besides, to facilitate the smooth conduct of major public elections and minimise the impact of the elections on schools' operation, in accordance with Education Bureau Circular No. 5/2020, starting from the school year 2020/21, all public sector schools, Direct Subsidy Scheme schools and private schools offering formal curriculum, including secondary schools, primary schools, kindergartens and kindergarten-cum-child care centres, shall designate the day following a major public election (i.e. DC ordinary elections and LegCo general elections) as a school holiday. *[Added in October 2021]*

No Canvassing Zone and No Staying Zone

6.17 An area outside each polling station will be designated as the NCZ and NSZ. The boundaries will be determined by the RO. All candidates for the constituency concerned will be notified of the designation 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 15) *[Amended in July 2008]*

Allocation of Polling Stations

6.18 A polling station for a GC is normally situated within the boundaries of the constituency. That said, polling stations may have to be designated in nearby areas outside the constituency if there are no suitable premises for use within the GC. Where circumstances require, temporary structures may also be designated as polling stations. The polling stations designated for the 10 GCs will be, as far as practicable, close to the principal residence of electors as shown on the FR. However, registered electors of the ECC will be assigned to vote at the ECC polling station. Registered electors imprisoned or held in custody by the law enforcement agencies will cast their votes at dedicated polling stations allocated to them as appropriate. [S 30(4) and (4A) of the EAC (EP) (LC) Reg] *[Amended in January 2010 and October 2021]*

The Combined Polling Arrangements

6.19 The combined polling arrangements are adopted for the convenience of the electors/ARs. An elector/AR needs to go to **1** polling station only to cast all his/her votes regardless of the number of constituencies (viz. the GC, FC and ECC) in which he/she is entitled to vote. The arrangements for different scenarios are as follows:

- (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 the GC vote;
- (b) (i) an FC elector or the AR of a corporate elector for one of the FCs: he/she will be allocated to a polling station designated for his/her GC (or a dedicated polling station as

appropriate), where he/she can cast both the GC vote and the FC vote as an FC elector/AR;

- (ii) an elector for an FC who is also an AR for another FC: he/she will be allocated to a polling station designated for his/her GC (or a dedicated polling station as appropriate), where he/she can cast the GC vote, the FC vote as an FC elector and the other FC vote as an AR in one go;
- (c) (i) an ECC elector (i.e. an EC member): he/she will be allocated to the ECC polling station (or a dedicated polling station as appropriate), where he/she can cast both the GC vote and the ECC vote;
- (ii) an ECC elector who is also an FC elector/AR for one of the FCs: he/she will be allocated to the ECC polling station (or a dedicated polling station as appropriate), where he/she can cast the GC vote, the ECC vote and the FC vote as an FC elector/AR in one go; and
- (iii) an ECC elector who is also an elector for an FC and an AR for another FC: he/she will be allocated to the ECC polling station (or a dedicated polling station as appropriate), where he/she can cast the GC vote, the ECC vote, the FC vote as an FC elector and the other FC vote as an FC AR in one go.

[S 30(4) and (4A) of the EAC (EP) (LC) Reg] *[Amended in January 2010, June 2012 and October 2021]*

6.20 To tie in with the combined polling arrangements, there may also be special features regarding the poll cards, ballot papers, cardboards and ballot

boxes to ensure the secrecy of the vote, and effective sorting of ballot papers at the count, avoiding confusion and mistakes at polling aside.

6.21 The **ballot papers** for each of the 10 GCs, each of the 28 FCs and the ECC will be made easily distinguishable by their differences in size, colour, colour pattern and/or code, so as to facilitate the issuance of ballot papers at polling and the sorting of ballot papers at the count. The **poll card** (notifying each elector/AR of the polling station where he/she can vote) sent to the elector/AR shortly before the polling day will come in the same colour as that of the cardboard referred to in para. 6.23 below, indicating the number and combination of ballot papers the elector/AR is entitled to collect at the polling station. *[Amended in June 2012 and October 2021]*

6.22 Except for the ECC polling station and dedicated polling stations, **2 types of ballot boxes** will be provided in each polling station to receive GC ballot papers and FC ballot papers respectively. For the ECC polling station and dedicated polling stations, **3 types of ballot boxes** will be provided to receive GC ballot papers, FC ballot papers and ECC ballot papers respectively. *[Amended in July 2008 June 2012 and October 2021]*

6.23 To ensure that no elector/AR will leave the polling station with any ballot paper, a **colour cardboard** will be handed to the elector/AR together with the ballot paper(s) issued. The colour of the cardboard indicates the number and combination of ballot papers issued to the elector/AR according to his/her entitlement: **green** for 1 GC ballot paper only; **red** for 1 GC ballot paper and 1 FC ballot paper; **blue** for 1 GC ballot paper and 2 FC ballot papers; **white** for 1 GC ballot paper and 1 ECC ballot paper; **orange** for 1 GC ballot paper, 1 FC ballot paper and 1 ECC ballot paper; and **purple** for 1 GC ballot paper, 2 FC ballot papers and 1 ECC ballot paper. *[Amended in July 2008, June 2012 and October 2021]*

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

Poll Card

6.24 At least 10 days before the polling day, poll cards will be sent to electors/ARs of contested constituencies at their registered addresses or correspondence addresses (if applicable) to notify them of the date, time and place of the poll. If the CEO decides to change any polling station, the CEO must as early as practicable inform the electors/ARs, RO and PRO concerned in a manner deemed appropriate. To allow electors/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] *[Amended in January 2010, June 2016 and June 2020]*

Uncontested Election

6.25 If the number of validly nominated candidates for a constituency does not exceed the number of members to be elected for that constituency, the candidate(s) will be declared as duly elected [s 46(1) of the LCO and s 22(1) and (2) of the EAC (EP) (LC) Reg]. Electors/ARs of that constituency do not need to vote, and will be issued a notice to that effect.

Special Polling Station

6.26 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. Accessibility of the polling station 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 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-assigning a special polling station [s 33(2) of the EAC (EP) (LC) Reg]. If a special polling station is allocated as such to the elector/AR, then he/she may 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 may make enquiries with the REO on this subject by telephone or in writing. *[Amended in October 2007 and June 2016]*

Dedicated Polling Station

6.27 Due to security reasons, there is a need to separate some persons imprisoned or held in custody from others inside penal institutions. The Commissioner of Correctional Services shall assign a time slot within the polling hours of a dedicated polling station situated in a penal institution to an elector/AR allocated to that polling station to vote, and inform the elector/AR of the time slot assigned. The Commissioner of Correctional Services must assign time slots for the electors/ARs so as to give them a reasonable opportunity to vote. An elector/AR to whom a time slot is assigned may only cast his/her vote during that time slot (see para. 6.61 below). [S 27(2A), (2B), (3A) and (4A) of the EAC (EP) (LC) Reg] *[Amended in January 2010]*

PART III : OUTSIDE THE POLLING STATION

6.28 The PRO will arrange for the display of a copy of the relevant Introduction to Candidates produced by the REO outside the polling station (or inside if it is a dedicated polling station) for easy reference by electors/ARs, unless it is not practicable to do so. *[Amended in June 2012]*

6.29 The CEO will arrange for a map or plan showing the respective boundaries of the polling station to be displayed outside the polling station (or inside if it is 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 access of electors/ARs to the polling station. In addition, an NSZ in which no one is allowed to stay or loiter will be designated immediately outside the entrance/exit of a polling station to avoid obstruction to electors/ARs who enter or exit. Canvassing activities within an NCZ are prohibited (except for the static display of EAs authorised by the RO, such as EAs mounted at designated spots). A notice of the determination of the 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 15) *[Amended in October 2007, July 2008, January 2010, June 2012, June 2016 and June 2020]*

- 6.30 On the polling day, a person must not:
- (a) engage in canvassing votes (including suggesting not voting for any candidate) within the NCZ, except for the permitted door-to-door canvassing activities stated in para. 6.31 below; *[Amended in October 2007]*
 - (b) use a sound amplifying system or device for any purpose in the NCZ, except for the performance of duties by officers of the CSD

on the polling day at dedicated polling stations in penal institutions; *[Amended in June 2012]*

- (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, such as any badge, emblem, clothing or head-dress (except for the static display of EAs authorised by the RO, such as 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 and is liable to the 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]. *[Amended in October 2007, June 2012 and June 2016]*

6.31 Canvassing activities are prohibited in the entire building where a polling station is located. Besides, 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 where 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 door-to-door canvassing, it is permitted to display or wear promotional materials (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 materials 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, but under no circumstances are such materials allowed to appear on the street level within the NCZ. [S 40(16), (17) and (18) of the EAC (EP) (LC) Reg] (See Chapter 15) *[Added in June 2020]*

PART IV : POLLING HOURS

6.32 The CEO will designate by notice in the Gazette the polling hours at least 10 days before the polling day. About 30 minutes before the commencement of poll (or 15 minutes for dedicated polling stations situated in penal institutions), 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. In front of these observers, the PRO will show that the sealed packets of ballot papers are not tampered with before opening the packets and that the ballot boxes are empty before locking and sealing the boxes. [S 48 of the EAC (EP) (LC) Reg] The PRO will also inform and show to such persons the number of GC/FC/ECC ballot papers, as applicable, in his/her possession. For each candidate, only 1 person (i.e. either the candidate or his/her election agent or polling agent) may be present to observe the opening of the sealed packets of

ballot papers and the locking and sealing of ballot boxes. *[Amended in June 2020 and October 2021]*

6.33 For dedicated polling stations situated in penal institutions, the following restrictions are imposed due to security reasons:

- (a) at a dedicated polling station situated inside a maximum security prison, only a maximum of 2 candidates may be present to observe the opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes;
- (b) at a dedicated polling station situated in a penal institution if it is not a maximum security prison, only a maximum of any 2 of the candidates, their election agents or polling agents may be present to observe the opening of the sealed packets of ballot papers and the locking and sealing of ballot boxes.

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 the locking and sealing of ballot boxes will be on a **first-come-first-served basis**. (The procedures for election agents or polling agents to apply for admission to dedicated polling stations situated in penal institutions are set out in Chapter 8.) *[Amended in January 2010, June 2016 and June 2020]*

6.34 Where no candidates or none of their agents are present at the polling station, the above process of opening the sealed packets of ballot papers and the locking and sealing of ballot boxes will be conducted in the presence of any 2 of the following persons inside the polling station: police officers, members of the Civil Aid Service (“CAS”), officers of the CSD or polling staff (as the case may be). *[Amended in January 2010, June 2016 and June 2020]*

6.35 For a small polling station, as no counting of votes will be conducted there, the PRO will display a notice outside to show the venue designated for counting the votes cast at that small polling station [s 39(1A) of the EAC (EP) (LC) Reg]. A notice providing information on the ballot paper sorting station (if any), the main counting station and the central counting station will be displayed outside an ECC polling station and inside a dedicated polling station [s 39(1B) of the EAC (EP) (LC) Reg]. *[Amended in January 2010, June 2020 and October 2021]*

6.36 In a polling station, separate sets of ballot papers and corresponding ballot boxes will be provided for different types of constituencies. An ordinary polling station will hold 29 sets of ballot papers – 1 set for the GC for which the polling station is designated and 1 set for each of the 28 FCs. The ECC polling station and dedicated polling stations will hold 39 sets of ballot papers – 1 set for each of the 10 GCs, 28 FCs and the ECC. In respect of ballot boxes, an ordinary polling station will hold 2 types of ballot boxes – 1 type for GC votes and 1 type for FC votes (combined). The ECC polling station and dedicated polling stations will hold 3 types of ballot boxes – 1 type for the ECC votes⁴², 1 type for GC votes (combined) and 1 type for FC votes (combined). *[Amended in June 2012 and October 2021]*

6.37 Ballot papers for the respective GCs, FCs and the ECC are easily distinguishable by their differences in colour pattern, size and/or code (printed at the back and/or in the front), so as to facilitate identification during the polling and counting process. *[Amended in October 2021]*

⁴² If there are no ECC electors to vote at a dedicated polling station situated in a penal institution on the polling day, no ballot box for the ECC will be provided in the dedicated polling station.

PART V : PERSONS TO BE ADMITTED TO THE POLLING STATION

6.38 In addition to electors/ARs, 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) the ROs and Assistant Returning Officers (“AROs”) for the relevant constituencies;
- (d) members of the EAC;
- (e) the CEO;
- (f) public officers on duty at the polling station, including police officers, members of the CAS, etc.;
- (g) officers of the CSD and other law enforcement agencies on duty at dedicated polling stations;
- (h) candidates and election agents of the relevant constituencies subject to para. 6.39 below;
- (i) polling agents appointed for the polling station (not applicable to dedicated polling stations situated in maximum security prisons), subject to para. 6.39 below;
- (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 duties; and
- (m) children accompanying an elector/AR who enter the polling station for the purpose of voting (if the PRO considers that the children should not be left unattended while the elector/AR is in the polling station and that the children will not disturb or cause inconvenience to any person in the polling station). *[Amended in October 2007]*

[S 44(4), (5) and (13) of the EAC (EP) (LC) Reg] *[Amended in October 2007 and January 2010]*

A notice will be displayed at the entrance to the polling station, or inside if it is a dedicated polling station, stating that only electors/ARs and designated/authorised persons may be allowed to enter.

6.39 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) For each candidate, only 1 person among the candidate, his/her election agent and polling agents may enter and be present in the polling station at any one time [s 44(6), (7), (8) and (9) of the EAC (EP) (LC) Reg];
- (b) A notice will be displayed outside each polling station specifying the capacity of the designated area inside the polling station for

candidates, their election agents or polling agents to observe the poll;

- (c) 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 in the polling station, any candidate, election agent or 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 admission into the polling station again on a first-come-first served basis;

- (d) As stated in (c) 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 no one among this candidate and his/her agents 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 a 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 in that polling station;

- (e) Anyone on admission into a polling station has to sign and register 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
- (f) 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 persons among the candidates, election agents and 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 2 candidates/agents intend to observe the poll at the same time. The PRO may regulate the number of people entering the dedicated polling station (see also Chapter 8).

[Amended in January 2010, June 2016, June 2020 and October 2021]

6.40 Except for electors/ARs, and those police officers, officers of the CSD, officers of any law enforcement agencies and members of the CAS who are on duty, all other persons permitted to enter a polling station are required to make a **Declaration of Secrecy** on a specified form⁴³ before entering the polling station and observe the regulations on the secrecy of voting [s 95 of the EAC (EP) (LC) Reg]. *[Amended in January 2010 and June 2020]*

⁴³ The declaration can be made in the presence of a Commissioner for Oaths/a member of the EAC/the RO/the CEO (or a person whose official designation is that of a deputy to the CEO)/a Justice of the Peace/a solicitor with a practising certificate.

PART VI : HOW TO ISSUE BALLOT PAPERS

6.41 In accordance with s 53 of the EAC (EP) (LC) Reg, an EPR system will be adopted for issuing ballot papers at polling stations (except for dedicated polling stations) for a more flexible, efficient and accurate issuance of ballot papers. The printed copy of FR of electors or FR of EC members, referred to collectively as FR below, will be used in issuing ballot papers where the EPR system cannot be adopted (i.e. at dedicated polling stations or polling stations lacking network coverage) or in the event of system failure.

(a) Use of EPR System in Issuing Ballot Papers

Upon entry to the polling station, an elector/AR will be directed to one of the ballot paper issuing desks to collect the ballot paper. The polling staff will request the elector/AR to present his/her Hong Kong Permanent Identity Card (“HKID”). The polling staff will then check the elector/AR’s HKID, and then scan it with a tablet so as to verify whether the person is a registered elector of the GC and whether he/she is also an elector/AR of one or two of the 28 FCs and/or an elector of the ECC, so as to ascertain the number (either 1, 2, 3 or 4) and types of ballot papers to be issued. If a specified identity document other than the HKID is presented by the elector/AR, then the PRO’s authorisation is to be obtained for the manual input of the elector/AR’s HKID number into the EPR system for verification purpose.

The polling staff will softly call out the name of the elector/AR as stated in the entry in the EPR system. Then the polling staff will issue to the elector/AR either 1, 2, 3 or 4 ballot papers according to his/her entitlement. If the elector/AR is entitled to be issued with 2 or more ballot papers, all such ballot papers must be handed over to

him/her at the same time. The polling staff will show the ballot papers to the elector/AR to confirm that each ballot paper given to him/her is unmarked, and request the elector/AR to acknowledge the number of ballot papers so received to ensure the ballot papers issued are correct. The EPR system will record the number and types of ballot papers issued to the elector/AR and the time of issuance, but **no record will be made** as to which particular ballot paper is given to the elector/AR. To ensure accurate record-keeping, the elector/AR may check his/her name, partial HKID number and types of ballot papers issued to him/her as shown on the screen of the EPR system during the issuance process.

(b) Use of Printed Copy of FR in Issuing Ballot Papers

The printed copy of FR will be used in issuing ballot papers where the EPR system cannot be adopted (i.e. at dedicated polling stations or polling stations lacking network coverage) or in the event of system failure. The polling staff will check the elector/AR's identity document against the entry in the printed copy of FR to verify whether the person is a registered elector of the GC and whether he/she is also an elector/AR of one or two of the 28 FCs and/or an elector of the ECC. Thereafter, the polling staff will softly call out the name of the elector/AR as stated in the entry in the printed copy of FR, and draw a line across the name and the identity document number therein to indicate that the ballot paper(s) has/have been issued to the elector/AR. The polling staff will conduct the line-drawing under observation of the elector/AR to ensure accuracy, while at the same time covering up the entries of other electors/ARs in the printed copy of FR to safeguard the personal data privacy of the other electors.

Then, the polling staff will issue to the elector/AR either 1, 2, 3 or 4 ballot papers according to his/her entitlement. If the elector/AR is entitled to be issued with 2 or more ballot papers, all such ballot papers must be handed over to him/her at the same time. The polling staff will show the ballot papers to the elector/AR to confirm that each ballot paper given to him/her is unmarked, and request the elector/AR to acknowledge the number of ballot papers so received to ensure the ballot papers issued are correct. No record will be made as to which particular ballot paper is given to the elector/AR.

(c) Use of Printed Copy of FR in the Event of EPR System Failure

In case the EPR system breaks down while in use on the polling day rendering the system inoperable, the fallback arrangement will come into operation and the polling staff will use the printed copy of the FR (as stated in (b) above) to issue ballot papers to electors/ARs until close of poll. At the same time, the fallback mode of the EPR system has to be activated to retrieve the information from the local storage device of the system inside the polling station. With this fallback device, the polling staff can, prior to issuance of any ballot papers, check to confirm that an elector/AR applying for ballot papers has not collected any ballot papers at the polling station when the EPR system was in use. The HKID numbers of electors/ARs who have collected their ballot papers are captured in the storage device in an encrypted form, but the personal particulars of the electors/ARs, such as their names, will not be recorded.

[S 53 of the EAC (EP) (LC) Reg] *[Amended in June 2012, June 2016, June 2020 and October 2021]*

6.42 To facilitate the verification of the total number of ballot papers issued, the counterfoil of each ballot paper bears a serial number on its front. However, the serial number will not appear on the ballot paper, and neither the polling staff nor the EPR system will record the serial number of the ballot paper issued to an elector/AR. [Ss 49(15) and 53(8) of the EAC (EP) (LC) Reg] The polling staff and the EPR system will only register the quantity of ballot papers issued to electors/ARs at the ballot paper issuing desks for calculating the hourly voter turnout and cumulative voter turnout. While the voter turnout statistics will be posted outside the polling stations for the public's information, they are for reference only. *[Amended in June 2020 and October 2021]*

6.43 According to the established procedures, all ballot papers issued at the ballot paper issuing desks are counted towards the cumulative voter turnout. "TENDERED" ballot papers and ballot papers issued to electors/ARs in replacement of "SPOILT" ballot papers must be handled and issued by the PRO at the PRO desk (please refer to paras. 6.66 and 6.67 below for details). *[Added in June 2020]*

PART VII : QUEUING ARRANGEMENT

6.44 Electors/ARs have to queue up to enter the polling station. As stipulated in s 49A of the EAC (EP) (LC) Reg, the PRO will make special queuing arrangements for persons with special needs including, by definition:

- (1) persons aged 70 or above;
- (2) pregnant women; or

- (3) persons who are not able to queue for a long time or have difficulty in queuing because of illness, injury, disability or dependence on mobility aids.

The PRO will set up two queues outside the polling station, one for persons with special needs and the other for the ordinary public. The actual arrangement for collecting ballot papers at ballot paper issuing desks may vary depending on the methods for issuing ballot papers. Seats may also be provided in the polling station for persons with special needs to take rest while waiting to join the special queue for collecting ballot papers.

(a) Queuing Arrangement When the EPR System is Used

When ballot papers are issued via the EPR system, all ballot paper issuing desks installed with the tablets of the EPR system are able to serve any elector/AR. Given such flexibility, the ballot paper issuing desks are no longer individually confined to a group of HKID prefixes allocated according to the printed copy of FR, which would otherwise be split and distributed to them.

As a caring initiative for persons with special needs (see para. 6.44 above), the PRO will assign a number of ballot paper issuing desks (special ballot paper issuing desks) for their use while other ballot paper issuing desks are available for use by the ordinary public. Electors/ARs may collect their ballot papers at the respective ballot paper issuing desks as directed by the polling staff.

When there is a relatively long queue of persons with special needs, the PRO may, having regard to the actual situation, assign more special ballot paper issuing desks so as to shorten the waiting time in that queue. The PRO may also, having regard to the actual situation, direct people in the ordinary queue to use special ballot paper issuing desks

when the desks are free or when few people are in the special queue.

Having regard to the order and the overall situation of the polling station, the PRO may flexibly deploy the ballot paper issuing desks and make other special arrangements as appropriate to give priority to persons with special needs and shorten their waiting time.

[S 49A of the EAC (EP) (LC) Reg]

(b) Queuing Arrangement When Printed Copy of FR is Used

Polling stations which cannot use the EPR system due to their locations or other circumstances will use the printed copy of FR instead for issuing ballot papers. To avoid duplicate issuance of ballot papers, the printed copy of FR will be split into parts, by the alphabetical prefixes of HKID number, in a number that matches the number of the ballot paper issuing desks, and then distributed to the issuing desks accordingly. A line will be drawn across the entry of the elector/AR in the printed copy of FR when that elector/AR has collected the ballot papers.

Under this situation, the PRO may also set up two queues outside the polling station, one for persons with special needs and the other for the ordinary public.

Regarding the collection of ballot papers, past experience has shown that most holders of HKID numbers prefixed with A, B, C and so forth are senior citizens. More ballot paper issuing desks will therefore be assigned by the PRO for these HKID number alphabetical prefixes to shorten the waiting time of this group of persons with special needs. Meanwhile, considering that the holders of other HKID number

alphabetical prefixes may also have special needs due to age or physical conditions, the PRO may likewise, having regard to the actual situation, set up a special queue for each ballot paper issuing desk to shorten their waiting time.

(c) **Queuing Arrangement When Switch to Printed Copy of FR is Required due to EPR System Failure**

In case the EPR system breaks down while in use rendering it inoperable, the polling station should activate the fallback mode and switch to use the printed copy of FR for issuing ballot papers. The aforementioned procedures regarding the use of the printed copy of FR for issuing ballot papers will be adopted at ballot paper issuing desks. In particular, before an elector/AR is given any ballot paper, the polling staff must first check the record in the encrypted local storage device and confirm that the elector/AR has not obtained any ballot paper prior to activation of the fallback mode so as to avoid duplicate issuance of ballot papers. The special queuing arrangement regarding the use of the printed copy of FR for issuing ballot papers also applies to this scenario.

[Added in October 2021]

6.45 As shown in past experience, when polling staff request to go to vote at their assigned polling stations, the PRO will arrange as far as practicable and release them to do so usually during meal breaks or off-peak hours of the polling station. The operation of the polling station, if due to heavy workload and stringent manpower, may still be affected anyhow. In this regard, an initiative is now in place to facilitate their early resumption of work to serve electors/ARs. If a polling staff member goes to vote at the assigned polling station but finds a long queue waiting for admission thereto, then he/she

may present his/her polling staff identification to the staff on duty there and be permitted to enter the polling station for priority queuing to collect ballot papers and cast his/her votes, with a view to returning to the polling station where he/she works as soon as practicable and resuming service for electors/ARs. *[Added in June 2020]*

PART VIII : PRESENTATION OF DOCUMENT FOR COLLECTING BALLOT PAPER

6.46 Polling stations are designated to serve simultaneously GCs, FCs and/or the ECC for the convenience of electors/ARs. Inside each polling station, a notice will be displayed to inform electors/ARs that polling for the relevant GC, all the FCs and/or the ECC is being held there concurrently and that an elector/AR will be issued with either 1, 2, 3 or 4 **ballot papers**, depending on his/her entitlement. An elector/AR entitled to more than 1 ballot paper must **collect all different ballot papers at the same time** and, if he/she wishes to exercise the right to cast any of the votes, must vote at the **same visit** to that polling station. *[Amended in June 2012 and October 2021]*

6.47 Upon 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 he/she can be issued with the ballot papers:

- (a) the original of the elector/AR's HKID;
- (b) alternative documents:
 - (i) a document issued by the Commissioner of Registration to the elector/AR certifying that the elector/AR 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/AR 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/AR under the Hong Kong Special Administrative Region Passports Ordinance (Cap 539);
- (iv) a valid HKSAR seaman's identity book issued to the elector/AR under regulation 3 of the Immigration Regulations (Cap 115A);
- (v) a valid document of identity issued to the elector/AR under regulation 3 of the Immigration Regulations; or
- (c) a document evidencing the elector/AR's report to a police officer of the loss or destruction of document referred to in para. 6.47(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. 6.47(a), (b)(i) to (v) above) issued to him/her showing his/her name and photograph.

[S 50 of the EAC (EP) (LC) Reg] *[Amended in June 2020]*

6.48 An elector/AR applying for a ballot paper at a dedicated polling station situated in a penal institution is required to produce a document issued

by the Commissioner of Correctional Services showing the elector/AR's name, photograph and prisoner registration number allocated by the Commissioner to the elector/AR for identification purpose. [S 50 of the EAC (EP) (LC) Reg] *[Added in June 2020]*

6.49 If there are reasonable grounds to question 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 final register now in effect for this geographical constituency/the final register now in effect for this functional constituency/the Election Committee final register (as appropriate), as follows (the Presiding Officer to read the whole entry as it is recorded in the register)?”
- (b) “Have you already voted for this geographical constituency/this functional constituency/the Election Committee constituency (as appropriate) in this election?”

The elector/AR 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] *[Amended in October 2007 and October 2021]*

6.50 Where there is reasonable cause to believe that a person has engaged in corrupt conduct by impersonating an elector/AR, the PRO may request the police 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] *[Amended in January 2010]*

PART IX : VOTING METHODS

6.51 When issued with the ballot paper(s), an elector/AR will also be provided with a colour cardboard attached with a chop of the tick “✓” sign (and if applicable, a black pen for marking the ECC ballot paper):

- (a) Persons issued with 1 GC ballot paper will be given a **green** cardboard;
- (b) Persons issued with 1 GC ballot paper and 1 FC ballot paper will be given a **red** cardboard;
- (c) Persons issued with 1 GC ballot paper and 2 FC ballot papers will be given a **blue** cardboard;
- (d) Persons issued with 1 GC ballot paper and 1 ECC ballot paper will be given a **white** cardboard;
- (e) Persons issued with 1 GC ballot paper, 1 FC ballot paper and 1 ECC ballot paper will be given an **orange** cardboard; or
- (f) Persons issued with 1 GC ballot paper, 2 FC ballot papers and 1 ECC ballot paper will be given a **purple** cardboard.

This arrangement helps the polling staff manning the ballot boxes to ensure that an elector/AR has cast all his/her votes (1, 2, 3 or 4 votes) before leaving the polling station, and that no elector/AR will leave the polling station with any ballot paper. 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) and before he/she leaves the polling station. *[Amended in June 2012, June 2016, June 2020 and October 2021]*

6.52 Having collected the ballot paper(s) and the cardboard attached with the chop of the tick “✓” sign (and if applicable, a black pen provided by

the polling station for marking the ECC ballot paper), the elector/AR should immediately proceed to one of the voting compartments to mark the ballot paper(s) to indicate his/her choice of candidate(s). Different types of ballot papers, either for the GC, FCs or the ECC, should be marked in the respective ways according to their respective voting systems. An elector/AR should read carefully the instructions given on the ballot papers and follow the instructions in marking his/her choice of candidates. One compartment can only be used by one elector/AR at one time. *[Amended in June 2012, June 2016 and October 2021]*

6.53 In brief, the ballot papers should be marked in the following manner, as appropriate:

- (a) In respect of the GC election under the “double seats and single vote” voting system, each elector can vote for 1 candidate of his/her choice. On the ballot paper, the elector must affix the chop provided by the polling station to mark a single “✓” in the circle opposite the name of that candidate.
- (b) In respect of the election for the 28 FCs under the “first past the post” voting system, each elector/AR can vote for 1 candidate of his/her choice in the relevant FC (or up to 3 candidates in the case of the Labour FC). On the ballot paper, the elector/AR must affix the chop provided by the polling station to mark a single “✓” in the circle opposite the name of that candidate (or in each of the circles opposite the names of up to 3 candidates in the case of the Labour FC).
- (c) (i) In respect of the ECC election under the “block vote” voting system, each elector must vote for a number of candidates that is equal to the number of members to be returned for the ECC at the election. In the case of a

LegCo general election, the elector must use the black pen provided by the polling station to fill the ovals on the ballot paper opposite the names of the candidates of his/her choice.

- (ii) In the case of an ECC by-election, the elector must affix the chop provided by the polling station to mark a single “✓” in each of the circle(s) opposite the name(s) of the candidate(s) of his/her choice.

[Ss 55, 57 and 58A of the EAC (EP) (LC) Reg]

As it is an offence for anyone to take photographs, films or make any video or audio recording within a polling station, electors/ARs must not take photos of their marked ballot papers (please refer to para. 6.71 below). *[Amended in June 2012, June 2016, June 2020 and October 2021]*

6.54 An elector/AR for a GC or FC should mark the ballot paper in the manner as described in para. 6.53(a) and (b) above and then insert it with the marked side facing down into the ballot box. **The ballot paper must not be folded.** [S 54(3) and (3A) of the EAC (EP) (LC) Reg] *[Amended in June 2012 and October 2021]*

6.55 An elector for the ECC, after marking his/her ballot paper in the manner as described in para. 6.53(c) above, should cast his/her vote in the way as directed by the EAC. In the case of a LegCo general election, before putting the ballot paper into the ballot box, the elector may choose to use an Optical Mark Recognition machine installed in the ECC polling station to check whether the number of candidates marked by him/her on the ballot paper is equal to the number of members to be returned for the ECC at the election. This will avoid invalidating the ballot paper if the number of candidates marked on the ballot paper by the elector is less than or more than the number of

members to be returned. **The Optical Mark Recognition machine installed in the polling station shall not record or count electors' choices marked on their ballot papers. Whether or not an elector uses the machine is entirely voluntary and it is not a mandatory arrangement.** The ways deemed fit by the EAC for casting votes are as follows:

- (a) In a LegCo general election, electronic counting will be adopted for the ECC. Therefore, an elector should insert the unfolded ballot paper into an envelope provided by the polling station and then put the ballot paper contained in the envelope into the ballot box.
- (b) In an ECC by-election, manual counting will usually be adopted. Therefore, an elector is not required to insert the ballot paper into an envelope. He/she should insert the unfolded ballot paper into the ballot box with the marked side facing down.

[S 54(3B) of the EAC (EP) (LC) Reg] *[Added in October 2021]*

6.56 Upon leaving the voting compartment, the elector/AR should immediately put his/her marked ballot paper (already inserted into an envelope in the manner as mentioned in para. 6.55(a) above, as applicable) into the ballot box as directed by the polling staff. An elector for a GC should insert the GC ballot paper into the ballot box designated for GC ballot papers. An elector/AR for an FC should insert the FC ballot papers into the ballot box designated for FCs. An elector for the ECC should insert the ECC ballot paper into the ballot box designated for the ECC. Afterwards, the cardboard attached with the chop should be returned to the polling staff. Then the elector/AR should leave the polling station without undue delay. [S 54 of the EAC (EP) (LC) Reg] *[Amended in July 2008, June 2012, June 2016 and October 2021]*

NOTE :

An elector/AR who has collected the ballot paper must proceed to a voting compartment to mark the ballot paper immediately and, after casting his/her vote, leave the polling station 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 and order the person to leave the polling station immediately [s 46(2) and (3) of the EAC (EP) (LC) Reg].

If an elector/AR 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 the request. If there is a reasonable cause to believe that a person impersonates an elector/AR to apply for a ballot paper, the PRO may request the police 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, or wilfully (whether or not deception is involved) 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 also be a corrupt conduct if any person, without lawful authority, destroys, defaces, takes or otherwise interferes with a ballot paper in use or having been used at the election; or without lawful authority, destroys, removes, opens or otherwise interferes with a ballot box in use at the election [s 17 of the ECICO].

Candidates/their agents and electors/ARs should make a complaint to PROs, ROs, law enforcement agencies or the EAC

about any possible contraventions 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 action.

[Amended in June 2020 and October 2021]

6.57 An elector/AR 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. 8.41 of Chapter 8.) *[Amended in June 2016]*

6.58 An elector/AR must mark his/her vote on the ballot paper by himself/herself and cannot request other electors/ARs to do it on his/her behalf. If the elector/AR is unable to mark the ballot paper by himself/herself (e.g. due to inability to read or visual impairment or other physical conditions) to indicate the choice of candidates, he/she may ask the PRO, Deputy PRO or Assistant PRO to mark the ballot paper on his/her behalf. The marking of the ballot paper as such must be made in the presence of 1 polling staff as a witness [s 59(1) and (2) of the EAC (EP) (LC) Reg].

6.59 **The ballot is secret. No one is allowed to use force or duress, or threaten to use force or duress against a person to make him/her vote or not vote for any particular candidate at an election [s 13 of the ECICO]. Also, no one is required to disclose which candidate he/she has voted for or is going to vote for.** It is an offence for anyone to, without lawful authority, require or purport to require an elector/AR to disclose the name of or any particulars relating to the candidate whom the elector/AR has voted for [s 60 of the LCO]. Some other prohibited acts which may infringe the secrecy of the vote during the polling and counting process are also specified under s 96 of

the EAC (EP) (LC) Reg. It is an offence to commit any of the acts prohibited under this section, and offenders will be liable to a fine at level 2 (\$5,000) and to imprisonment for 6 months.

6.60 To safeguard the secrecy of the ballot by electors/ARs, no one is allowed to disclose at any time 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 the 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] *[Added in January 2010 and amended in June 2016]*

Issuance of “UNUSED”, “SPOILT” or “TENDERED” Ballot Papers

6.61 An elector/AR who has collected the ballot papers (1 or more in number, depending on his/her entitlement) but leaves the polling station without casting any one of or all his/her votes is not allowed to return to the polling station later to cast the votes not yet cast, except under the following circumstances:

- (a) if, after having been issued with the ballot papers (1 or more in number), the elector/AR has become incapacitated from voting or completing the voting by physical illness and needs to leave the polling station without marking any one of or all of the ballot papers, he/she may return to the polling station to vote before the close of poll provided that prior to his/her leaving the polling station the unmarked ballot papers have been handed back to the PRO [s 53A(5) of the EAC (EP) (LC) Reg]; or
- (b) for a reason considered justified by the PRO, the elector/AR 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 vote [s 53A(1) of the EAC (EP) (LC) Reg]; and

- (c) in the case of a dedicated polling station situated in a penal institution, the elector/AR concerned is allowed to return to vote only within the existing or any newly assigned time slot [s 53A(5B) of the EAC (EP) (LC) Reg].

[Amended in January 2010, June 2016 and June 2020]

6.62 If the above situations arise in 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, when the elector/AR returns to the polling station to vote before the close of poll, return such ballot paper(s) to the elector/AR in the presence of a police officer [s 53A(3) of the EAC (EP) (LC) Reg]; and
- (b) where the elector/AR has not returned to the polling station at the close of poll, the PRO must endorse the ballot paper(s) with the words “**UNUSED**” and “**未用**” and show it/them to each candidate or his/her election agent or polling agent who is present at the time. Ballot papers endorsed as such must not be put into the ballot box and must be excluded from the counting of votes [ss 61 and 80 of the EAC (EP) (LC) Reg].

[Amended in January 2010, June 2016 and June 2020]

6.63 If the situations arise in 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, when the elector/AR returns to the dedicated polling station to vote before the close of poll, return such ballot paper(s) to the elector/AR in the presence of an officer of the CSD or any law enforcement agency [s 53A(3) and (6) of the EAC (EP) (LC) Reg];
- (b) where a dedicated polling station situated in a penal institution is concerned, the Commissioner of Correctional Services or his/her officer must as far as practicable assign to the elector/AR a new time slot within the polling hours appointed for that dedicated polling station, and notify the elector/AR of the new time slot [s 53A(2A) and (5A) of the EAC (EP) (LC) Reg]; and
- (c) where the elector/AR has not returned to the dedicated polling station at the close of poll, the PRO must endorse the ballot paper(s) with the words “**UNUSED**” and “**未用**” and show it/them to each candidate or his/her election agent or polling agent who is present at the time. Ballot papers endorsed as such must not be put into the ballot box and must be excluded from the counting of votes [ss 61 and 80(1)(d) of the EAC (EP) (LC) Reg].

[Added in June 2020]

6.64 If any issued ballot paper (whether marked or unmarked) is found abandoned or left behind in a voting compartment or other areas inside the polling station, it must be handed in to the PRO. The ballot paper will then be endorsed with the words “**UNUSED**” and “**未用**” on the front and be kept by the PRO. In no circumstances can ballot papers endorsed as such be put into the ballot box. These ballot papers will be excluded from the counting of votes. [Ss 61 and 80(1)(d) of the EAC (EP) (LC) Reg] *[Amended in June 2016]*

6.65 The PRO is required to keep in his/her custody those ballot papers handed in under the circumstances described in para. 6.61 above only if he/she knows which electors/ARs handed over such ballot papers. Otherwise, ballot papers left behind in the polling station should be endorsed as “**UNUSED**” and “**未用**” and be excluded from the counting of votes [ss 61 and 80(1)(d) of the EAC (EP) (LC) Reg]. *[Amended in June 2016]*

6.66 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 1 new ballot paper to the elector/AR in exchange for the spoiled ballot paper. The spoiled ballot paper will be endorsed with the words “**SPOILT**” and “**損壞**” on the front and be kept by the PRO. Spoiled ballot papers will be excluded from the counting of votes. [Ss 62 and 80(1)(c) of the EAC (EP) (LC) Reg] *[Amended in June 2016]*

6.67 If a person, claiming to be a particular elector/AR on the FR, 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 elector/AR **only if** the PRO is not certain that the latter person is the former person who has been issued with a ballot paper earlier, and the latter person has answered the questions set out by the law (para. 6.49 above) to the satisfaction of the PRO. The PRO may in such circumstances issue a ballot paper with the words “**TENDERED**” and “**重複**” endorsed on the front. Ballot papers endorsed as such will be excluded from the counting of votes. [Ss 60(1) and 80(1)(b) of the EAC (EP) (LC) Reg] *[Amended in July 2008 and October 2021]*

PART X : CONDUCT INSIDE THE POLLING STATION

6.68 Subject to para. 6.69 below, no person (including electors/ARs) is allowed to interfere with or attempt to influence other electors/ARs. In particular, no one is allowed to:

- (a) speak to or communicate with other electors/ARs contrary to a direction of the RO, ARO, PRO or any polling staff not to do so;
- (b) attempt to obtain or disclose any information, on the vote of other electors/ARs;
- (c) display or distribute any canvassing 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, paging machine or any other form of electronic communication device contrary to a direction of the RO, ARO, PRO or any polling staff not to do so.

Any person who contravenes the above regulations commits an offence, and is 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] *[Amended in October 2007 and July 2008]*

6.69 Inside a polling station, 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:

- (a) the PRO and other polling staff;
- (b) the ROs and AROs for the relevant constituencies;
- (c) members of the EAC;
- (d) the CEO;
- (e) police officers and members of the CAS on duty at the polling station;
- (f) officers of the CSD or other law enforcement agencies on duty at the dedicated polling station;
- (g) any person authorised in writing by the ROs to perform liaison duties; and
- (h) any person authorised in writing by a member of the EAC.

[S 45(1) and (6) of the EAC (EP) (LC) Reg] *[Amended in January 2010, June 2016 and October 2021]*

6.70 Any person who misconducts himself/herself or fails to obey the lawful orders of the RO or the PRO at a polling station or its vicinity commits an offence, and is liable to a fine and imprisonment. He/She may be ordered by

such officers 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 other persons in the polling station. An elector/AR must cast his/her vote without undue delay, otherwise he/she may be ordered by the RO or the PRO to leave the polling station immediately. Any person who fails to leave the polling station immediately as ordered by the RO or the PRO 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 agencies (if the polling station is a dedicated polling station); or
- (c) any other person authorised in writing by the RO or the PRO to do so.

The person so removed is not allowed to re-enter the polling station on that day except with the permission of the RO or the PRO. Nevertheless, the powers conferred on the RO and the PRO are not to be exercised to order an elector/AR to leave or remove an elector/AR from the polling station for the purpose of preventing the elector/AR from voting at the polling station allocated to him/her. [S 46(2), (2A), (3), (4) and (5) of the EAC (EP) (LC) Reg] *[Amended in January 2010 and June 2020]*

6.71 A person commits an offence if he/she takes photographs, films or makes any 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. Offenders are 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]. Generally speaking, such permission is

only granted to government photographers for performing publicity duties.
[Amended in October 2007, July 2008 and October 2021]

PART XI : CLOSE OF POLL

6.72 An elector/AR who intends to vote but is not already at the door of the assigned polling station by the close of poll will not be allowed in afterwards. When the close of poll approaches but there is a long queue of electors/ARs outside the polling station waiting to vote, the PRO will arrange for polling staff to hold up a signboard to direct electors/ARs to proceed to the end of the queue. If there are still electors/ARs queuing outside the entrance of the polling station at the end of poll, polling staff will stand at the end of the queue to stop latecomers from joining the queue and, if practicable, let electors/ARs already in the queue enter the polling station and close the entrance of the polling station. If there are too many such electors/ARs and arrangement cannot be made for all of them to enter the polling station, polling staff will stand at the end of the queue and hold up a signboard to show that no latecomers will be allowed to join the queue. *[Amended in June 2020 and October 2021]*

6.73 In short, all electors/ARs who have arrived and queued up outside the polling station before the close of poll may enter the polling station to cast their votes. However, some polling stations are located at a place inside a building. If an elector/AR has arrived at the building but has not reached the entrance of the place where the polling station is located or has not queued up outside the entrance by the close of poll, he/she will not be allowed to enter the polling station to cast the vote. The PRO will close the entrance of the polling station only when all electors/ARs having 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. *[Added in June 2020]*

A Polling Station which is also a Counting Station

6.74 Polling stations (except for small polling stations, dedicated polling stations and the ECC polling station) will be designated as counting stations for the counting of GC votes as well. At the close of poll, a notice will be displayed by the PRO outside the polling station to inform the public that the poll has ended and that preparations are underway for arranging the polling station to be used vote counting. If the EPR system is used in the polling station, the PRO must also confirm the close of poll through the system. The counting station will be open to the public when the preparations are completed. While it is closed in preparation for vote counting, candidates and their election agents, counting agents and polling agents may stay in the polling station to observe the locking and sealing of ballot boxes. The ballot boxes will be locked and sealed by the PRO in the presence of the candidates and/or their agents (if any). 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 packed into separate sealed packets for the respective constituencies. The marked printed copies of FR (if used) will also be packed into separate sealed packets. The PRO will prepare a ballot paper account to estimate the number of ballot papers in the ballot boxes. [S 63(1), (1A), (2) and (3) of the EAC (EP) (LC) Reg] *[Amended in June 2016 and October 2021]*

6.75 The locked and sealed ballot boxes referred to in para. 6.74 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 (the sealed GC packets will be kept in the PRO's safe custody until delivery to the RO). The sealed FC ballot boxes and sealed FC packets (excluding the marked printed copies of FR, if used), referred to in para. 6.74, together with any misplaced FC ballot papers found in GC ballot boxes (see para. 6.98 below), will be delivered to the central counting station for the

counting of FC votes. The Assistant PRO will deliver the FC ballot boxes from the polling station to the central counting station under police escort. Up to 2 persons among the FC candidates (or their respective agents) may accompany in the delivery if they so wish. If more than 2 such persons are interested, the PRO will draw lots to determine which 2 persons can join the escort. FC candidates and their agents are allowed to stay in the polling station until they see the arrival of police officers for escorting the delivery. Thereafter, FC candidates and their agents must leave the polling station. They may enter the counting station to observe the counting of the GC votes in the public area. *[Amended in June 2012, June 2016 and October 2021]*

A Polling Station which is not a Counting Station

(a) Small Polling Stations and Dedicated Polling Stations

6.76 **Small polling stations and dedicated polling stations will not be converted to counting stations after the close of poll.** The PRO will display notice outside the small polling station to inform the public that the poll has ended. After the close of poll, candidates and their election agents and polling agents may stay in the small polling station to observe the process of locking and sealing ballot boxes. As for dedicated polling stations, the following persons may stay behind to observe the process:

- (a) a candidate, his/her election agent and polling agent may stay in a dedicated polling station not situated in a penal institution;
- (b) a maximum of only 2 persons among the candidates, their 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 only 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] *[Amended in January 2010 and June 2016]*

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 printed copies of FR if used (applicable to small polling stations only) will then be packed into separate sealed packets. [S 63A(1) of the EAC (EP) (LC) Reg] *[Added in June 2016 and amended in October 2021]*

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 a small polling station, after the close of poll, the GC ballot box (locked and sealed) will be delivered to the designated main counting station. The GC ballot papers from the small polling station will then be mixed with the GC ballot papers at the main counting station before counting. The FC ballot box will, meanwhile, be delivered to the central counting station for the counting of FC votes. In the case of a dedicated polling station, the GC ballot box (locked and sealed) will first be delivered to the ballot paper sorting station for sorting by GCs. The sorted ballot papers for each GC will then be transported to a corresponding main counting station and mixed with the GC ballot papers there before counting. The FC/ECC ballot boxes will, on the other

hand, be delivered directly to the central counting station for the counting of votes. Please refer to paras. 6.81 to 6.88 below for the ballot paper sorting and delivery arrangements regarding the ballot paper sorting stations, and paras. 6.100, 6.116 and 6.126 for how the ballot papers transported to the main counting stations/central counting station will be processed. *[Added in June 2020 and amended in October 2021]*

6.77 The PRO/Deputy PRO of a small polling station will first deliver the locked and sealed GC/FC ballot boxes, sealed packets of relevant electoral documents and ballot paper accounts to the main counting station under police escort. The PRO of a dedicated polling station will deliver the locked and sealed GC/FC/ECC ballot boxes, sealed packets of relevant electoral documents and ballot paper accounts under police escort to:

- (a) the PRO of the relevant ballot paper sorting station (in the case of a LegCo general election, or a by-election in which a ballot paper sorting station has been set up);
- (b) the PRO of the relevant main counting station (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 relevant counting station (in the case of a LegCo by-election in respect of FCs/ECC).

[S 63A(3) and (4) of the EAC (EP) (LC) Reg] *[Amended in January 2010, June 2016 and October 2021]*

The FC/ECC ballot boxes at main counting stations and ballot paper sorting stations, together with any misplaced FC/ECC ballot papers found in GC ballot

boxes, will then be delivered to the central counting station for the counting of votes (see paras. 6.98 and 6.108 below for details). *[Amended in June 2012 and October 2021]*

6.78 Not more than 2 persons among the candidates and their agents, if they so wish, may accompany the PRO in the delivery of the locked and sealed ballot boxes, sealed packets of relevant electoral documents and ballot paper accounts prepared by the PRO from the polling station to the relevant ballot paper sorting station/main counting station/FC or ECC counting station (as the case may be) under police escort. If more than 2 such persons are interested, the PRO will draw lots to determine which 2 persons can join the escort. Candidates and their agents are allowed to stay in the polling station until they see the arrival of police officers for escorting the delivery. Thereafter, all persons other than those 2 who are allowed to accompany in the delivery must leave the polling station. *[Amended in January 2010, June 2016, June 2020 and October 2021]*

(b) ECC Polling Station

6.79 The ECC polling station will be designated as a ballot paper sorting station for sorting GC ballot papers as well. At the close of poll, a notice will be displayed by the PRO outside the ECC polling station to inform the public that the poll has ended and that preparations are underway for arranging the polling station to be used for ballot paper sorting. If the EPR system is used in the polling station, the PRO must also confirm the close of poll through the system. The ballot paper sorting station will be open to the public when the preparations are completed. While it is closed in preparation for ballot paper sorting, candidates and their election agents, counting agents and polling agents may stay in the polling station to observe the locking and sealing of ballot boxes. The ballot boxes will be locked and sealed by the PRO in the presence of the candidates and/or their agents (if any). 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 packed into separate sealed packets for the respective constituencies. The marked printed copies of FR (if used) will also be packed into sealed packets separately. The PRO will prepare a ballot paper account to estimate the number of ballot papers in the ballot boxes. [S 63(1), (1A), (2) and (3) of the EAC (EP) (LC) Reg] *[Added in October 2021]*

6.80 The locked and sealed ballot boxes referred to in para. 6.79 above will be kept by the PRO until the sorting of GC ballot papers begins, when the GC ballot boxes will be opened and all ballot papers inside will be put on the sorting table (the sealed GC packets will be kept in the PRO's safe custody until delivery to the CEO). For details of the workflow at a ballot paper sorting station, please refer to paras. 6.81 to 6.88 below. Regarding the sealed FC/ECC ballot boxes and sealed FC/ECC packets (excluding the marked printed copies of FR, if used) referred to in para. 6.79, together with any misplaced FC/ECC ballot papers found in the GC ballot boxes (see para. 6.88 below), they will be delivered to the central counting station for the counting of FC votes and ECC votes. The Assistant PRO will deliver the FC/ECC ballot boxes from the polling station to the central counting station under police escort. Up to 2 persons among the FC/ECC candidates (or their respective agents) may accompany in the delivery if they so wish. If more than 2 such persons are interested, the PRO will draw lots to determine which 2 persons can join the escort. FC/ECC candidates and their agents are allowed to stay in the polling station until they see the arrival of police officers for escorting the delivery. Thereafter, FC/ECC candidates and their agents must leave the polling station. They may enter the ballot paper sorting station to observe the sorting of GC ballot papers in the public area. *[Added in October 2021]*

PART XII : SORTING OF BALLOT PAPERS

Conduct at the Ballot Paper Sorting Station

6.81 In a LegCo general election or, where the CEO considers it appropriate, in a LegCo by-election, ballot paper sorting stations will be set up for sorting by GCs the GC ballot papers received from dedicated polling stations or the ECC polling station 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 but may be a time before the poll has closed at all the other polling stations. 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. [Ss 2(6), 28(1)(c), 63A(4) and 65(2A) of the EAC (EP) (LC) Reg] *[Added in January 2010 and amended in October 2021]*

6.82 Only the following persons may be present during the sorting of ballot papers:

- (a) the ROs, AROs, PROs, Deputy PROs, Assistant PROs and counting staff for the relevant GCs;
- (b) the CRO; *[Added in June 2012]*
- (c) members of the EAC;
- (d) the CEO;
- (e) candidates and their election agents and counting agents for the relevant GCs;

- (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
[Amended in June 2012]
- (i) any person authorised in writing by a member of the EAC.

The PRO will designate a restricted zone for counting staff to sort the ballot papers. Candidates and their agents are prohibited from entering the restricted zone. Members of the public may observe the sorting of ballot papers from the public area designated by the PRO, unless the PRO considers that the presence of a person 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] [Added in January 2010 and amended in June 2012]

6.83 Except for police officers and members of the CAS on duty, every person permitted to stay in a ballot paper sorting station must make a **Declaration of Secrecy** on a specified form⁴⁴ before entering the sorting station and observe the regulations on the secrecy of voting [ss 2(6) and 95 of the EAC (EP) (LC) Reg]. Members of the public staying in the public area are not required to make a Declaration of Secrecy. *[Added in January 2010]*

⁴⁴ The declaration can be made in the presence of a Commissioner for Oaths/a member of the EAC/the RO/the CEO (or a person whose official designation is that of a deputy to the CEO)/a Justice of the Peace/a solicitor with a practising certificate.

6.84 Except with the express permission of the PRO, the CRO, the ROs for the GCs for which the ballot paper sorting station is used or a member of the EAC (as the case may be), it is an offence for anyone to take photographs, films or make any 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 [ss 2(6), 68A(1) and (2) of the EAC (EP) (LC) Reg]. *[Added in January 2010 and amended in June 2012]*

6.85 Any person who misconducts himself/herself or fails to obey any lawful order of the PRO in or in the vicinity of a ballot paper sorting station commits an offence, and is liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months. He/She 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 papers or disturbs or causes inconvenience to other persons in the ballot paper sorting station. The PRO may also order a person to leave the ballot paper sorting station if the person's conduct in the venue is not in line with the purpose authorised or permitted for the entry to or presence in the ballot paper sorting station. If the person fails to leave immediately, he/she may be removed by a police officer or by any other person authorised in writing by the PRO. Any person so removed is not allowed to enter the relevant ballot paper sorting station again on that day except with the permission of the PRO [ss 2(6), 68A and 69 of the EAC (EP) (LC) Reg]. *[Added in January 2010]*

Sorting of Ballot Papers

6.86 In the presence of the candidates, their election agents or counting agents, if any, the PRO of a ballot paper sorting station will sort the GC ballot papers received from dedicated polling stations or the ECC polling station. The PRO will check whether the GC ballot boxes and sealed packets

are properly sealed. The seal on each ballot box will be broken by the PRO in the presence of the candidates, their election agents or counting agents, if any. The PRO will then open the ballot box and empty the contents onto a sorting table. After the ballot box is opened by the PRO, if any paper other than the marked ballot papers is found and taken out from the ballot box, the candidates, their election agents or counting agents may request to inspect such paper before it is disposed of by the PRO. **At no time should a candidate, his/her election agent or counting agent touch any of the ballot papers.** *[Added in January 2010 and amended in October 2021]*

6.87 The PRO of a ballot paper sorting station shall:

- (a) open the GC ballot boxes received from dedicated polling stations or the ECC polling station;
- (b) for each ballot box, sort the GC ballot papers inside according to each GC;
- (c) count and record the number of GC ballot papers for each GC inside each GC ballot box;
- (d) verify the ballot paper account by comparing it with the number of GC ballot papers recorded under para. 6.87(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. 6.87(c) above;
- (g) make into separate bundles the sorted GC ballot papers together with the relevant statement prepared under para. 6.87(f) above;

- (h) place each bundle in a separate orange or green document box and seal it in the presence of those present at the counting zone;
- (i) arrange for each of the orange or green document boxes to be delivered to the PRO of the main counting station for the corresponding GC⁴⁵;
- (j) send to the CEO the ballot paper accounts, the verification of number of ballot papers and the sealed packets made under para. 6.74 above; and
- (k) arrange for the FC/ECC ballot boxes, the sealed packets containing unissued FC/ECC ballot papers etc. and the relevant ballot paper accounts received from dedicated polling stations or the ECC polling station to be delivered to the central counting station.

[Ss 70 and 73E(1) of the EAC (EP) (LC) Reg] *[Added in January 2010 and amended in June 2012, June 2016 and October 2021]*

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

- (a) sort the FC ballot papers according to each FC;
- (b) count and record the number of ballot papers for each FC and the ECC found in the GC ballot box from the dedicated polling station or the ECC polling station;

⁴⁵ If no GC vote has been cast at the dedicated polling stations or the ECC polling station, then no orange or green document box will be delivered to the corresponding main counting station. In that case, the PRO of that main counting station will be notified accordingly.

- (c) prepare a statement in writing as to the number of ballot papers recorded for each FC and the ECC under para. 6.88(b) above;
- (d) make into separate bundles the sorted FC and ECC ballot papers together with the relevant statement prepared under para. 6.88(c) above;
- (e) place each bundle in a separate orange or green document box and seal it in the presence of those present at the counting zone of the ballot paper sorting station; and
- (f) pass the orange or green document box(es) to an Assistant PRO on duty at the counting zone of the ballot paper sorting station. The Assistant PRO shall deliver the orange or green document box(es) to the central counting station and hand over each of them to the RO(s) for the relevant FC or the ECC.

[S 73E of the EAC (EP) (LC) Reg] *[Added in June 2012 and amended in October 2021]*

PART XIII : THE COUNT

Conversion of Polling Station into Counting Station

6.89 Polling stations (except for small polling stations, dedicated polling stations and the ECC polling station) will be converted to counting stations where the GC votes will be counted and the counting results will be announced to the candidates and their agents present. If 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 Deputy PROs, Assistant PROs, polling staff and counting staff, is responsible for converting the polling station into a counting station and conducting the count. Before the counting of votes begins, a notice will be displayed outside the counting station specifying at what time the counting station is expected to be open to the public to observe the counting of votes [s 65(5A) of the EAC (EP) (LC) Reg]. The telephone number of the counting station should be provided on the notice, so that the candidates/agents will be able to contact the counting staff. *[Amended in October 2007, January 2010 and October 2021]*

Central Counting Station

6.90 A central counting station will be set up to conduct the count for FC votes and ECC votes and announce the election results. The RO for each FC and the ECC is responsible for conducting the count with the assistance of his/her AROs and counting staff. *[Amended in October 2021]*

6.91 An RO will be designated for each of the 10 GCs. The 10 ROs will be stationed at the central counting station. With the assistance of a number of AROs, an RO will compile the final election results of the relevant GC by adding up the counting results obtained from the counting stations under his/her charge, and announce the election results at the media centre. *[Amended in October 2007 and October 2021]*

Conduct at the Counting Station and the Central Counting Station

6.92 Only the following persons may be present during 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 permitted by the CRO, the RO or the PRO; and
- (i) any person authorised in writing by a member of the EAC.

The PRO, the CRO or the RO (as the case may be) will designate a restricted zone inside the counting zone for the counting staff to count the votes. Candidates and their agents are prohibited from entering the restricted zone. Members of the public may observe the counting of votes from an area (“the public area”) at the counting station set apart for that purpose by the PRO, the CRO or the RO, unless the PRO, the CRO or the RO considers that the presence of a person may:

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

6.93 Members of the public and the media have the rights to observe the count in a counting station. That said, to maintain order inside the counting station, there are always occasions that the PRO, the CRO or the RO has to reject further entrants when the area designated for the public reaches the maximum capacity. To enhance the transparency of the admission arrangement for counting stations, a notice setting out the maximum capacity of the public area will be displayed by the PRO, the CRO or the RO outside each counting station and the central counting station. *[Added in June 2020 and amended in October 2021]*

6.94 Besides, photography and/or video-recording is allowed inside a counting station. Members of the public, including the media, can take photographs and/or videos inside the public area (but not inside the counting zone). For record purposes, closed-circuit televisions will be installed in each counting station and the central counting station (including inside the counting zone) to record the actual situation of the counting station (including the public area). *[Added in June 2020]*

6.95 Except for police officers and members of the CAS on duty, every person permitted to enter a counting zone must make a **Declaration of Secrecy** on the specified form⁴⁶ before entering the zone, and observe the regulations on the secrecy of voting [s 95 of the EAC (EP) (LC) Reg]. Members of the public and the media inside the public area and the media zone are not required to make a Declaration of Secrecy.

6.96 Except with the express permission of the relevant PRO, the CRO, the RO or a member of the EAC (as the case may be), a person commits an offence if he/she takes photographs, films or makes any audio or video recording within a counting zone during the period commencing from the time

⁴⁶ The declaration can be made in the presence of a Commissioner for Oaths/a member of the EAC/the RO/the CEO (or a person whose official designation is that of a deputy to the CEO)/a Justice of the Peace/a solicitor with a practising certificate.

at which the counting of votes is to begin at the zone and ending upon the completion of the counting and re-count, if any, at the zone [s 68A(1) and (2) of the EAC (EP) (LC) Reg].

6.97 Any person who misconducts himself/herself or fails to obey any lawful order of the PRO (for a counting station other than the central counting station) or the CRO/RO (for the central counting station) in or in the vicinity of a counting station commits an offence, and is liable to a fine at level 2 (\$5,000) and to imprisonment for 3 months. He/She may be ordered by the PRO, the CRO or the RO (as the case may be) to leave the area immediately. A person misconducts himself/herself if he/she disrupts the counting of votes or disturbs or causes inconvenience to other persons in the counting station. The PRO, the CRO or the RO may also order a person to leave the counting station immediately if the person's conduct in the venue is not in line with the purpose authorised or permitted for the entry to or presence in the counting station. If the person fails to leave immediately, he/she may be removed by a police officer or by a person authorised in writing by the PRO, the CRO or the RO. Any person so removed is not allowed to enter the relevant counting station again on that day except with the permission of the PRO, the CRO or the RO [ss 68A and 69 of the EAC (EP) (LC) Reg]. *[Amended in June 2016]*

(a) Counting of GC votes

6.98 The PRO of a counting station will conduct the counting of GC votes in the presence of the candidates, their election agents or counting agents, if any. 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 any). All the GC ballot boxes will then be opened by the PRO and the contents will be emptied onto the counting table. After a ballot box is opened by the PRO, the candidates, their election agents or counting agents may request to inspect

any paper other than ballot papers taken out from the ballot box before the paper is disposed of [s 73A of the EAC (EP) (LC) Reg]. If the PRO identifies any FC ballot papers misplaced inside the GC ballot boxes, the PRO will seal the misplaced FC ballot papers and arrange to deliver them, together with the sealed FC ballot boxes, to the relevant RO at the central counting station for counting. **At no time should a candidate, his/her election agent or counting agent touch any of the ballot papers.** [S 73A of the EAC (EP) (LC) Reg] *[Amended in January 2010 and June 2016]*

6.99 The PRO of a counting station (except for the PRO of a main counting 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 transparent plastic 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 number of the ballot papers counted by comparing it with the ballot paper account for the GC from the polling station and prepare a statement in writing as to the result of the verification; and
- (f) compile the final counting results.

[Ss 73D and 75 of the EAC (EP) (LC) Reg] *[Amended in January 2010, June 2012, June 2016 and June 2020]*

- 6.100 The PRO of a main counting station shall:
- (a) count and record the number of GC ballot papers in the orange (from dedicated polling stations) or green (from the ECC polling station) 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 number by comparing it with the respective ballot paper statements;
 - (b) count and record the number of GC ballot papers in the ballot boxes received from designated small polling stations (and also from dedicated polling stations and the ECC polling station if it is a LegCo by-election in which no ballot paper sorting station has been set up), and verify the number by comparing it with 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 contained in at least one of the GC ballot boxes from the polling station designated as the main counting station together with the ballot papers received from small polling stations/ballot paper sorting stations/dedicated polling stations/the ECC polling station (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 transparent plastic 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) upon completing the counting of votes, verify the number of the GC ballot papers recorded in the counting process by comparing it with the ballot paper account of that polling station (excluding those from the small polling stations, dedicated polling stations and the ECC polling station which are processed in accordance with (b) above) and prepare a statement in writing as to the result of the verification; and
- (j) compile the final counting results.

[Ss 73D and 75 of the EAC (EP) (LC) Reg] *[Amended in January 2010, June 2012, June 2016, June 2020 and October 2021]*

6.101 The cumulative voter turnout announced on the polling day is an estimate based on the statistics on ballot papers issued to electors by polling staff at the ballot paper issuing desks (see para. 6.43 above). Under certain circumstances, the cumulative voter turnout may not tally with the number of ballot papers in the ballot boxes because it does not take into account the numbers of ballot papers endorsed as “TENDERED”⁴⁷ issued at the PRO desk or the “UNUSED”⁴⁸ ones which were found abandoned or left behind in the polling station instead of being put into the ballot boxes (see paras. 6.64 and 6.67 above). After adding the number of “TENDERED” ballot papers and deducting the number of “UNUSED” ballot papers, the cumulative voter

⁴⁷ “TENDERED” ballot papers are issued at the PRO desk. They are not counted in the cumulative voter turnout, but were put into the ballot box and included in the number of ballot papers actually counted from the ballot box.

⁴⁸ Ballot papers are occasionally found abandoned or left behind in the polling station. The PRO will endorse such ballot papers with the words “UNUSED” and “未用”, and keep them in his/her custody. These ballot papers have been counted in the cumulative voter turnout although they were not put into the ballot box.

turnout should, in principle, tally with the number of ballot papers in the ballot boxes⁴⁹. A discrepancy may also occur between the two numbers if any ballot paper was taken away without authorisation and consequently not put into the ballot box. In any event, the counting results shall be based on the number of ballot papers actually counted from the ballot boxes, while the cumulative voter turnout is for reference only. *[Added in June 2020]*

Invalid Ballot Papers

6.102 A ballot paper is invalid if:

- (a) no vote has been marked on it;
- (b) it is not marked with the chop provided by the polling station;
- (c) it is endorsed on the front with the words “**SPOILT**” and “**損壞**”;
- (d) it is endorsed on the front with the words “**TENDERED**” and “**重複**”;
- (e) it is endorsed on the front with the words “**UNUSED**” and “**未用**”;
- (f) the vote recorded on it is for a deceased or disqualified candidate whose name and other information on the ballot paper are crossed out under s 37(2) of the EAC (EP) (LC) Reg; or

⁴⁹ See para. 6.43 above. Ballot papers issued to electors in replacement of “SPOILT” ballot papers are issued at the PRO desk. The “SPOILT” ballot papers to be kept by the PRO were issued at the ballot paper issuing desks, so they have been counted in the cumulative voter turnout. On the other hand, ballot papers issued to electors by the PRO in replacement of “SPOILT” ballot papers were put into the ballot box and hence subsequently included in the number of ballot papers actually counted from the ballot box.

- (g) votes are given for more than 1 candidate (e.g. by marking a “✓” each against 2 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]. *[Amended in October 2007, July 2008 and June 2020]*

Questionable Ballot Papers

6.103 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 name of the candidate of the elector’s choice on the ballot paper, and the elector’s intention is unclear. However, the PRO may count the vote on that ballot paper if he/she is satisfied that the elector’s intention is clear even though the “✓” mark is not placed inside the circle; *[Amended in June 2016]*
- (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 votes are to be counted. [S 75(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 writings or marks 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] *[Amended in October 2007, June 2016 and June 2020]*

6.104 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 agents or counting agents present to participate in the determination process of questionable ballot paper. *[Amended in June 2016]*

6.105 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 a questionable ballot paper. The candidates, their election agents or counting agents may inspect and make representations concerning the questionable ballot paper [s 81(1) of the EAC (EP) (LC) Reg];
- (b) the PRO will then consider their representations and make a final decision on the validity of the questionable ballot paper (see para. 6.106 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 any candidate, election agent or 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 any candidate, election agent or 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].

[Amended in June 2016]

6.106 The decision of the PRO in regard to any question arising in respect of any ballot paper shall be **final** [s 82 of the EAC (EP) (LC) Reg], subject to an election petition lodged [s 61 of the LCO] (see Part II of Chapter 7).

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

6.108 After the vote counting at an individual counting station for a constituency is completed, the PRO of the counting station will make known the counting results to the relevant candidates, their election agents or counting agents present. Candidates, their election agents or counting agents may

request the PRO to re-count the votes, and the PRO shall comply with such request unless in his/her opinion the request is unreasonable. If there is no request for a re-count, or 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 is rejected by the PRO, then the PRO shall report the counting results to the ARO for the relevant constituency at the central counting station. For misplaced GC ballot papers which were found in FC ballot boxes at the central counting station and delivered to the relevant RO, the votes will be counted by the said RO. The validity of any questionable ballot papers will be determined by that 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 shall be final [s 82 of the EAC (EP) (LC) Reg]. The counting arrangement as set out in paras. 6.102 to 6.106 above will be followed by the RO [s 79A of the EAC (EP) (LC) Reg]. *[Amended in July 2008 and June 2012]*

6.109 After the ARO has been notified of the results of the counting of votes and re-count (if any) of all counting stations for the constituency in his/her charge, he/she shall inform the RO for the constituency of the results. The RO shall then inform the candidates, their election agents or counting agents who are present 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 the votes of all the counting stations for the constituency, the RO will decide whether the request should be acceded to. If the RO 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 of the decision so that a re-count at the respective counting stations can be conducted. [S 79A(5) and (6) of the EAC (EP) (LC) Reg]

6.110 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/ECC 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 the GC without having to wait for the counting results of any misplaced GC ballot papers (see para. 6.109 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 for the GC 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 numbers of remaining votes cast for any two 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]. *[Amended in June 2012 and October 2021]*

6.111 The PRO of each of the counting stations must 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 report the same to the ARO for the GC at the central counting station. The ARO shall inform the RO for the GC 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 together such results and the result of the counting of the votes recorded on the misplaced GC ballot papers found in FC/ECC ballot boxes, and make known the aggregate result to the candidates or their election agents or counting agents present at the central counting station. If a candidate or his/her election agent makes a request to 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 the request is unreasonable [s 79A(12) of the EAC (EP) (LC) Reg]. *[Amended in July 2008, January 2010 and June 2012]*

6.112 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 or safety; or an occurrence which appears to the EAC to be a material irregularity relating to the election, the poll or count), then 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 each candidate 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 the first counting station must arrange the ballot boxes (whether opened or unopened) and receptacles, if any, together with the ballot papers (whether counted or not), any un-issued ballot papers, tendered ballot papers, ballot paper accounts, verification of number of ballot papers 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 the 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]. *[Amended in July 2008, June 2016 and October 2021]*

(b) Counting of FC votes

6.113 The FC ballot boxes, together with any misplaced FC ballot papers found in GC/ECC ballot boxes, will be delivered to the central counting station and 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 RO in the

presence of the candidates, their election agents or counting agents, if any [s 73(1) of the EAC (EP) (LC) Reg]. All the ballot boxes will then be opened and the contents emptied onto a counting table. Any misplaced ECC and GC ballot papers found will be sealed and then delivered to the relevant RO at the central counting station for counting. The candidates, their election agents or counting agents may request to inspect any paper other than ballot papers taken out from the ballot boxes before the paper is disposed of. **At no time should a candidate, his/her election agent or counting agent touch any of the ballot papers** [s 73(2) of the EAC (EP) (LC) Reg]. *[Amended in June 2012, June 2016 and October 2021]*

6.114 There will be sorting/counting zones for the FCs. The FC ballot papers from each of the polling stations (including small polling stations, dedicated polling stations and the ECC polling station) will first be sorted, counted and recorded by the central counting staff, who will then verify the number of ballot papers recorded for each FC by comparing it with the ballot paper accounts from the respective polling stations. Such sorted ballot papers will then be separately bundled with the relevant ballot paper accounts. [S 73B of the EAC (EP) (LC) Reg] *[Amended in June 2012 and October 2021]*

6.115 As described above, the FC ballot papers in each of the sorting/counting zones will be sorted to make up separate bundles for each FC. 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 in the presence of the candidates or their agents, if any, at the counting station. Bundles belonging to the same FC will be passed to the relevant ARO and his/her staff for transfer to the relevant counting zone and counting of votes under the supervision of the RO of that FC. The ballot papers for the same FC from not less than 2 of the polling stations will first be mixed before counting [ss 73B(1), (6), (7) and 77(3) of the EAC (EP) (LC) Reg]. *[Amended in June 2012, June 2016 and October 2021]*

6.116 At the counting zone, with the assistance of the counting staff, the RO of an FC shall:

- (a) (i) For FC returning 1 member
 sort the votes according to the choices marked by the electors/ARs on the ballot papers and place the ballot papers in separate transparent plastic boxes on the counting table;
 or
- (ii) For FC returning more than 1 member
 record the votes according to the choices marked by the electors/ARs 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 the RO);
- (d) 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.

[S 77 of the EAC (EP) (LC) Reg] *[Added in June 2012 and amended in October 2021]*

Invalid Ballot Papers

6.117 A ballot paper is invalid if:

- (a) no vote has been marked on it;

- (b) it is endorsed on the front with the words “**TENDERED**” and “**重複**”;
- (c) it is endorsed on the front with the words “**SPOILT**” and “**損壞**”;
- (d) it is endorsed on the front with the words “**UNUSED**” and “**未用**”;
- (e) it is not marked with the chop provided by the polling station;
- (f) the vote recorded on it is for a deceased or disqualified candidate whose name and other information on the ballot paper are crossed out under s 37(2) of the EAC (EP) (LC) Reg; or
- (g) 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 27 FCs, a ballot paper is invalid if more than 1 vote is marked on it).

[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]. *[Amended in October 2007, July 2008, June 2012, June 2020 and October 2021]*

Questionable Ballot Papers

6.118 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) it is not marked in accordance with s 57(2) of the EAC (EP) (LC) Reg, i.e. not marked by affixing the chop to give a single “✓” in the circle opposite the name of the candidate of the elector/AR’s choice on the ballot paper, and the elector/AR’s intention is unclear. However, the RO may count the vote on that ballot paper if he/she is satisfied that the intention of the elector/AR is clear even though 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 to decide whether the votes are to be counted. [S 77(7)(a) of the EAC (EP) (LC) Reg] When deciding on the validity of the ballot papers in (a) above, the RO will make reference to the judgment made by the Court on an election petition case (HCAL 127/2003) (see para. 6.103 above) [s 81(2) and (3) of the EAC (EP) (LC) Reg]. *[Amended in July 2008, June 2012, June 2016 and October 2021]*

6.119 The validity of all questionable ballot papers shall be decided by the RO of the relevant FC. The RO will invite the candidates, their election

agents or counting agents present to participate in the determination process of questionable ballot papers. *[Amended in June 2016]*

6.120 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 a questionable ballot paper. The candidates, their election agents or counting agents (if present at the counting zone) may inspect and make representations concerning the questionable ballot paper [s 81(1) of the EAC (EP) (LC) Reg];
- (b) the RO will then consider their representations and make a final decision on the validity of the questionable ballot paper (see para. 6.121 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 words “不獲接納” and “rejected” on the front of it. In that case, if any candidate, election agent or 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 any candidate, election agent or 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].

[Added in June 2016]

6.121 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], subject to an election petition lodged [s 61 of the LCO] (see Part II of Chapter 7).

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

6.123 After the vote counting for a particular FC is completed, the RO for the constituency will make known the counting result to the relevant candidates, their election agents or counting agents present [s 79(1) of the EAC (EP) (LC) Reg]. Candidates or their election agents may request the RO to re-count the votes, and the RO shall comply with such request unless in his/her opinion the request is unreasonable [s 79(2) of the EAC (EP) (LC) Reg]. If there is no request for a re-count, or 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 is rejected by the RO, then the RO will inform the candidates and their agents of the counting results [s 79 of the EAC (EP) (LC) Reg].

(c) **Counting of ECC votes**

6.124 The ECC ballot boxes, together with any misplaced ECC ballot papers found in GC/FC ballot boxes, will be delivered to the central counting station and given into the charge of the relevant RO(s) [ss 70(4) and 72(2) 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 RO(s) in the presence of the candidates, their election agents or counting agents, if any [s 73(1) of the EAC (EP) (LC) Reg]. All the ballot boxes will then be opened and the contents emptied onto a counting table. Any misplaced GC and FC ballot papers found will be sealed and then delivered to the relevant RO at the central counting station for counting. The candidates, their election agents or counting agents may request to inspect any paper other than ballot papers taken out from the ballot boxes before the paper is disposed of. **At no time should a candidate, his/her election agent or counting agent touch any of the ballot papers** [s 73(2) of the EAC (EP) (LC) Reg]. *[Added in October 2021]*

6.125 Before counting the votes recorded on ECC ballot papers in respect of each of the candidates, the RO(s) for the ECC, assisted by the central counting staff, will take out the ECC ballot papers from the envelopes (if envelopes for containing ECC ballot papers are used in the election), count and record the number of the ECC ballot papers, verify the number recorded by comparing it with the ballot paper accounts for the ECC from the respective polling stations, and prepare a statement in writing as to the result of the verification. [S 73C of the EAC (EP) (LC) Reg] *[Added in October 2021]*

6.126 The RO(s) for the ECC, assisted by the counting staff, will first mix the ballot papers from the ECC polling station and dedicated polling stations (if applicable) at the counting zone before counting the votes as follows:

- (a) record the votes according 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 the RO(s));
- (d) count the valid votes obtained by each candidate in accordance with the “block vote” and “first past the post” voting system described in s 52A of the LCO; and
- (e) compile the final counting results.

[S 78A of the EAC (EP) (LC) Reg] *[Added in October 2021]*

6.127 Due to the large number of seats and candidates for the ECC in a LegCo general election, the Optical Mark Recognition System will be used for automatic counting of the votes as per the arrangements of the EC subsector ordinary elections. In case the system fails to operate normally, the counting staff will activate the contingency plan and input the votes on each ballot paper manually into an independent computer system. Counting staff will work in pairs and perform “double entry” to ensure data accuracy. On the other hand, manual counting is usually adopted in ECC by-elections. [S 78A(4) of the EAC (EP) (LC) Reg] *[Added in October 2021]*

Invalid Ballot Papers

6.128 A ballot paper is invalid if:

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

- (d) it is endorsed on the front with the words “**UNUSED**” and “**未用**”;
- (e) in respect of an ECC by-election, it is not marked with the chop provided by the polling station;
- (f) the vote recorded on it is for a deceased or disqualified candidate whose name and other information on the ballot paper are crossed out under s 37(2) of the EAC (EP) (LC) Reg; or
- (g) the number of votes marked on the ballot paper is not equal to the number of members to be returned.

[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(s) concerning these ballot papers [s 80(4) of the EAC (EP) (LC) Reg]. *[Added in October 2021]*

Questionable Ballot Papers

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

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

- (b) it is not marked in accordance with s 58A(1) or 58A(3)(b) of the EAC (EP) (LC) Reg:
- (i) for a LegCo general election, the ballot paper is not marked by filling in black the ovals on it opposite the names of the candidates of the elector's choice, and the intention of the elector is unclear. However, the RO may count the votes on that ballot paper if he/she is satisfied that the intention of the elector is clear, notwithstanding the deviation from the requirements in s 58A(1) of the EAC (EP) (LC) Reg; or
 - (ii) for an ECC by-election, the ballot paper is not marked by affixing the chop to give a single "✓" in each of the circles opposite the names of the candidates of the elector's choice, and the elector's intention is unclear. However, the RO may count the votes on that ballot paper if he/she is satisfied that the intention of the elector is clear even though 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(s) to decide whether the votes are to be counted [s 78A(5)(a) of the EAC (EP) (LC) Reg]. When deciding on the validity of the ballot papers in (a) above, the RO(s) will make reference to the judgment made by the Court on an election petition case (HCAL 127/2003) (see para. 6.103 above) [s 81(2) and (3) of the EAC (EP) (LC) Reg]. *[Added in October 2021]*

6.130 The validity of all questionable ballot papers shall be decided by the RO(s) for the ECC. The RO(s) will invite the candidates, their election agents or counting agents present to participate in the determination process of questionable ballot papers. *[Added in October 2021]*

6.131 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 a questionable ballot paper. The candidates, their election agents or counting agents (if present at the counting zone) may inspect and make representations concerning the questionable ballot paper [s 81(1) of the EAC (EP) (LC) Reg];
- (b) the RO will then consider their representations and make a final decision on the validity of the questionable ballot paper (see para. 6.132 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 words “不獲接納” and “rejected” on the front of it. In that case, if any candidate, election agent or 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 any candidate, election agent or 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].

[Added in October 2021]

6.132 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], subject to an election petition lodged [s 61 of the LCO] (see Part II of Chapter 7). *[Added in October 2021]*

6.133 The vote counting will proceed continuously, as far as possible, until the counting of all the votes is completed. *[Added in October 2021]*

6.134 After the vote counting for the ECC is completed, the RO(s) for the constituency will make known the counting result to the relevant candidates, their election agents or counting agents present [s 79(1) of the EAC (EP) (LC) Reg]. Candidates or their election agents may request the RO(s) to re-count the votes, and the RO(s) shall comply with such request unless in his/her/their opinion the request is unreasonable [s 79(2) of the EAC (EP) (LC) Reg]. If there is no request for a re-count, or 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 is rejected by the RO(s), then the RO(s) will inform the candidates and their agents of the counting results [s 79 of the EAC (EP) (LC) Reg]. *[Added in October 2021]*

PART XIV : DECLARATION OF RESULT

(a) For GCs

6.135 When the counting of votes and re-counts, if any, are completed and a result is obtained, the PRO of each of the counting stations shall report to an ARO for the relevant GC the final counting or re-count result of his/her counting station. 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, the RO for the GC shall declare the successful candidate(s) elected for the GC. In the event that 1 or 2 vacancies are still to be filled for a GC and the number of the most successful candidates having an equal number of votes is more than the number of vacancies, the RO will determine the result of the election by drawing lots at the central counting station (see para. 2.50 for detailed procedures for drawing of lots). The RO shall declare the candidate on whom the lot falls as elected, and display a notice of the result of the GC election at a prominent place outside the central counting station. The result of the election shall 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] *[Amended in June 2012, June 2016 and October 2021]*

(b) For FCs

6.136 When the counting of votes and re-counts, if any, are completed and a result is obtained, the RO for the relevant FC shall declare the successful candidate(s) elected for the FC. In the event that 1 or more than 1 vacancy are still to be filled for an FC and the number of the most successful candidates having an equal number of votes is more than the number of vacancies, the RO will determine the result of the election by drawing lots at the central counting station (see para. 3.54 for detailed procedures for drawing of lots). He/She shall declare the candidate on whom the lot falls as elected. The RO for the

relevant FC shall display a notice of the result of the FC election at a prominent place outside the central counting station. The result of the election shall 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] *[Amended in July 2008, June 2012 and October 2021]*

(c) For the ECC

6.137 When the counting of votes and re-counts, if any, are completed and a result is obtained, the RO(s) for the ECC shall declare the successful candidate(s) elected for the constituency concerned. In the event that 1 or more than 1 vacancy are still to be filled and the number of the most successful candidates having an equal number of votes is more than the number of vacancies, the RO(s) will determine the result of the election by drawing lots at the central counting station (see para. 4.14 for detailed procedures for drawing of lots). He/She shall declare the candidate on whom the lot falls as elected. The RO(s) for the ECC shall display a notice of the result of the ECC election at a prominent place outside the central counting station. The result of the election shall 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] *[Added in October 2021]*

PART XV : DISPOSAL OF DOCUMENTS

6.138 As soon as practicable after the result of the poll has been ascertained, the RO/PRO shall pack all the relevant documents and ballot papers into sealed packets. Candidates and their agents may be present to observe the packing [s 85(1) and (3) of the EAC (EP) (LC) Reg]. *[Amended in June 2012]*

6.139 These sealed packets and other documents including 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 LegCo election to which they relate before destruction. [Ss 86(1) and 88 of the EAC (EP) (LC) Reg] *[Amended in June 2012]*

6.140 **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 XVI : POSTPONEMENT OR ADJOURNMENT OF THE ELECTION, THE POLL OR THE COUNT

6.141 The LCO and the EAC (EP) (LC) Reg provide for the postponement or adjournment of the election, the poll or the count for a LegCo general election as well as such cases in respect of an individual constituency or an individual polling/counting station. *[Added in June 2020]*

6.142 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 a general election or during the poll or the count in respect of a general election, the CE is of the opinion that the election, the poll or the count 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, then the CE may, by order, direct the postponement or adjournment of the election, the poll or the count. Besides, if it appears to the EAC that the election, the poll or the count is likely to be obstructed, disrupted, undermined or seriously affected by (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 the

count, then the EAC may postpone or adjourn the election, the poll or the count. [S 44(1) and (2) of the LCO and s 1 of Schedule 2 to the EAC (EP) (LC) Reg] *[Added in June 2020]*

6.143 Regarding **an individual constituency**, if, during or before a general election or by-election or at any time during the poll or the 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 constituency is likely to be obstructed, disrupted, undermined or seriously affected by any of 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 the count, then the EAC may postpone or adjourn the election or by-election, the poll at all the polling stations or the count at all the counting stations for that constituency. [S 2 of Schedule 2 to the EAC (EP) (LC) Reg] *[Added in June 2020]*

6.144 Regarding the **poll or the count at an individual polling/counting station**, if, at any time during the poll or the count of 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 any of the prescribed occurrences mentioned in para. 6.143 above, then the PRO may adjourn the poll at that polling station or the count at that counting station. [S 3 of Schedule 2 to the EAC (EP) (LC) Reg] *[Added in June 2020]*

6.145 If a general election or by-election or the poll or count has to be postponed or adjourned in accordance with s 44 of the LCO or Schedule 2 to the EAC (EP) (LC) Reg, the CE or the EAC must appoint a date for holding the election, the poll or the count as soon as practicable after the postponement or adjournment. 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 the count will usually be postponed or adjourned to the fallback polling day (i.e. the following Sunday). There is no provision in the relevant electoral laws and regulations regarding further postponement or adjournment of an already postponed or adjourned election, poll or count. [S 44(4) of the LCO and s 7 of Schedule 2 to the EAC (EP) (LC) Reg] *[Added in June 2020]*

PART XVII : LEGISLATIVE COUNCIL BY-ELECTION TO BE HELD

6.146 In respect of LegCo by-elections, 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 by the Clerk to the LegCo as to the existence of a vacancy in the membership of the LegCo;
- (b) on the making of a declaration by an RO that the election for a constituency has failed;
- (c) on the CFI's making of 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 Court of Final Appeal ("CFA"), on the CFA's determination 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] *[Added in June 2020 and amended in October 2021]*

6.147 There is no provision in the subsisting law regarding the holding of any by-election to cater for the event that a LegCo general election, poll or count has to be postponed or adjourned due to the circumstances mentioned in paras. 6.142 to 6.144 above but cannot be held within the 14 days after the scheduled date as stipulated in the law. *[Added in June 2020]*

CHAPTER 7

ELECTION PETITIONS

PART I : GROUNDS FOR LODGING AN ELECTION PETITION

7.1 Pursuant to ss 3B and 61 of the LCO, the result of the LegCo election may be questioned only by an election petition made on the following grounds, yet no legal proceedings may be instituted in respect of a decision made by the CERC on the eligibility of a candidate pursuant to the opinion of the Committee for Safeguarding National Security of the HKSAR:

- (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

7.2 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]

7.3 An election petition may be lodged, in the case of an election for the ECC:

- (a) by 10 or more members of the EC entitled to vote at the election; or
- (b) by a person claiming to have been a candidate in the election.

[S 62(3) of the LCO] *[Added in October 2021]*

7.4 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)]. *[Amended in June 2020]*

7.5 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] *[Amended in October 2007 and June 2012]*

7.6 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] *[Added in June 2012]*

CHAPTER 8

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

PART I : GENERAL

8.1 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 post, by electronic mail or by facsimile transmission, the notice must be delivered to the CEO or the RO, as the case may be, 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 or RO, as the case may be, 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. *[Amended in June 2020 and October 2021]*

8.2 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. *[Added in June 2020]*

8.3 A candidate should think carefully before selecting any of his/her agents. He/She should choose persons suitable for the task. The agents 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

8.4 A candidate may appoint the following agents to assist him/her in an election:

- (a) **1** election agent [s 23(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, used for polling for the constituency for which he/she is nominated [s 42(2), (3) 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. 8.26 below). For arrangements regarding admission of election agents or polling agents to dedicated polling stations situated in penal institutions, please refer to paras. 8.13 to 8.16 and paras. 8.25 to 8.27 below.)

- (e) not more than such number of counting agents as will be specified by the EAC⁵⁰ [s 66(2) of the EAC (EP) (LC) Reg].

[Amended in January 2010, June 2012, June 2020 and October 2021]

PART III : QUALIFICATIONS OF AGENTS

8.5 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

8.6 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 when participating in electioneering activities. To avoid any unfairness or appearance of unfairness or conflict of interest, civil servants who work in a constituency or have extensive contacts with the public in a constituency are strongly advised not to accept appointment by a candidate in that constituency to be his/her agent and/or participate in electioneering activities in the constituency concerned. Civil servants who

⁵⁰ The number of counting agents to be specified by the EAC will be stated in the specified form for the appointment of counting agents.

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. The guidelines set out in this paragraph are equally applicable to the non-civil service government staff⁵¹. *[Amended in October 2007, June 2012 and October 2021]*

PART V : ELECTION AGENT

Appointment

8.7 A candidate may appoint **1** election agent to assist him/her and to act on his/her behalf in an election [s 23(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. *[Amended in October 2021]*

8.8 The candidate must give notice of such appointment to the RO for the relevant constituency 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 post, by electronic mail or by facsimile transmission to the RO. If the notice of appointment is given on the polling day, it should not be delivered to the RO by post. [S 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]. *[Amended in June 2016 and October 2021]*

⁵¹ For the purpose of this Guidelines, non-civil service government staff refer to the following types of staff appointed on non-civil service terms directly employed by the HKSAR Government –

- (a) those employed under the Non-Civil Service Contract Staff Scheme pursuant to Civil Service Bureau (CSB) Circular No. 2/2001;
- (b) those employed under the Post-retirement Service Contract Scheme pursuant to CSB Circular No. 13/2015; and
- (c) those employed on non-civil service terms holding public offices that do not fall under the categories of (a) or (b) above.

8.9 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]. *[Amended in June 2016]*

Revocation

8.10 The appointment of an election agent may be revoked by the candidate at any time. The candidate must also give notice of the revocation in writing in the specified form and deliver the signed notice by hand, by post, by electronic mail or by facsimile transmission to the RO. If the notice of revocation is given on the polling day, it should not be delivered to the RO by post. A revocation of 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] *[Amended in June 2012, June 2016 and October 2021]*

8.11 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. 8.8 above. [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. 8.13 to 8.16 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). *[Amended in January 2010, June 2016 and October 2021]*

Notification

8.12 Not later than 10 days after the end of the nomination period, and thereafter as required, each validly nominated candidate or his/her 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 constituency concerned [s 24(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]. *[Amended in June 2012 and October 2021]*

Role of an Election Agent

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

IMPORTANT :

An election agent is, along with the candidate, responsible for the management of the election campaign. A candidate is responsible for all the acts of his/her election agent. If the election agent fails in his/her duties, he/she may contravene the law, in particular, the ECICO, and may commit criminal offences for which the candidate may also be liable, with serious consequences. An election agent will need to be 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). *[Amended in June 2012 and October 2021]*

8.14 Candidates and their election agents are normally allowed admission to all polling stations in respect of the constituency 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 or the election agent as soon as practicable. [S 23(18) and (21) of the EAC (EP) (LC) Reg] *[Amended in January 2010, June 2016 and October 2021]*

8.15 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 an elector/AR imprisoned or held in custody by the CSD, who is entitled to vote for the relevant constituency 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 and ARs who are imprisoned or held in custody in individual penal institutions daily from Monday to Friday (other than a general holiday) starting from 3 weeks before the polling day and on the Saturday immediately before the polling day for candidates' reference. *[Added in January 2010, amended in June 2016 and October 2021]*

8.16 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 for that polling station [s 23(19) of the EAC (EP) (LC) Reg]. *[Added in January 2010 and amended in October 2021]*

8.17 The PRO of a polling station may regulate the number of candidates, election agents and polling agents to be admitted to the polling station at any one time, for the purpose of maintaining order in the polling station and ensuring that polling is conducted smoothly [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. *[Amended in January 2010]*

PART VI : ELECTION EXPENSE AGENTS

Authorisation

8.18 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]. *[Amended in October 2007, June 2012 and October 2021]*

8.19 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 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 constituency, or the CEO if the RO has not been appointed [s 25(9) and (10) of the EAC (EP) (LC) Reg]. *[Amended in June 2012, June 2016 and October 2021]*

8.20 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 election expenses** [s 23(1) of the ECICO]. The expenses so incurred may also be counted as the candidate's election expenses. *[Amended in June 2016]*

Revocation

8.21 The authorisation of an election expense agent may be revoked by a candidate at any time. The candidate must give notice of the revocation as soon as possible in writing 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. [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 the CEO receives the notice will still be counted as election expenses of the candidate. *[Amended in October 2007, June 2012, June 2016 and October 2021]*

Role of Election Expense Agents

8.22 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

8.23 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 CERC 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 the goods or service providers. 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. 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 constituency concerned (and in relation to all the constituencies concerned if the election is held for 2 or more constituencies) or within such extended period as may be allowed by the CFI under the relevant law. An election is settled in relation to a constituency on the date on which any of the following events occurs:

- (a) the result of the election is notified in the Gazette;
- (b) the election is declared to have failed.

[S 37(1), (1B), (1C) and (1N) of the ECICO and Part V of Chapter 17]

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 the goods or service providers or to donor(s), as the case may be, provided by the election expense agents, the candidate will have difficulty in discharging his/her duty to file the election return, which **may render him/her liable for a criminal offence** under s 38 of the ECICO. *[Amended in October 2007, June 2012, June 2016, June 2020 and October 2021]*

Public Inspection of Authorisation of Election Expense Agents

8.24 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] *[Amended in June 2012 and June 2016]*

PART VII : POLLING AGENTS

Appointment

8.25 A candidate may appoint **a maximum of 2 polling agents** for each polling station, other than a dedicated polling station situated in a penal institution, used for polling for the constituency in respect of the constituency for which he/she is nominated [s 42(2), (3) 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. [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 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]. *[Amended in January 2010, June 2012, June 2016 and October 2021]*

8.26 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 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 [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 at that polling station [s 42(8A)(b) of the EAC (EP) (LC) Reg].

[Amended in January 2010, June 2012, June 2016 and October 2021]

8.27 If the Commissioner of Correctional Services refuses to give consent to the application received, he/she will notify the candidate or the election agent as soon as practicable [s 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 an elector/AR imprisoned or held in custody by the CSD, who is entitled to vote for the relevant constituency at the dedicated 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 and ARs 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. *[Added in January 2010, amended in June 2016 and October 2021]*

Revocation

8.28 The appointment of a polling agent may be revoked by the candidate at any time. The candidate must give notice of revocation in writing in the specified form and deliver the signed notice by hand, by post, by electronic mail or by facsimile transmission to the CEO (other than on the polling day). If the notice of revocation 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 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] *[Amended in June 2016 and October 2021]*

8.29 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. 8.25 to 8.27 above. *[Amended in January 2010 and June 2012]*

Role of Polling Agents

8.30 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

8.31 On behalf of each candidate, 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 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 6 regarding the admission of candidates, election agents and polling agents to the polling station.) *[Amended in January 2010, June 2012 and October 2021]*

8.32 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 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/AR and, in particular, not to divulge which elector/AR has voted for which candidate. *[Amended in January 2010, June 2012 and October 2021]*

8.33 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].

8.34 The following procedures shall apply on the polling day:

(a) Before the poll

- (i) About 30 minutes before the commencement of the poll (or 15 minutes for dedicated polling stations situated in penal institutions), 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, and open the sealed packets of ballot papers to show 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 FR, 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. 6.49 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 and seal the flaps of the inserting slots of the ballot boxes. He/She will also inform each candidate or his/her agent, if present, of the types of ballot papers in his/her possession (i.e. the number of 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 (please see Part XI of Chapter 6 for the relevant arrangement for the small polling stations, dedicated polling stations and the ECC polling station).

- (iii) For FCs and the ECC, up to 2 persons being candidates competing in the constituencies (or their respective agents), if they so wish, will be allowed to accompany the 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 and ECC 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.

[Amended in July 2008, June 2016, June 2020 and October 2021]

8.35 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) appointed to attend at the polling station (see para. 8.31 above);
- (c) subject to para. 8.36(b) below, observe the issue of ballot papers to electors/ARs and (either through the EPR system or the drawing of a line across concerned entries in the printed copy of the FR (if used)), subject to the condition that they will not 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, an FC ballot paper or an ECC 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 final register now in effect for this geographical constituency/the final register now in effect for this functional constituency/the Election Committee final register (as appropriate), as follows (the Presiding Officer to read the whole entry as it is recorded in the register)?”
- (ii) “Have you already voted for this geographical constituency/this functional constituency/the Election Committee constituency (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(2), (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]

[Amended in October 2007, January 2010, June 2012, June 2016 and October 2021]

8.36 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, backup storage facilities of the EPR system, the marked copy of the FR in printed form (if used) 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 which is about 1 metre, or 2 metres (depending on the configuration), around the voting compartments. Moreover, it is improper for a polling agent to ask an elector/AR about his/her identity card number, and also most improper to 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
[Amended in October 2007]
- (f) use a mobile telephone, paging machine or any other form of electronic communication device.

8.37 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 at level 2 (\$5,000) and to imprisonment for 3 months [s 45(4) and (7) of EAC (EP) (LC) Reg] 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] *[Amended in January 2010]*

Other Useful Information for Polling Agents

8.38 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]. *[Amended in June 2016]*

8.39 Electors/ARs 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.

8.40 Only the PRO, the Deputy PRO or an Assistant PRO may, in the presence of one of the polling staff 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 staff who is not working at the issuing counter as the witness, but the final decision as to which polling staff should be the witness remains with the PRO, Deputy PRO or Assistant PRO. An elector/AR's relative, friend or any other person is in no circumstances allowed to accompany the elector/AR in the course of voting. *[Amended in June 2012 and June 2016]*

8.41 In each polling station designated for an election in respect of a constituency, 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 constituency is of the same width and length as the ballot paper;
- (b) the template contains numbers in braille and protruding Arabic numerals starting with the first numeral in a sequence assigned to the candidates of the constituency from the top downwards and on the left 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 person with visual impairment 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 in the constituency; and each of the holes on the template corresponds with the circle on the ballot paper against the candidate. The number of holes equals the number of candidates in the constituency.

In the case of an election in respect of a GC which adopts the “double seats and single vote” voting system, an election in respect of an FC which adopts “first past the post” voting system and a by-election⁵² of the ECC which adopts “block vote” voting system, a person 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 of his or her choice. Whenever it is necessary, the polling staff will help the person with visual impairment to identify the different ballot papers before the person proceeds to mark his/her choice. *[Amended in June 2012, June 2016 and October 2021]*

8.42 No person may canvass, display or wear any promotional material relating to any candidate 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)]

⁵² For the ECC in a LegCo general election, due to the considerable number of candidates for the constituency and hence the constraint of the size and design of its ballot papers, it is not practical to produce braille templates. Persons with visual impairment may request the PRO, the Deputy PRO or an Assistant PRO to mark the ballot paper on his/her behalf in the presence of a polling staff as a witness.

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 relevant constituency, 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 XI of Chapter 6 on all matters relating to polling and in particular, paras. 6.68 to 6.71 for activities that are prohibited, and the consequences of conducting such activities, in a polling station. *[Amended in October 2007, June 2012, June 2016 and October 2021]*

8.43 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 21 on Complaints Procedure of the Guidelines.

PART VIII : COUNTING AGENTS

Appointment

8.44 A candidate 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 GC ballot papers received from dedicated polling stations or the ECC polling station 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. *[Amended in January 2010, June 2012, June 2016 and October 2021]*

8.45 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 relevant RO at least **7 days** before the polling day [ss 2(6), 66(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 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]. *[Amended in January 2010, June 2012, June 2016 and October 2021]*

Revocation

8.46 The appointment of a counting agent may be revoked by the candidate at any time. The candidate must also give notice of revocation in writing in the specified form and deliver the signed notice by hand, by post, by electronic mail or by facsimile transmission to the RO (other than on the polling day) [ss 2(6) and 66(9), (10) and (10A) 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 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]. *[Amended in January 2010, June 2012, June 2016 and October 2021]*

Role of Counting Agents

8.47 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 on the valid ballot papers; or
- (b) the ballot paper sorting stations to observe the breaking of the seals on the GC ballot boxes received from dedicated polling stations or the ECC polling station, and the sorting of the GC ballot papers.

This arrangement ensures the transparency of the sorting and counting process and is conducive to the principle of openness and fairness (see Parts XII and XIII of Chapter 6). *[Amended in January 2010 and October 2021]*

Provisions which the Counting Agents should be aware of

8.48 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/AR and, in particular, not to divulge which elector/AR has voted for which candidate. 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. *[Amended in July 2008, January 2010, June 2012 and October 2021]*

8.49 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]. *[Amended in June 2012 and June 2016]*

8.50 Counting agents are entitled to be present throughout the count to observe the entire 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 touch 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 constituency 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 staff including how ballot papers relating to a constituency are separated from those relating to other constituencies and how votes on individual ballot papers are counted;
- (d) observe the determination of the validity of questionable ballot papers by the PRO or the RO and make representations on behalf of the candidate concerned [s 81(7) of EAC (EP) (LC) Reg]; and
- (e) observe, where he/she wishes, the packing of ballot papers by the counting staff and the RO or the PRO, as the case may be, at the conclusion of the count.

[Amended in January 2010, June 2012, June 2016 and October 2021]

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

- (a) observe the opening of the GC ballot boxes received from dedicated polling stations or the ECC polling station;
- (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.

[Added in January 2010]

8.52 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]

[Amended in January 2010 and June 2016]

8.53 Counting agents should read Parts XII and XIII of Chapter 6 on all matters relating to sorting of ballot papers and counting of votes and in particular, paras. 6.81 to 6.85 and paras. 6.89 to 6.97 for activities that are prohibited, and the consequences of conducting such activities, within the ballot paper sorting station and counting station. *[Amended in October 2007 and January 2010]*

CHAPTER 9

ELECTION ADVERTISEMENTS

PART I : GENERAL

9.1 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 17. *[Added in June 2020]*

9.2 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 8), 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. *[Added in June 2020]*

9.3 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 has publicly declared his/her intention to stand for the election or whether the incident happens 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 or candidates. 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 or candidates, then it is not to be treated as an EA. *[Added in June 2020]*

9.4 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 platform⁵³ 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 their election expenses. If any false statement is contained in EAs, it will be regulated by other provisions under the subsisting law (see para. 9.23 below). *[Added in June 2020]*

9.5 It is an illegal conduct to publish false or misleading statements about a candidate under s 26 of the ECICO (please see para. 18.11 of Chapter 18 for details). In this regard, candidates publishing EAs should pay extra attention to ensure that the contents in their EAs have factual basis to avoid controversies and legal proceedings. Besides, if a candidate makes references to another candidate/other candidates in the EAs, he/she should ascertain the factual basis of such references and should not constitute a false or misleading statement. In the 2019 DC Ordinary Election, the CFI of the High Court ruled in an election petition (HCAL 3665/2019) that an elected candidate (i.e. the first respondent) who had published a false and misleading statement about another candidate in one of the EAs was not duly elected. *[Added in October 2021]*

9.6 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. *[Added in June 2020]*

⁵³ 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.

9.7 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 the incurrence of election expenses, the publisher may have committed offences relating to election expenses if he/she is not a candidate or a candidate's 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 a candidate or a candidate's 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 candidates' election expense agents (for details, please refer to para. 9.11 below). *[Added in June 2020]*

PART II : WHAT CONSTITUTES AN ELECTION ADVERTISEMENT

- 9.8 An 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] *[Amended in June 2012]*

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]. *[Amended in October 2021]*

“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]. *[Added in June 2012]*

If any candidate has authorised the publication of an EA by another person, that EA is taken to have been published by that candidate [s 104(2) of the EAC (EP) (LC) Reg]. *[Added in June 2012]*

9.9 **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; *[Amended in July 2008]*

- (b) audio/video cassette tape or disc, diskette, electronic message (e.g. messages published through social media, mobile messaging apps, communication networks, etc.), website, facsimile transmission, balloon, badge, emblem, carrier bag, head-dress and clothing; or
[Amended in October 2007]
- (c) any thing or material published by any person or any organisation, including political organisation, professional or trade organisation, owners' corporation, mutual aid committee ("MAC"), tenants' association, owners' committee, etc. (irrespective of whether or not the candidate concerned is its office-bearer or member) showing his/her or its support for any candidate or advertising the platform or services of such an organisation with reference to a candidate or candidates by name or photograph or in any other form or manner.
[Amended in June 2012]

[Amended in June 2020 and October 2021]

9.10 As stated in para. 9.8 above, an 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 organisations which certain candidates belong to or are affiliated with, 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)). 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 an EA and the publisher is neither a candidate nor a candidate's election expense agent, the publisher may have violated s 23 of the ECICO. If a candidate instructs that person or organisation to publish the EA, and such expenses are not accounted for as election expenses, the candidate will also violate the law.
[Added in June 2016 and amended in June 2020]

9.11 In accordance with s 23(1A) of the ECICO, a person (other than candidates or their 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/or charges necessary for accessing the Internet, will still have to be included in the election expenses of the candidate. The candidate should also fully fulfil the requirements relating to publication of EAs as set out in para. 9.59 below.
[Added in June 2016, amended in June 2020 and in October 2021]

9.12 Any publicity materials containing the name or photograph of a candidate issued or displayed during the election period (i.e. the period beginning on the first day of the nomination period for the election and ending on the day on which the polling for the election ends, or on the day on which the RO is required to make relevant declaration in accordance with s 46 (see paras. 2.48 of

Chapter 2, 3.52 of Chapter 3 and 4.11 of Chapter 4) of the LCO or s 22C⁵⁴ 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. *[Amended in June 2016, June 2020 and October 2021]*

9.13 Under s 104(1) of the EAC (EP) (LC) Reg, the definition of “publish” includes “continue to publish”. In this regard, for 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), if he/she continues to display any previously published publicity materials in the constituency concerned⁵⁵ with an intent to promote his/her election, once 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 (and the terms and conditions under the Lands Department’s Management Scheme for the Display of Roadside Non-commercial Publicity Materials shall also apply if the publicity materials are being displayed under the said scheme). For the sake of prudence, the person concerned should remove all the published publicity materials before he/she is nominated as a candidate or publicly declares an intention to run for the election. *[Added in June 2016 and amended in June 2020]*

9.14 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:

⁵⁴ According to s 22C of the EAC (EP) (LC) Reg, if the following circumstances arise after the death or disqualification of candidate for a constituency, the RO must declare that no poll is to be held for the constituency concerned:

- (a) the number of candidates remaining validly nominated is equal to the number of members to be returned for that constituency;
- (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 constituency.

⁵⁵ In the case of an election for the FC and the ECC, the constituency concerned would be construed in the context of the provision to mean the whole territory of Hong Kong.

- (a) the CE;
- (b) an EC member;
- (c) a member of the LegCo;
- (d) a member of a DC;
- (e) a member of the Heung Yee Kuk;
- (f) 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
- (g) a Rural Representative (“RR”),

is also regarded as an EA.

[Amended in June 2012, June 2016 and October 2021]

9.15 For the avoidance of doubt, if a person has publicly declared his/her intention to stand as a candidate at an election **before** the election period, and then publishes a document as mentioned in para. 9.14 above, the document will also be regarded as an EA as long as 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. 9.14 above must comply with all the requirements for an EA and the expenses so incurred be accounted for as election expenses. *[Amended in October 2007, June 2012 and June 2016]*

9.16 If a person publishes a document to give details of the work done by him/her in a capacity listed in para. 9.14 above without promoting or prejudicing the election of a candidate or candidates at the election before submitting the nomination form or publicly declaring an intention to stand as a candidate, the document will not be construed as an EA. On such basis, the expenses incurred in the publication of such a document would not be counted as election expenses. *[Amended in June 2012]*

9.17 A candidate in an election should put up and display EAs in accordance with all the relevant laws and regulations and the guidelines herein.

Election Advertisements Prejudicing the Election of a Candidate

9.18 There are occasions that a candidate or a third party may publish EAs for the purpose of prejudicing the election of other candidates at the election. The concept of “promoting” and “prejudicing” the election of someone can be relative. Any kind of publication with the intent to persuade electors not to vote for a candidate or candidates would have the effect of improving the chances of success of the remaining 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 expenses 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 expenses incurred will have to be included in candidate A’s election expenses; or

- (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 (unless exempted under s 23(1A) as mentioned in para. 9.11 above) because 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. This requirement would also prevent candidate A from circumventing the law by asking the third party to publish materials prejudicing candidate B without having to account for the expenses of those materials.

[Amended in June 2016 and June 2020]

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

9.20 The **election expenses** allowed by the 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.)

9.21 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, FCs and the ECC are specified in the Maximum Amount of Election Expenses (Legislative Council Election) Regulation (for details, see para. 17.16 of Chapter 17). *[Amended in October 2021]*

9.22 The costs incurred for the display of EAs must be counted as election expenses. A candidate must not incur election expenses in excess of the prescribed maximum amount, otherwise he/she will commit an offence. However, if election expenses in excess of the prescribed maximum amount have been incurred by a candidate, he/she may apply to the CFI for a relief order according to the relevant legislation. The CFI may make an order relieving the candidate from consequences of the illegal conduct if it 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 [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. *[Added in June 2020]*

9.23 A candidate must ensure the correctness and accuracy of factual information 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 19. 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.) *[Amended in June 2016 and June 2020]*

PART III : PERIOD AND AREA OF DISPLAY

9.24 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)]

9.25 Display spots are classified into 2 types:

- (a) **designated spots** which are spots on government land/property and sometimes even on land/property owned or occupied privately that have been made available to the Government for allocation to candidates of the 10 GCs ,the 28 FCs and the ECC; and
- (b) **private spots** which are spots on private land/property in respect of which written permission or authorisation for display has to be obtained from the owner or occupier concerned by the candidate himself/herself.

[Amended in October 2021]

Government or Private Land/Property - Designated Spots

9.26 Allocation of designated spots for the use of **contested** GC candidates to display their EAs will be made by the RO for the relevant GC. 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 may designate spots on such allocated land/property in coordination with the said authorities. **Each candidate competing in the same constituency** (who has registered his/her interest in displaying EAs at designated spots) will be allocated **the same number of designated spots**.

[Amended in June 2012 and October 2021]

9.27 Designated spots for FCs and the ECC 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 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. *[Amended in June 2012 and October 2021]*

9.28 Prospective candidates as well as political organisations are welcome to suggest to the ROs 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. 9.28 should reach the CEO **not later than 8 weeks before the polling day**. *[Amended in July 2008 and June 2012]*

Other Land/Property - Private Spots

9.29 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 the spots concerned 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. 9.59 below (please also see para. 9.35 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 that private spot 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. This requirement 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. 17.30 of Chapter 17. If a space is not the type normally used by any private owners or occupiers for commercial advertising, there is no need for the candidate to account for its value. *[Amended in June 2016]*

9.30 For the display of EAs at the common parts of private land/property (those parts for 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 competing in the same constituency **fair and equal treatment**. (For details, please see Chapter 10.) *[Amended in June 2012, June 2016 and October 2021]*

9.31 Candidates should note that public corporations (e.g. the MTR Corporation Limited) may have their own rules for display of EAs in properties under their management. *[Amended in July 2008 and June 2016]*

Allocation of Designated Spots

9.32 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	60
FCs	10
ECC	30

No designated spot will be provided to a candidate who is returned uncontested. *[Amended in June 2012 and October 2021]*

9.33 The RO for the relevant constituency will allocate the designated spots to candidates of his/her constituency either in accordance with the agreement among the candidates or by the drawing of lots after the end of the nomination period, when the number of candidates in the relative constituency has been ascertained. **No display of EAs will be allowed at any designated spots before the allocation** (also see the requirements in para. 9.39 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 will be provided with a list of the designated spots allocated to him/her, together with a set of maps to help identify the locations. *[Amended in July 2008, June 2012 and October 2021]*

9.34 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 website. To safeguard the safety of road users, candidates must ensure that the EAs on display do not distract motorists or interfere with the sight lines of motorists and pedestrians, or obscure any traffic sign or traffic light signal. *[Amended in June 2012 and October 2021]*

Written Permission or Authorisation

9.35 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 that written permission or authorisation as required under the relevant legislation will be provided to the candidates by the RO of the constituency concerned (see Part IV below). For display of EAs on 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 [ss 104A(2) and 150 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. 9.59 below. All candidates are also reminded that if carrying out of building works (including erection of any 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. *[Amended in July 2008, June 2012 and June 2016]*

No Canvassing Zone

9.36 No EA may be displayed within the boundaries of a polling station (including all storeys and the outer walls of the premises) or within the **NCZ** on the polling day (see Chapter 15), but except for static display 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 for the constituencies concerned asking them to remove all of their EAs displayed 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 the 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 a candidate fails to remove the EAs as requested by the RO, the RO may issue a warning to him/her to remove the offending EAs immediately. If the candidate does not comply, the EAC may issue a censure or reprimand. The RO for the relevant constituency will provide each candidate of that constituency with 1 set of sketch maps or plans showing the boundaries of all polling stations in respect of the relevant constituency and all NCZs outside those polling stations. *[Amended in June 2012, June 2020 and October 2021]*

PART IV : ALLOCATION OF DESIGNATED SPOTS

9.37 A candidate can obtain the following information from the relevant RO when he/she submits the nomination form:

- (a) the general locations of the designated spots, which may include unleased government land, property and buildings managed by the Housing Department, and occasionally private land/property (if any) available for allocation of designated spots 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/ECC, **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, which would normally be held within 5 to 10 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 that have already given a blanket approval, to be present to give the necessary written authorisation for the spots allocated.

[Amended in June 2012 and October 2021]

9.38 The RO for the constituency will need to know the exact number of candidates who wish to display EAs at designated spots, so that he/she can finalise the number of designated spots and their size for allocation. Therefore, candidates who wish to display EAs at designated spots **must register their interest in writing by filing a completed form to the relevant RO within the**

nomination period. Only candidates of contested constituencies will be allocated with designated spots. *[Amended in October 2007, June 2012 and October 2021]*

9.39 The principle of allocation of designated spots is that 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 among the representatives of all the contested candidates of a constituency 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 may display EAs at the allocated spots. *[Amended in June 2012, June 2016 and October 2021]*

9.40 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. 9.59 below for public inspection [s 105 of the EAC (EP) (LC) Reg]. *[Amended in July 2008 and June 2012]*

9.41 Subject to para. 9.43, designated spots allocated are neither transferable nor exchangeable with other spots. Where a candidate of a particular constituency no longer wishes to use one or more designated spots allocated to him/her, he/she should inform the RO of that constituency in writing within 1 week after the allocation of those spots. At a contested election, upon request by any other candidate of the same constituency, 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 constituency. In such a case, paras. 9.38 and 9.39 above apply. *[Amended in July 2008 and June 2012]*

9.42 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. *[Amended in June 2016, June 2020 and October 2021]*

9.43 An EA advertising 2 or more candidates of the same or different constituencies jointly is allowed to be displayed at the designated spots allocated to the candidates. Nevertheless, it is important to ensure that, for each one of the joint candidates, the total area of all the spaces actually occupied for advertising the candidate on all his/her 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 candidate. A joint EA is also subject to the size restrictions specified in para. 9.47 below. Candidates using a joint advertisement to promote themselves at the election would all benefit from the joint advertisement. The expenses incurred for the joint EA 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. Besides, each of the candidates must make available a copy of each of his/her EAs, and the relevant information/documents for public inspection in accordance with para. 9.59 below. (See also paras. 8.18

to 8.20 of Chapter 8 and para. 19.13 of Chapter 19.) *[Amended in October 2007, June 2012, June 2016 and October 2021]*

PART V : CONDITIONS AND LIMITATIONS ON DISPLAY

Name of the Constituency

9.44 To avoid possible confusion to electors, EAs of all candidates of the GCs, FCs and ECC must bear the name of the constituency for which the candidate concerned is standing. Similarly, in respect of joint EAs, the name of the constituency should be stated clearly in relation to each of the candidates advertised. Either the full name of the constituency or its abbreviated name (to be advised by the RO for the constituency) may be used, dependent on the choice of the candidate for the constituency. 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. *[Amended in June 2016 and October 2021]*

9.45 Likewise, all candidates should make known to the electors the name of their respective constituencies when they conduct joint canvassing activities.

Re-use of Old Publicity Boards

9.46 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 constituency, 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 avoid laying himself/herself open to allegations of false claim of support of persons who might not have consented to

support him/her at the current election. The cost incurred in refurbishing as well as the estimated value of the old publicity boards will be counted towards the candidate's election expenses. *[Amended in June 2012]*

Size

9.47 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 promotional messages of the relevant EAs must be **printed on one side only** and **facing the designated direction of the spots**. Before displaying any 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. 9.34 above). For the rules on display of joint advertisements, see para. 9.43 above. *[Amended in October 2007, July 2008, June 2012, June 2016 and October 2021]*

Mounting and Installation

9.48 The EAs must be firmly and separately fastened. The mounting and display of EAs must not cause any risk to injuries or property damage. *[Amended in June 2012]*

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

9.50 "Tie-on" posters (rather than "stick-on" posters or metallic wires) should be used to facilitate subsequent removal. *[Amended in June 2012]*

9.51 Use of metal wires for fixing flags onto any highway structure, railing, barrier, fence, post or any other street furniture, is strictly prohibited. *[Added in June 2020]*

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

9.53 Do not install into or erect on public pavements any structure, e.g. nailing boards to the ground. Do not use any tree or plant as anchor point for EAs. *[Amended in June 2012 and October 2021]*

9.54 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

9.55 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 publication of the election results 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. *[Amended in October 2007, June 2012 and June 2016]*

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

9.56 For temporary occupation of government land including any public street, pavement, footbridge, public escalator system and pedestrian tunnel for holding electioneering activities (such as setting up a manned street counter and displaying EAs which may include banners, roll-up banners and vertical flying posters or bunting), candidates are required to submit applications specifying the scheduled date, time, location/spot and brief description of the proposed set-up to relevant District Lands Office (“DLO”) of the Lands Department for consideration. Only applications from validly nominated candidates will be considered by DLOs, whereas applications from uncontested candidates will not be considered. The site approved for occupation must not exceed 2 m² (i.e. 1 m x 2 m) in area and 2 m in height. The respective DLO will consult the government departments concerned in considering the applications. Where necessary, DLOs may adjust the location of the government site to be occupied in light of the physical setting and actual situation. The decision of the DLO shall prevail. *[Added in June 2016 and amended in October 2021]*

9.57 The Lands Department will issue detailed guidelines for candidates to apply for temporary occupation of government land at public places 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 deadline as specified in the guidelines. The DLO will arrange drawing of lots to determine the allocation if necessary. If the allocated spot falls within the NCZ on the polling

day, the approval will be deemed to have been revoked. *[Added in June 2016 and amended in October 2021]*

9.58 The DLOs will not consider applications for holding electioneering activities on government land outside the designated periods; no fee is required for the applications above. The display of EAs will not be permitted for a street counter not manned by staff. *[Added in June 2016]*

PART VII :REQUIREMENTS RELATING TO PUBLICATION OF ELECTION ADVERTISEMENTS

Copies for Public Inspection

9.59 A candidate must make available a copy of each of his/her EAs, and the relevant information/documents (see **Appendix 6**) including the publication information, permission or consent in relation to the EAs for public inspection **within 1 working day** (i.e. any day other than a general holiday or Saturday) **after the publication of the EAs** by the following means:

- (a) posting an electronic copy of each of his/her EAs and relevant information/documents onto the Central Platform in accordance with the procedures set out in **Appendix 6**;
- (b) posting an electronic copy of each of his/her EAs and 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 the publication of the first EA (for details, please see Appendix 6)**;

- (c) if it is technically impracticable to comply with (a) or (b) above for EAs published through an open platform on the Internet (for example, when messages are exchanged on social networking or communication websites on the Internet, such as Instagram, Twitter, Facebook or blogs, in a real-time interactive manner), a hyperlink of the open platform and the information/documents relevant to the EAs should be posted onto the Candidate's Platform or Central Platform in accordance with the procedures set out in **Appendix 6**. 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 need for the candidate to upload each and every comment separately;
- (d) providing 2 hard copies of each EA (or 2 identical full colour photographs/printouts/photocopies of each EA which cannot be practically or conveniently produced in specie) and a hardcopy of information/documents in relation to the EA to the RO; or
- (e) providing 2 identical copies of a CD-ROM or DVD-ROM each containing the EAs and a hardcopy of information/documents in relations to the EAs to the RO.

As an interim arrangement, pending the appointment of the RO and the establishment of the Central Platform, candidates should deposit their EAs and the related 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] *[Amended in June 2012, June 2016, June 2020 and October 2021]*

Publication Details

9.60 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 submitting relevant information in a specified form to the RO **within 1 working day after the publication of the EA** (see **Appendix 6**) [s 105(4) and (6) of the EAC (EP) (LC) Reg]. A candidate must ensure the accuracy of all the information provided. *[Amended in October 2007 and June 2012]*

9.61 If the information uploaded onto the Candidate's Platform or Central Platform or provided to the RO as set out in para. 9.60 above contains a mistake, the candidate should post the amended information onto the Candidate's Platform or Central Platform or submit the amended information in a specified form to the RO for public inspection. All the amended information must be posted onto the Candidate's Platform or Central Platform or deposited with the relevant RO **within 3 working days at the latest after the polling day**. The information will be used as the basis for checking the candidate's election return and for removing unauthorised or offending EAs on display. For the avoidance of doubt, any amendment to the content of an EA will be regarded as the publication of a new EA and hence subject to the requirements stated in paras. 9.59 and 9.60 above. However, for the addition of a candidate number or letter of alphabet allocated to the candidate in a published EA, a copy of the EA bearing the newly added and amended information must be made available for public inspection as per this paragraph. *[Amended in June 2012, June 2016, June 2020 and October 2021]*

9.62 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. *[Amended in June 2012]*

9.63 A candidate must not display his/her EAs other than at the places permitted or authorised. *[Amended in June 2012]*

9.64 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 regarding the distribution of copies of an EA and those on making available the copies for public inspection. *[Added in October 2007 and amended in June 2012]*

9.65 In the case where candidates contesting in the same or different constituencies use identical copies of an EA, each of the candidates concerned should post an electronic copy of the EA and the relevant information/documents onto his/her respective 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] *[Amended in June 2012, June 2016 and October 2021]*

9.66 All copies of the EAs and the relevant information/documents must be made available for public inspection till the end of the period in 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 the deadline for lodging the relevant election return (see para. 8.23 of Chapter 8) [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. 9.59(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 make public 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. 9.59(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 public inspection period [s 105(7) of the EAC (EP) (LC) Reg].
[Amended in June 2012 and June 2016]

PART VIII :REQUIREMENTS RELATING TO PRINTED ELECTION MATERIALS

Printing Details

9.67 All printed EAs, with the exception of those printed in a registered local newspaper, should bear the printing details in Chinese or English stating the name and address of the printer, the date of printing and the number of copies printed. It applies to all materials reproduced by any method of making 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] *[Amended in June 2012]*

Election Advertisements Placed in Print Media

9.68 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 among readers that it is not an EA.

Inadvertent Omission of Printing Details

9.69 A candidate who has inadvertently omitted the printing details from his/her printed EAs can make a statutory declaration to give the omitted details, and deposit such declaration with the RO of the respective constituency **within 7 days after** the publication of the offending EA [s 105(6) of the EAC (EP) (LC) Reg]. Candidates who have taken this remedial step 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 in which copies of election returns are available for inspection under s 41(6) of the ECICO [s 105(7) of the EAC (EP) (LC) Reg].
[Amended in June 2012 and June 2016]

PART IX : NON-COMPLIANCE WITH THE LAW AND ITS CONSEQUENCES

Enforcement and Penalties

9.70 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].
[Amended in June 2012]

9.71 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 by themselves against any unauthorised or offending EAs. *[Amended in June 2016]*

9.72 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 [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 and 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] *[Amended in October 2007, July 2008 and June 2012]*

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

9.74 Complaints, if any, should be made to the relevant RO. After a complaint is received, the EAC may also issue a public statement in such manner as it deems fit to reprimand or censure any non-compliance with the guidelines. Despite the fact that a censure may be a further detriment to a candidate in addition to his/her liability for removal expenses and criminal liability, the EAC will not hesitate to publish one as appropriate.

Relief for Election Advertisements

9.75 A person who publishes an EA without complying with the requirements as set out in paras. 9.59 (except that related to the submission of permission/authorisation document under s 104A(1) of the PHMSO), 9.60, 9.61, and 9.67 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] The judgments of precedent court decisions⁵⁶ regarding applications for the relief of election-related penalties and liabilities are as follows:

“if an applicant did not place enough significance on the obligation to file an election return, the court would require some good reason before it should exercise its discretion to grant relief. Section 40(2) gives the court a discretion. I think it is important that the discretion should be exercised in a manner which is consistent with the integrity of our election legislation. Those participate in election should be aware that these are serious matters and therefore they should take reasonable steps to comply with their legal obligation at the time when they put themselves forward as a candidate for any election.”

[Amended in June 2012 and October 2021]

⁵⁶ *Yiu Chun Fat* (HCMP 1482/2007), *Leung Wai Kuen Edward v. Secretary for Justice* (HCMP 1321/2012) and *Lee Hin Long (Timothy Lee) v. Secretary for Justice* (HCMP 1183/2020).

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

9.76 Any thing or material published by any organisation, including a political body, professional body 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 the candidate concerned is its office-bearer or member) **during or even before the election period** by name or photograph or otherwise 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 of such EA may be construed as election expenses incurred by or on behalf of the candidate. A candidate should be responsible for election expenses incurred by himself/herself or his/her authorised election expense agents, excluding those incurred 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 of the name and/or photograph of a candidate who is involved in organising the activity in the published material will not be regarded as an EA. *[Amended in June 2020]*

9.77 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].

9.78 To protect their own interest, candidates should advise their political bodies or their organisations of these guidelines as soon as they have any intention or plan to run for an election.

9.79 In short, if any organisation, including a political body, publishes an EA to promote a candidate, then:

- (a) the expenses incurred will be treated as the candidate's election expenses;
- (b) the officer-in-charge of the organisation should be authorised in writing by the candidate to be the candidate's election expense agent before any election expense is incurred, or else the organisation 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 *[Amended in June 2012]*
- (d) such advertisement can only be displayed at the locations with relevant written permission or authorisation. *[Amended in June 2016]*

PART XI : FREE POSTAGE FOR ELECTION ADVERTISEMENTS

Conditions for Free Postage

9.80 A candidate of a GC/FC or the ECC who has been declared validly nominated in the notice of valid nominations published in the Gazette in accordance with regulations made under the EACO is permitted to send **1** letter to each elector of the constituency for which he/she is validly nominated free of postage [s 43(1), (2), (3A) and (4) of the LCO]. However, before the publication of the notice of valid nominations in the Gazette, a candidate wishing to exercise his/her right to free postage must furnish the Postmaster General with a security (i.e. the postage of all items in that bulk to be posted) in default of the postage payment in the event that his/her name is not subsequently shown in the notice of valid nominations. In the case of joint election mail, a candidate whose letters contain the information on any other candidate(s) is liable for payment of postage for the whole batch of letters if the name(s) of any of such candidate(s) is/are not subsequently shown in the notice of valid nominations. Under such circumstances, the security payment made by the candidate will not be refunded and the relevant joint election mail will not be regarded as postage-free election mail of the candidate. The other 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)]. *[Amended in June 2012 and October 2021]*

9.81 The purpose of the free postage is to enable the candidate to mail EAs to promote or advertise himself/herself in relation to the election to electors in the relevant GC/FC or the ECC. The free postage arrangement, which is a privilege of validly nominated candidates, should not be abused. 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 the guidelines herein. In this regard, EAs sent by a candidate through free postage should not contain any unlawful content. *[Amended in July 2008, June 2016 and October 2021]*

9.82 A candidate, who is validly nominated for a GC, the Labour FC or the ECC, may choose to send joint election mail to electors, of which the details are as follows:

- (a) an election mail sent by a candidate who is validly nominated for a GC may contain information on another candidate who is also validly nominated for that constituency;
- (b) an election mail sent by a candidate who is validly nominated for the Labour FC may contain information on any other candidate who is also validly nominated for that constituency;
- (c) an election mail sent by a candidate who is validly nominated for the ECC may contain information on any other candidate who is also validly nominated for that constituency.

[s 101A of the EAC (EP) (LC) Reg and s 43(4A), (4B) and (4C) of the LCO].
[Amended in June 2012 and October 2021]

9.83 The joint election mail as described in para. 9.82 above will not be regarded as the election mail sent by the other candidate(s). This means that the other candidate(s) is/are still entitled to the free postage of 1 letter addressed to each elector of the constituency concerned. [S 43(4D) of the LCO] *[Added in June 2012 and amended in October 2021]*

9.84 Specifically, the letter must:

- (a) be posted and delivered to an address in Hong Kong;
- (b) contain materials relating only to the candidature of the candidate/candidates of the same constituency in the case of joint election mail mentioned in para. 9.82 above 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, a candidate sending postage-free mail items to electors in bulk is liable for payment of postage for all items in that bulk if any item therein does not meet the requirements in (a) to (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 mail, the candidates concerned should comply with the following requirements regarding (i) the obtaining of prior written authorisation to act as election expense agents; (ii) the sharing of expenditure in respect of the joint election mail among the candidates concerned for the submission of election return; and (iii) the obtaining of written consent of support from the other candidate(s) before sending the joint election mail (see paras. 19.11 and 19.13 of Chapter 19).

[Amended in October 2007, July 2008, June 2012, June 2016, June 2020 and October 2021]

Postal Requirements Stipulated by Hongkong Post

Make-up

9.85 The letter may take the form of an envelope, a lettergramme, a postcard or a folder. Items in roll form or enclosed in plastic wrappers are **not** acceptable.

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

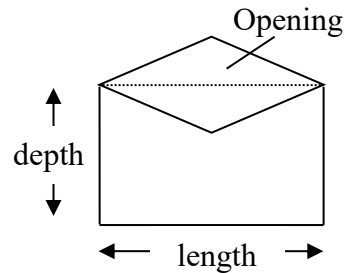
9.87 When a wrapper is used, it must be long enough to cover the full length of the item to be enclosed. Envelopes must not be fastened with staples or paper fasteners with sharp or pointy edges, but they may be sealed by means of an adhesive flap or tape.

9.88 Envelopes, folders and lettergrammes with an opening large enough to entrap smaller letters are prohibited. The **unsealed mail item** contained in envelopes with ordinary tuck-in flaps may be used subject 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

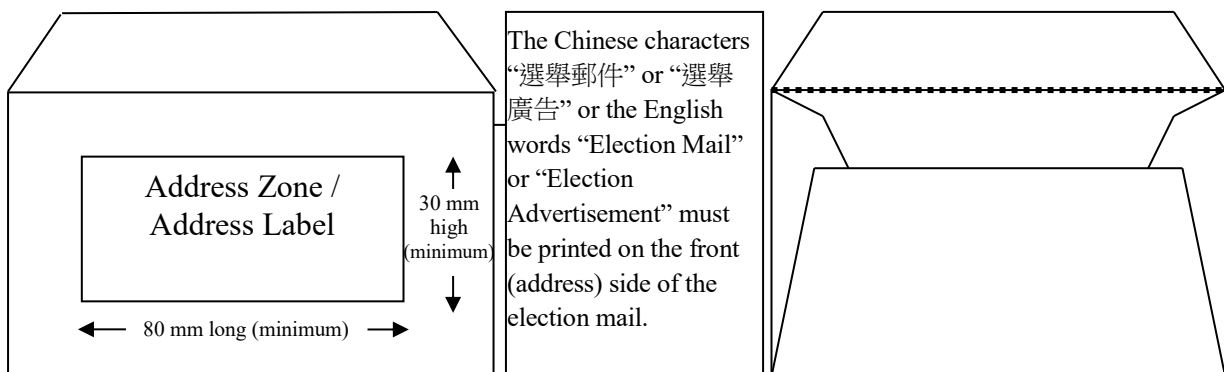


9.89 Folders (e.g. A4 size paper) with openings should be sealed by means of adhesive flap or tape to avoid entrapping other letters of smaller sizes. All open edges must not be longer than 90 mm in width. Otherwise, adhesive tapes should be applied to the middle of the open edges to reduce the width. For details, please refer to the illustration in **Appendix 7**. [Amended in July 2008 and June 2012]

9.90 **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 mail, or the address side of the folder (unenveloped mail). The layout of the election mail is as follows:**

Front Side of an Election Mail

Back Side of an Election Mail



[Amended in October 2007, July 2008 and June 2016]

Address

9.91 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

9.92 Address slips may be used for the mailing of EAs, provided that they are legible and **securely affixed** to the election mail. *[Amended in October 2007]*

IMPORTANT :

For the purpose of posting election mail, candidates may request the REO to provide one set of mailing labels in respect of the electors of the relevant constituencies and/or USB flash drives containing the “Candidate Mailing Label System” (CMLS). To protect the environment and respect the wishes of electors, candidates will not be provided with mailing labels in respect of electors who have provided their e-mail addresses for receiving EAs or who have indicated that they do not wish to receive any EA. *[Added in June 2016 and amended in June 2020]*

9.93 The name(s) of the candidate(s) and other publicity slogans, including photographs, should appear on the back or the front (address side) of the mail 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), 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). The whole address zone and address label should be free of advertisement and the entire address label should be affixed to the address zone on the front of the item. The background colour of the address zone and address label should be white while the text colour of the postal address should be black. (Please refer to the clear illustration in para. 9.90.) *[Amended in October 2007 and July 2008]*

9.94 No free postage will be given to any EA bearing an address outside Hong Kong. Specifically, **only 1 address is allowed on the postage-free election mail to electors.** *[Amended in July 2008]*

Posting Arrangements

9.95 In order to allow adequate time for Hongkong Post to process election mail during the election period, candidates are advised to send their postage-free EAs **before the posting deadline as designated by Hongkong Post.** Candidates and their agents are therefore **reminded that mail sent after the posting deadline will likely fail to reach the electors before the polling day.** *[Amended in October 2007]*

9.96 **Candidates should apply for a written approval from Hongkong Post of their EA specimens for free postage. They should read carefully the requirements regarding free postage for EAs before deciding on the content of their EAs, and should seek advice from Hongkong Post relating to the postal requirements and from the REO in respect of other matters 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 content of their EA specimens when necessary.** *[Added in June 2012]*

9.97 Candidates should submit 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 when they submit their nominations) to the designated manager(s) of Hongkong Post for written approval. At least **2 clear working days** (excluding any Saturday, Sunday and public holiday) are required for Hongkong Post to process each set of specimens, and the EA should only be posted after an official approval has been received from Hongkong Post. As Hongkong Post may have to process a large quantity of EA specimens at the same time, there is no guarantee that the EA specimens will necessarily be approved in 2 working days immediately after the submission. Candidates who wish to post joint election mail should indicate their intention in the “Notice of Posting of Election Mail”, which should be signed jointly by the candidates/election agents concerned. The specimens of joint election mail should also be submitted to the designated manager(s) of Hongkong Post for approval. *[Amended in October 2007, July 2008, June 2012, June 2016 and June 2020]*

9.98 To save time, candidates may consider submitting their EA specimens before being assigned with a 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 content of the election mail**. There is no need for the candidates to re-submit the revised specimens to Hongkong Post for approval. *[Added in June 2020 and amended in October 2021]*

9.99 To comply with the relevant requirements, candidates 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. *[Added in June 2020]*

9.100 Candidates should post their postage-free mail at the respective post offices designated by Hongkong Post for election mail. When posting mail, candidates should furnish a copy of the election mail to the manager(s) of the designated post office(s) for record purpose. *[Amended in October 2007, June 2012 and June 2016]*

9.101 The election mail should be packed in bundles of 50 or 100 for easy counting. All of them must be stacked on the same side and arranged in 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** must sort their election mail according to the DC Constituency Areas when making postings at the designated post offices. *[Amended in October 2007, July 2008, June 2012, June 2016 and October 2021]*

9.102 When posting a mail item, the candidate or his/her election agent must present a signed “Declaration for Posting of Election Mail” (which will be given to the candidate by the REO when he/she submits the nomination) **in duplicate** (the original to be kept by Hongkong Post while the duplicate copy to be duly signed by Hongkong Post and kept by the candidate or his/her election agent as a confirmation of the posting) on each occasion:

- (a) stating the quantity of mail items in the posting and the name of the candidate;
- (b) declaring that the mail to be sent is the postage-free election mail of the candidate or the postage-free joint election mail of the candidate and other candidate(s) of the same constituency (as the case may be);

- (c) declaring that each mail packet contains materials relating only to the election concerned and that the items are identical to the unsealed specimen submitted by the candidate or his/her election agent for inspection and application for approval; and *[Amended in July 2008, June 2012 and June 2016]*
- (d) declaring that not more than 1 postage-free mail will be sent to any electors. *[Amended in October 2007]*

It is important to note that under s 101A(3)(b) of the EAC (EP) (LC) Reg, a candidate sending postage-free mail items to electors in bulk is liable for the payment of postage for all the items in that bulk if the declaration made by him/her or his/her election agent is false in any particular. *[Amended in October 2007, July 2008, June 2012, June 2016 and October 2021]*

9.103 If a candidate sends the election mail in more than 1 batch, he/she must present the same “Declaration for Posting of Election Mail” at the same designated post office on each occasion. *[Amended in June 2012]*

9.104 If the name, logo or pictorial representation of a person or an organisation 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 secured the support of the person or organisation concerned, the candidate(s) must ensure that **prior written consent** has been obtained from the person or organisation concerned. Please refer to Chapter 19 for the detailed requirements. *[Added in June 2016]*

9.105 The Government reserves the right to charge a candidate postage if 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 on postage 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 a manner as it deems fit to censure any abuse of the free postage arrangements. *[Amended in July 2008]*

9.106 The postal requirements stated in the above guidelines (paras. 9.85 to 9.103) are for general reference only. Candidates should comply with the latest requirements issued by Hongkong Post at the time of the election concerned. *[Added in July 2008]*

Enquiries

9.107 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

[Amended in October 2007, July 2008, June 2012 and June 2016]

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

9.108 Candidates may send EAs to registered electors/ARs in the custody of the CSD if the electors/ARs have provided the addresses of the penal institutions concerned as their correspondence addresses for receiving 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. *[Added in January 2010 and amended in June 2016]*

9.109 Candidates may note that registered electors/ARs imprisoned or held in custody by law enforcement agencies may have access to election-related information through the mass media in accordance with the existing policies of the law enforcement agencies on access to the mass media. *[Added in January 2010]*

**PART XIII : COMMERCIAL ADVERTISEMENTS RELATING TO
CANDIDATES**

9.110 Any commercial advertisement in physical form showing the portrait and/or name of a candidate (e.g. commercial advertisements displayed on the bodywork of buses or the exterior walls of buildings) will not be regarded as an EA if it is merely for business promotion without any intention to promote or prejudice the election of any candidate. 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 any complaint about unfair publicity of a candidate is received, 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 endeavours to request the person(s)-in-charge concerned not to display the advertisement, the candidate will not be subject to any liability. (For commercial advertisements broadcast on television/radio or in cinemas, please refer to paras. 12.30 to 12.31 of Chapter 12.) *[Added in June 2020]*

CHAPTER 10

ELECTIONEERING ACTIVITIES IN PREMISES OR BUILDINGS WHERE ELECTORS RESIDE, WORK OR FREQUENT

PART I : GENERAL

10.1 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 8** 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. *[Amended in October 2007]*

10.2 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. *[Added in June 2020]*

10.3 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. *[Added in June 2020]*

10.4 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. *[Added in October 2007]*

10.5 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 9**. *[Added in October 2007]*

10.6 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. *[Added in October 2007]*

PART II : RIGHTS OF TENANTS AND OWNERS

Tenant's Right - His/Her House, Flat, Shop, Office or Factory

10.7 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

10.8 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.

10.9 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

10.10 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

10.11 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

10.12 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

10.13 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.

10.14 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. 10.17 to 10.25 below. *[Added in October 2007]*

10.15 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. *[Amended in October 2007]*

10.16 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]. *[Added in January 2010]*

Respect for the Decision and Privacy

10.17 After a candidate has been notified of the decision made by the management organisation relating to electioneering activities, he/she should ensure that he/she and his/her supporters comply with the decision and should not avail himself/herself of or obtain any unfair advantage over any other candidate(s). *[Amended in October 2007, June 2012 and October 2021]*

10.18 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 make a complaint to the EAC or its Complaints Committee. The EAC may publish a reprimand or censure against the candidate concerned. *[Amended in October 2007]*

10.19 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. *[Amended in October 2007]*

10.20 **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 ("the Guidance") at **Appendix 10**, 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 Guidance, 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 Guidance 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. *[Added in June 2016]*

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 for illustration purpose. **Candidates and their election agents are strongly advised to strictly follow the Guidance provided by the PCPD when conducting electioneering activities.** *[Amended in June 2012, June 2016, June 2020 and October 2021]*

10.21 Validly nominated candidates are supplied by the REO with an **extract of the FR** in respect of their **respective GCs/FCs** or a **copy** of the **EC FR** which contains the names and residential addresses of the electors of the relevant GC/FC or the ECC 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 should respect the privacy of electors when using their contact information for canvassing. In particular, for mass distribution of election mails by email, candidates are reminded to use the “bcc” function of email or other proven means to ensure that the email addresses of individual electors would not be inadvertently disclosed to other recipients. To prevent an email containing an election mail from being misdetected as a spam email and

blocked by the email system, candidates are advised to understand the sending limit adopted by the relevant email service provider before arranging the sending of election mails to their electors through email in bulk. If necessary, candidates may consider first applying to their email service providers for raising the daily sending limit of their email accounts. *[Amended in October 2021]*

10.22 Besides, 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 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 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. *[Amended in October 2007, July 2008, June 2012, June 2016, June 2020 and October 2021]*

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].

In accordance with Data Protection Principle 3 of Schedule 1 to the PD(P)O, personal data relating to a person (as a data subject) contained in any register of electors or in any extract of any register of electors shall not, without the prescribed consent of an individual⁵⁷, or if the exemption under Part 8 of the PD(P)O is not applicable, be used for a “new purpose”⁵⁸. Moreover, according to s 64(3A) of the PD(P)O, if a person (as a discloser) discloses any personal data relating to a person (as a data subject) contained in any register of electors or in any extract of any register of electors without the relevant consent of the data subject with an intent to cause any specified harm⁵⁹ to or being reckless as to whether any specified harm would be, or would likely be, caused to the data subject or any family member of the data subject, the discloser commits an offence and will be liable on conviction to a fine of \$100,000 and to imprisonment for 2 years. According to s 64(3C) of the PD(P)O, if the disclosure causes any specified harm to the data subject or any family member of the data subject, the discloser will be liable on conviction to a fine of \$1,000,000 and to imprisonment for 5 years.

[Added in June 2020 and amended in October 2021]

⁵⁷ In accordance with s 2(3) of the PD(P)O, “prescribed consent” means (a) the express consent of the person given voluntarily, (b) does not include any consent which has been withdrawn by notice in writing served on the person to whom the consent has been given (but without prejudice to so much of that act that has been done pursuant to the consent at any time before the notice is so served).

⁵⁸ In accordance with Data Protection Principle 3(4) of Schedule 1 of the PD(P)O, new purpose, in relation to the use of personal data, means any purpose other than the purpose for which the data was to be used at the time of the collection of the data or a purpose directly related to that purpose.

⁵⁹ In accordance with s 64(6) of the PD(P)O, “specified harm”, in relation to a person, means (a) harassment, molestation, pestering, threat or intimidation to the person; (b) bodily harm or psychological harm to the person; (c) harm causing the person reasonably to be concerned for the person’s safety or well-being; or (d) damage to the property of the person.

10.23 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 may affect their daily life. In order to reduce the nuisance caused to members of the public, candidates are required **not** to use loudspeakers in electioneering **between 9 pm and 9 am**. If the EAC comes to know that a candidate has breached the time restriction, it may make a reprimand or censure against the candidate. Excessive noise will amount to an offence and the Police may be called. Anyway, it is unwise to create a nuisance through the use of loud-hailers, for the annoyance of the electors will obviously be reflected in their choice of candidates (see also Chapter 13). *[Amended in October 2007, June 2012 and October 2021]*

10.24 Canvassing through the use of the **entrance intercom system** by candidates and their supporters in a building is prohibited unless it is expressly allowed by the building management organisation. *[Amended in October 2007, July 2008 and October 2021]*

Identification of Canvassers

10.25 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. *[Amended in October 2007]*

**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**

10.26 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.

10.27 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 9.

- (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.

[Amended in October 2007]

10.28 **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

10.29 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.

10.30 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.

10.31 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.

10.32 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 11**).
[Amended in October 2007]

Decision Must Provide Fair and Equal Treatment

10.33 The EAC appeals to all management organisations of the organisations or buildings concerned to provide **equal opportunity** to all candidates competing in the same constituency for the purposes of electioneering. However, if it is decided **not** to allow a particular candidate to conduct electioneering activities in the premises of the organisation or in the common parts of the building, no other candidate in the same constituency

should be allowed to do so, for **it is important to provide fair and equal treatment to all candidates** so as to ensure that the election is conducted fairly. 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. *[Amended in June 2012 and October 2021]*

10.34 For all types of building organisations be it an owners' corporation, owners' committee, MAC, tenants' association, residents' association, management company or managers of the building, the decision that it makes relating to electioneering activities of candidates in the common parts of the building, including the office premises of the organisation and all private streets, etc., **must comply with the fair and equal treatment principle.**

IMPORTANT :

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

10.35 The organisation concerned should make a decision that applies equally and fairly to all candidates of each constituency 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. *[Amended in June 2012 and October 2021]*

Notification of Decision

10.36 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. *[Amended in June 2020]*

Display of Election Advertisements

10.37 The management organisations of the organisations or buildings concerned should avoid handling applications by candidates for display of EAs on a first-come-first-served basis as this may create unfairness. For example, if one candidate 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 who apply after him/her. To ensure fairness, management organisations are advised to:

- (a) ascertain all the available spots in the premises for candidates to display posters and banners;
- (b) decide on the maximum size of posters and banners to be allowed; *[Added in October 2007]*
- (c) after the close of nominations, check with the relevant RO how many candidates are contesting in the constituency concerned;
- (d) divide all the available spaces according to quality and quantity to ensure equality as far as possible into portions equivalent to the number of candidates;
- (e) when one of the candidates of the constituency concerned applies for display of EAs, allow him/her to draw lots to obtain a portion of the spots still available at the time of his/her application; and
- (f) where 2 or more 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. *[Added in June 2012]*

[Amended in October 2021]

10.38 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 contesting the same constituency, and give reasonable notice to all such candidates accordingly. Providing a space to only one of the candidates but

not the others will be considered to be offering an unfair advantage to the candidate concerned and operating unfairly towards the other candidates. Candidates should not take any such unfair advantage. *[Amended in June 2012 and October 2021]*

10.39 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.

10.40 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 of the same constituency, and such decision is not carried out unfairly towards any of the candidates, the EAC will not intervene. *[Amended in June 2012 and October 2021]*

10.41 An owners' corporation or other organisation or person should be very careful not to incur any election expenses for promoting a candidate, such as putting up a banner to show support for a candidate, 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]. *[Amended in June 2012 and October 2021]*

10.42 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

10.43 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 9**. *[Amended in October 2007]*

PART VI : SANCTION

10.44 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. *[Amended in July 2008 and June 2012]*

10.45 Candidates should also refrain from accepting any unfair advantage over other candidates in the same constituency 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 11

ELECTION MEETINGS

PART I : GENERAL

11.1 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 constituency are not treated as election meetings (see Part III of Chapter 12). During the election period, a candidate may attend any other meetings as part of his/her normal activities which are **not election-related**. Insofar as such meetings are **not** held for the purpose of promoting or prejudicing the election of a particular candidate or particular candidates, they will not be regarded as election meetings. *[Amended in October 2007]*

11.2 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 17). 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]. *[Amended in June 2020]*

11.3 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. *[Added in June 2020]*

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

11.5 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.

11.6 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.** *[Added in October 2007]*

11.7 The relevant 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. 11.9 to 11.21 below. *[Added in October 2007 and amended in June 2020]*

PART II : ELECTION-RELATED “TREATING”

11.8 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 18). 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. *[Added in June 2020]*

PART III : ELECTION MEETINGS IN PUBLIC PLACES

11.9 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].

11.10 The written notification shall be **handed in** to the officer in charge of any police station in person by the person who gives the notice, or by any person on his/her behalf. 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] *[Amended in October 2007]*

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.

11.11 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. *[Amended in June 2016]*

[S 7(2) of the POO]

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

11.12 The Commissioner of Police may prohibit the holding of any public meeting notified (referred to in paras. 11.9 and 11.10 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 in accordance with s 8 of the POO or to the person who acts in place of the organiser 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. 11.13 below [s 11(2) and (3) of the POO].
[Amended in October 2007, June 2016 and June 2020]

11.13 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]

11.14 A guidance note on safe conduct of election-related activities is at **Appendix 11**. It serves as a general advice to candidates and organisers of election-related activities, to enable them to conduct such activities safely.
[Added in October 2007]

Public Processions

11.15 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] *[Amended in June 2016]*

11.16 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. 11.10 above should be used. [S 13A(1) and (4) of the POO] [*Amended in June 2016*]

11.17 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] *[Amended in June 2016]*

11.18 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] *[Amended in October 2007 and June 2016]*

11.19 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

11.20 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 9**. *[Amended in October 2007]*

11.21 Notification in writing to the Commissioner of Police will need to be given, in accordance with the procedures set out in paras. 11.9 and 11.10 above, if at the proposed meeting the attendance will exceed 500 persons.

PART V : ELECTIONEERING EXHIBITIONS

General

11.22 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 estate manager or officer-in-charge, owner, occupier, owners' corporation, building management or the MAC concerned, etc. Relevant guidelines in the other parts in this chapter should also be observed, in addition to compliance with regulations and conditions imposed by other relevant authorities. *[Amended in October 2007]*

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

11.23 Where approval has been given by an estate manager or officer-in-charge for such an exhibition in any estate 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 9 are applicable to such displays and must be observed by the candidate concerned. The estate manager or officer-in-charge should send a copy of the letter of approval to the relevant RO for record and for public inspection. Please also see **Appendix 9** for reference. *[Amended in October 2007 and June 2020]*

PART VI : FUND RAISING ACTIVITIES AT ELECTION MEETINGS

11.24 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 12** for general information.

CHAPTER 12

ELECTION BROADCASTING, MEDIA REPORTING AND ELECTION FORUMS

PART I : GENERAL

12.1 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. *[Amended in June 2016 and June 2020]*

12.2 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. *[Added in June 2020 and amended in October 2021]*

12.3 During the election period (i.e. from the commencement of the nomination period up to the close of poll), the media should treat all candidates in accordance with the **principle of fair and equal treatment** in handling programmes and reports relating to the election and candidates and ensure that no favourable or unfavourable treatment be given to any candidate. *[Amended in June 2020 and October 2021]*

12.4 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. *[Amended in June 2020]*

12.5 **Most importantly, media organisations should ensure that their programmes or reports will not become EAs (i.e. promoting or 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 9 and 17. *[Added in June 2020]***

IMPORTANT :

The definition of “candidate” in this chapter (i.e. Chapter 12) 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 12), “candidate” means a person whose nomination form has been

received by the RO⁶⁰. Given the diverse means and platforms 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.

[Amended in June 2020 and October 2021]

PART II : NEWS REPORTS (BROADCASTERS AND PRINT MEDIA)

12.6 News report means the report of events happening on the day or of a recent period. *[Added in June 2020]*

⁶⁰ After receiving the nomination form, the RO must, as soon as practicable, forward the form to the CERC for determining the validity of nomination. Meanwhile, 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.

12.7 The media should follow the **principle of fair and equal treatment** in reporting news relating to the election and the candidates. However, the requirement of equivalent time/number of words is not applicable. *[Amended in June 2020 and October 2021]*

12.8 Election-related news involving a particular candidate can be reported by itself even if no other news on other candidates is carried that day. However, the other 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. *[Added in June 2020 and amended in October 2021]*

12.9 For the ECC in a LegCo general election, due to the considerable number of seats and candidates involved, the media may have practical difficulties in mentioning all the other candidates of the constituency in the same programme or publication. Therefore, the media may choose to provide viewers, listeners or readers with the total number of candidates in the constituency during the programme or in the publication, and mention the platform maintained by the media (such as the webpage of the organisation/programme/publication) in which the names of the other candidates of the constituency can be found. *[Added in October 2021]*

12.10 News unrelated to the election, even if a candidate is involved, can be factually reported, as long as the status as a candidate is not mentioned in the report. Reference to other 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. *[Added in June 2020 and amended in October 2021]*

12.11 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. *[Added in June 2020]*

PART III : ELECTION FORUMS

12.12 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. If a candidate is invited to take part in an election forum, then all 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 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. *[Amended in June 2020 and October 2021]*

12.13 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 equal time in the entire election forum, but it requires broadcasters to give each candidate “equivalent time” in the relevant session of the forum to present his/her election platform. For 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 has the opportunity to express views or make responses in accordance with the fair and equal treatment principle at any time throughout the programme. *[Amended in June 2020 and October 2021]*

12.14 Other organisations or groups, such as professional bodies or trade organisations, academic institutions or 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 of the same constituency to attend these forums, so that no unfair advantage will be accorded to or obtained by any candidate over others regarding election campaigning. Some 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. Information and records relating to the invitation must be kept by the relevant organisation or group until 3 months after the election. *[Amended in June 2020 and October 2021]*

12.15 During the conduct of election forums, broadcasters and other organisations or groups should not give favourable or unfavourable treatment to any candidates, causing unfairness to any candidates. *[Amended in June 2020 and October 2021]*

12.16 The EAC appeals to all candidates to attend these election forums as far as possible so as to keep electors and the public apprised of their election platforms. *[Amended in June 2020 and October 2021]*

PART IV : FEATURE REPORTS (BROADCASTERS)

12.17 Under the principle of fair and equal treatment, whether producing a feature programme or interview to introduce individual candidates, in news bulletins or during the airtime of other programmes, the broadcasters should give equal opportunity and approximate time to all the candidates of the same constituency. *[Added in June 2020 and amended in October 2021]*

12.18 When inviting any candidate to an interview, broadcasters should invite all candidates contesting in the same constituency and give them an equal opportunity to appear. The EAC appeals to all 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 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 must be kept by the broadcaster of the date, time and contents of the invitation and the notice until 3 months after the election. *[Amended in June 2020 and October 2021]*

12.19 To avoid any possible misunderstanding, broadcasters should provide the audience of the programmes with clear information on the total number and names of candidates in the same constituency. Nevertheless, for the ECC in a LegCo general election, due to the considerable number of seats and candidates involved, the broadcasters may have practical difficulties in mentioning all the other candidates of the constituency in the same programme. Therefore, the broadcasters may choose to provide viewers or listeners with the total number of candidates in the constituency during the programme, and mention the platform maintained by the broadcasters (such as the webpage of the organisation/programme) in which the names of the other candidates of the constituency can be found. Furthermore, to ensure fair treatment to all 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 13**, and where appropriate, follow the arrangements set out therein when producing election-related multi-episode feature reporting. *[Amended in June 2012, June 2016, June 2020 and October 2021]*

12.20 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.
[Added in June 2020]

PART V : FEATURE REPORTS (PRINT MEDIA)

12.21 If the print media conducts interviews to introduce individual candidates during the election period, it should also give the other 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. *[Amended in June 2020 and October 2021]*

12.22 In the interview reports of individual candidates by the print media, mention of other 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. For instance, when an interview with a candidate is published on a newspaper, the names of other candidates of the same constituency may be listed on the same page of the report or on other pages. Nevertheless, for the ECC in a LegCo general election, due to the considerable number of seats and candidates involved, the print media may have practical difficulties in mentioning all the other candidates of the constituency in the same publication. Therefore, the print media may choose to provide readers with the total number of candidates in the relevant constituency in the publication, and mention the platform maintained by the print media (such as the webpage of the organisation/publication) in which the names of the other candidates of the constituency can be found. *[Added in June 2020 and amended in October 2021]*

12.23 The EAC appeals to the print media to accord **fair and equal treatment** and equal opportunity as far as practicable to all 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 14**. 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. *[Amended in June 2020 and October 2021]*

12.24 The print media should ensure that, during the election period, their reporting will not give unfair publicity to particular candidate, or lead the public to perceive that such reporting is made for the publicity of particular candidate. Publications (e.g. newspaper supplements or leaflets) that promote or prejudice the election of a particular candidate or particular candidates, whether for free or otherwise, may be regarded as EAs for the candidate(s) concerned and will be subject to the requirements on election expenses as stipulated in Chapter 17. The publisher may contravene the relevant legislation if not being an authorised election expense agent. *[Amended in June 2020 and October 2021]*

PART VI : NON-ELECTION-RELATED PROGRAMMES AND ARTICLES

12.25 During the election period, a candidate 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) would be mentioned in the programme/article and no unfair publicity will be given to the candidate. Otherwise, under the principle of fair and equal treatment, the broadcaster/print media should also give the other candidates contesting in the same constituency an equal opportunity of appearance/being interviewed. *[Amended in June 2020 and October 2021]*

12.26 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 representative 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. 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 an equal opportunity of appearance/being interviewed. *[Amended in June 2020 and October 2021]*

PART VII : AVOIDING UNFAIR PUBLICITY

12.27 During the election period, media organisations should ensure that no favourable or unfavourable treatment will be given to any of the candidates, and **no** such unfair advantage should be **obtained** by 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. *[Amended in June 2020 and October 2021]*

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

12.28 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.

12.29 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. *[Amended in June 2012]*

Candidates Appearing in Commercial Advertisements

12.30 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.

12.31 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. *[Amended in June 2012]*

Candidates Contributing Regularly to Print Media

12.32 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. *[Amended in June 2012]*

PART VIII : PLACING ELECTION ADVERTISEMENTS IN MEDIA

12.33 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. *[Amended in June 2020]*

12.34 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. 9.68 of Chapter 9). 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. 9.67 of Chapter 9 for details). The EAC appeals to all members of the print media to give all candidates contesting in the same constituency **equal opportunity** for placing EAs in the print media. *[Amended in October 2007, June 2016, June 2020 and October 2021]*

PART IX : SANCTION

12.35 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. *[Added in June 2020]*

12.36 Any broadcaster, member of the print media or forum organiser who is found to have treated the 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 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 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 9 and 17), 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. *[Amended in July 2008, June 2016, June 2020 and October 2021]*

12.37 Candidates mentioned in paras. 12.28 to 12.32 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. *[Added in June 2012]*

CHAPTER 13

USE OF SOUND AMPLIFYING DEVICE AND VEHICLES

PART I : GENERAL

13.1 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”).

13.2 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.

13.3 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 15). *[Added in June 2020]*

PART II : USE OF LOUDSPEAKERS AND VEHICLES

13.4 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 relevant law 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 11).

13.5 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 has breached the time restriction, it may make a reprimand or censure against the candidate. Candidates should note that some members of the public may find the noise emitted from loudspeakers on vehicles disturbing. They should therefore seriously consider the public's tolerance over the sound level and try to keep the volume at a reasonable level.
[Amended in October 2007, June 2012 and October 2021]

13.6 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.

13.7 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”.

13.8 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. *[Amended in October 2007, July 2008, June 2012, June 2016 and June 2020]*

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. *[Added in June 2020]*

13.9 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. *[Amended in October 2007, June 2016 and June 2020]*

13.10 Any vehicle modified to a float configuration for display or canvassing purposes must be approved beforehand by the Commissioner for Transport and a movement permit for a vehicle must be obtained. Application procedures for approval of float design are included at **Appendix 15**.

13.11 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 15).
[Amended in June 2020]

PART III : SANCTION

13.12 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. *[Amended in October 2007]*

CHAPTER 14

ELECTIONEERING ACTIVITIES CONDUCTED IN SCHOOLS OR PARTICIPATED BY SCHOOL PUPILS

PART I : GENERAL

14.1 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.

14.2 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.

14.3 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. *[Added in June 2020]*

PART II : SCHOOL PUPILS

14.4 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. *[Amended in June 2012]*

14.5 Distribution of EAs is a form of electioneering activity. School supervisors, principals or teachers may be supporters of a particular candidate. While they are free to support any candidate they prefer, they should not distribute or help in the distribution of EAs of any candidate to the parents of pre-primary, primary or secondary school pupils through these pupils. Moreover, they should not ask pupils to request their parents to vote for any particular candidate. The guideline above also applies to candidates who are themselves school supervisors, principals or teachers. This guideline is based on the same principle stated in para. 14.2 above, and could avoid any impression of undue influence on young children under the charge of these persons in authority in the school. *[Amended in June 2012]*

14.6 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.

[Amended in October 2007]

14.7 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.

14.8 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

14.9 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. Such activities should, therefore, be regarded as the relevant candidate's electioneering activities (see also para. 14.5 above). *[Amended in October 2007 and June 2012]*

14.10 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 constituency for the purpose of electioneering. If a school authority has decided to allow a particular candidate to conduct electioneering activities in the school, other candidates of the same constituency 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. *[Amended in October 2007, June 2012 and June 2020]*

PART IV : SANCTION

14.11 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. *[Amended in October 2007]*

CHAPTER 15

PROHIBITION AGAINST CANVASSING ACTIVITIES OUTSIDE POLLING STATIONS

PART I : GENERAL

15.1 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. *[Amended in June 2020]*

15.2 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. *[Amended in June 2020]*

15.3 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 8**. *[Added in June 2020]*

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

15.4 The RO for a GC must determine, in respect of each polling station designated for the GC and 28 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]. *[Amended in October 2007, June 2012 and October 2021]*

15.5 For a polling station which is used for more than one constituency, 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]. *[Added in June 2012 and amended in October 2021]*

15.6 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 constituency and, where appropriate, to the ROs of other constituencies for which polling will be held at the polling station; and thereafter each of the ROs of these other relevant constituencies must give the notice of the determination to the candidates of his/her own constituency as soon as practicable [s 40(3), (4), (6), (7) and (8) of the EAC (EP) (LC) Reg]. *[Amended in October 2021]*

15.7 The notice will be given in writing, and delivered by hand, by electronic mail, by facsimile transmission or by post, to the candidates or to the election agents or to the polling agents of the candidates [s 40(3), (4), (6) and (14) and s 98(2) of the EAC (EP) (LC) Reg]. *[Amended in October 2007, July 2008, June 2012, June 2016 and October 2021]*

15.8 Where the circumstances so warrant, the RO 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. 15.7 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 15.7 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].
[Amended in June 2012, June 2016 and June 2020]

15.9 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].

15.10 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]. *[Amended in July 2008]*

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

15.11 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. 15.12 below [s 40(16) of the EAC (EP) (LC) Reg].
[Added in June 2020]

15.12 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]. *[Amended in October 2007, June 2012, June 2016 and June 2020]*

15.13 Where there are private 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, 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 candidates fail 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 8**. *[Amended in October 2007, June 2012, June 2016, June 2020 and October 2021]*

15.14 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. 15.12 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]. *[Amended in October 2007]*

15.15 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. 15.12, 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 13 regarding the use of loudspeakers). *[Amended in June 2012]*

15.16 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. *[Amended in October 2007]*

15.17 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 the PRO. The PRO should have regard to exit pollsters who have complied with the requirements set out in Chapter 16. [S 96(7) of the EAC (EP) (LC) Reg] *[Amended in June 2020]*

15.18 Any person who misconducts himself/herself or carries out any forbidden activity in an NCZ or NSZ, or fails to obey any 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]. *[Amended in October 2007 and January 2010]*

15.19 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

15.20 Any canvassing within an NCZ except those exempted and any conduct prohibited under paras. 15.16 and 15.18 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. 15.17 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. *[Amended in October 2007]*

CHAPTER 16

EXIT POLL

PART I : GENERAL

16.1 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 strives to conduct public elections under the principles of openness, fairness and honesty 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. *[Amended in June 2012, June 2020 and October 2021]*

16.2 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 persons or organisations conducting the exit polls their voting preference unless they wish to do so. *[Added in June 2020]*

16.3 Voting polls inside a polling station or an NSZ are strictly prohibited under the law. However, exit polls may be conducted outside the exit of the polling station within the NCZ if approval from the EAC is obtained [s 96(7) of the EAC (EP) (LC) Reg]. *[Added in June 2020]*

16.4 Exit polls approved by the EAC are not for electioneering purpose in promoting or prejudicing the election of a candidate or candidates. Persons or organisations conducting exit polls must not be affiliated with the candidates. The persons or organisations 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. *[Added in June 2020]*

16.5 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. 16.12 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. *[Added in June 2020]*

16.6 Except for exit polls conducted within the NCZ on the polling day mentioned in para. 16.3 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. *[Added in June 2020]*

16.7 **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.** *[Amended in June 2020]*

PART II : SECRECY OF THE VOTE

16.8 **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 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 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. *[Amended in October 2007, July 2008, June 2012 and October 2021]*

16.9 Any announcement or disclosure of results of exit polls or predictions, particularly in relation to any individual candidate during the polling hours may affect electors' behaviour and have an impact on election results. **The EAC, therefore, reminds the media and persons/organisations concerned that they should not announce the results of exit polls or make specific remarks or predictions on the performance of individual candidate before the close of poll. Furthermore, interviewers of approved exit poll should not speak to or communicate with candidates or their agents when conducting the poll outside polling stations.** *[Amended in July 2008, June 2012, June 2016 and October 2021]*

PART III : CONDUCT OF EXIT POLLS

16.10 Any person or organisation may apply for conducting exit polls in respect of any constituency to the REO, which is appointed to handle such applications on behalf of the EAC. Individual applicants must reach the age of 18 as all applications by persons or organisations must be accompanied by a statutory declaration (see para. 16.12 below) to abide by the relevant terms and guidelines governing the conduct of exit polls which, in case of breaches, carry serious consequences and possible criminal liability for offenders. To forestall public perception of unfairness and to maintain order at the polling stations, 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) contesting in the constituency, of which any polling stations are covered by the exit poll;
- (b) the applicant organisation has member(s) contesting in the constituency, of which any polling stations are covered by the exit poll;
- (c) the person(s) responsible for the exit poll or interviewers deployed for the poll are currently members of any organisations:
 - (i) which have candidate(s) contesting in the constituency, of which any polling stations are covered by the exit poll, or
 - (ii) which have publicly expressed support for any candidate(s) contesting in the constituency, of which any polling stations are covered by the exit poll;
- (d) the applicant organisation, the person(s) responsible for the exit poll, or the conduct of the proposed exit poll may cause embarrassment to the EAC given its role;
- (e) the proposed exit poll may cause disturbance or disorder at the polling stations, compromise public perception of the credibility of the election, or lead to any public order or public health concerns, etc.

[Amended in June 2012, June 2016, June 2020 and October 2021]

16.11 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.

[Amended in July 2008, January 2010 and June 2012]

16.12 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 stipulated in the approval letter 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 stipulated in the approval letter and the guidelines. A notice showing the persons or organisations allowed to conduct exit poll and 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.

IMPORTANT :

Persons or organisations applying for the conduct of exit polls are not allowed to collect or retain any personal data relating to the identity of the electors (i.e. any data relating directly or indirectly to the electors, from which it is practicable for their identities to be directly or indirectly ascertained, such as names, HKID numbers, telephone numbers and addresses).

[Amended in July 2008, June 2016, June 2020 and October 2021]

16.13 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.

[Amended in October 2007, July 2008 and June 2020]

16.14 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, interviewers 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. *[Added in June 2020]*

PART IV : IDENTIFICATION OF INTERVIEWERS

16.15 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. *[Amended in July 2008 and June 2016]*

16.16 After receipt of the information referred to in para. 16.11 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. 16.11(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. *[Amended in July 2008]*

PART V : USE OF EXIT POLLS AND OTHER OPINION POLLS FOR ELECTIONEERING

16.17 As mentioned in para. 16.4, exit polls approved by the EAC are in all circumstances not for electioneering purpose. *[Added in June 2020]*

16.18 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. *[Added in June 2020]*

16.19 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. *[Added in June 2020]*

PART VI : SANCTION

16.20 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. *[Amended in July 2008 and June 2020]*

CHAPTER 17

ELECTION EXPENSES AND ELECTION DONATIONS

PART I : GENERAL

17.1 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 a return and declaration of election expenses and election donations (“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. *[Added in June 2020]*

17.2 “Candidate” is defined as a person who stands nominated as a candidate at an election, including a person who, at any time before the close of nomination period for an election, has publicly declared an intention to stand for the election. “Election expenses” is defined as expenses incurred or to be incurred for the purpose of promoting or prejudicing the election of a candidate without any time constraint, including the expenses 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 authorised by a candidate to incur election expenses at an election on the candidate’s behalf. *[Added in June 2020]*

17.3 To ensure that election expenses do not exceed the statutory maximum amount, the law stipulates that only candidates and their authorised election expense agents may incur election expenses. In other words, persons other than the candidates and their election expense agents are not permitted to incur any election expense, or else an illegal conduct is engaged. Nevertheless,

a third party (other than a candidate and a candidate's election expense agents) who publishes 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. *[Added in June 2020]*

17.4 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 has to bear the expenses. However, if the election expenses are incurred by the third party under the instruction of the candidate, especially when the maximum amount of election expenses is exceeded, the candidate should be held legally responsible. *[Added in June 2020]*

17.5 If the expenses incurred by a candidate are partly related to the election and are part of the recurrent expenditures for other purposes, the candidate is required to apportion the election-related expenses and include them in the election return. The apportionment can be made on a pro rata basis having regard to the time and usage involved. *[Added in June 2020]*

17.6 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 can be excluded from being counted as election expenses. Nonetheless, goods or materials incidentally given to the provision of voluntary service will be counted as election donations; such donations will be counted as election expenses when used. *[Added in June 2020]*

PART II : WHAT CONSTITUTES ELECTION EXPENSES

17.7 For the provisions relating to election expenses, please refer to the ECICO.

17.8 **“Election expenses”**, in relation to a candidate at an election, means expenses incurred or to be incurred **before, during or after the election period**, by or on behalf of the candidate for the purpose of promoting the election of the candidate, or prejudicing the election of another candidate or other candidates, and includes 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 or the ECC at any time before the close of nominations for the election, regardless of whether he/she has submitted his/her nomination form, whether he/she has withdrawn his/her nomination after submission of the nomination form, or whether his/her nomination is ruled invalid by the CERC [s 2 of the ECICO]. Regarding what it means to “have publicly declared an intention to stand as a candidate”, it depends on the overall circumstances as well as the objective facts and evidence. As to whether a particular item of expense would amount to election expenses, candidates and the relevant persons concerned should take heed of the points made by the CFA in a case relating to the 2008 LegCo General Election (FACV 2/2012), which state that expenses are likely to qualify as “election expenses” if they meet the following five criteria⁶¹:

- (a) They have been incurred by or on behalf of a candidate (as such a person is defined under s 2(1) of the ECICO);
- (b) Having identified the activities or matters to which the relevant expenses relate, such activities or matters are referable to a specific election;

⁶¹ (a) If there is any inconsistency or ambiguity between the English version and the Chinese version of the relevant criteria and issues, the English version shall prevail.
 (b) 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.

- (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; and
- (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.

The following two issues should also be noted:

- (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); and
- (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.

[Amended in October 2007, June 2012, June 2020 and October 2021]

17.9 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. *[Amended in October 2007, June 2012, June 2020 and October 2021]*

17.10 A candidate may receive **election donations** for the purpose of meeting the costs of his/her election expenses. “Election donations”, in relation to a candidate at an election, means any of the following donations:

- (a) any money given to or in respect of the candidate for the purpose of meeting or contributing towards meeting the election expenses;
- (b) any goods given to or in respect of the candidate for the purpose of promoting his/her election or of prejudicing the election of another candidate or other candidates and includes any goods incidentally given to the provision of voluntary service; or
- (c) any service provided to or in respect of the candidate for the purpose of promoting his/her election or of prejudicing the election of another candidate or other candidates, but does not include voluntary service (see para. 17.31 below).

[S 2 of the ECICO]

All such donations, whether in cash or in kind, are counted as election expenses when they are spent or used. (For details, see Part IV of this chapter)
[Amended in June 2012 and October 2021]

17.11 Whether an expense incurred should be counted as election expenses depends on the facts of each case. As long as the expense is incurred for the purpose of:

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

it will be counted as an election expense, irrespective of whether it is incurred before, during or after the election period, and regardless of the source of funding. *[Amended in June 2012]*

17.12 Whether a particular item of expenditure should be regarded as an election expense depends on the circumstances of the case. In addition to the actual use of the expenses, one should also take into account the nature, circumstances and context of the expenditure incurred. If an expense is used for more than one purpose, the expense should be apportioned between election-related purpose and other purposes. The candidate concerned should include relevant particulars of the expense in his/her election return. As a general principle, time and usage are relevant factors for consideration. The candidate may refer to the examples on the apportionment of expenses shown in the guide and the video on the completion of election return mentioned in para. 17.35(c) below (see also para. 17.33 below). The candidate may seek professional advice on the apportionment of expenses when necessary. Any fees incurred for such professional advice will not be regarded as election expenses. *[Amended in June 2016, June 2020 and October 2021]*

17.13 Staff and other resources available for use by a candidate in his/her official capacity or when discharging his/her duties for the purpose of promoting his/her candidature in the election should be counted as an election expense. A list of common expenditure items to be counted towards election expenses is at **Appendix 16**. The list serves only as an illustration and should not be regarded as taking precedence over the legislation. Candidates should consult a legal adviser in case of doubt on whether an expenditure item should be counted as an election expense. Any legal fees so incurred will not be regarded as election expenses.

17.14 A candidate shall 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. *[Amended in June 2016]*

PART III : WHO MAY INCUR ELECTION EXPENSES AND THE LIMIT

Maximum Amount of Election Expenses

17.15 The maximum amount of election expenses for the LegCo election for the different constituencies 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 serve to control the scale of election campaigns and prevent candidates with ample financial resources from having an unfair advantage. *[Amended in October 2007, July 2008, June 2012, June 2016 and October 2021]*

17.16 The election expense limits (from the seventh term LegCo general election onwards) are set out in the following table. For the determination of the number of registered FC electors referred to in items (c), (d) and (e), inquiries can be made with the REO. Relevant information is also available at the website of the REO.

Constituencies	Election Expense Limits
(a) for a GC election:	
(i) Hong Kong Island East GC	\$3,310,000
(ii) Hong Kong Island West GC	\$2,900,000
(iii) Kowloon East GC	\$3,110,000
(iv) Kowloon West GC	\$3,110,000
(v) Kowloon Central GC	\$3,110,000
(vi) New Territories South East GC	\$3,040,000

Constituencies	Election Expense Limits
(vii) New Territories North GC	\$2,760,000
(viii) New Territories North West GC	\$3,310,000
(ix) New Territories South West GC	\$3,450,000
(x) New Territories North East GC	\$3,110,000
(b) for an election for one of the following 8 FCs: (i) Heung Yee Kuk FC (ii) Agriculture and Fisheries FC (iii) Insurance FC (iv) Transport FC (v) Finance FC (vi) Sports, Performing Arts, Culture and Publication FC (vii) Technology and Innovation FC (viii) Catering FC	\$133,000
(c) for an election for an FC (other than those in (b) above) with not more than 5 000 registered electors	\$213,000
(d) for an election for an FC (other than those in (b) above) with more than 5 000 but not more than 10 000 registered electors	\$425,000

Constituencies	Election Expense Limits
(e) for an election for an FC (other than those in (b) above) with more than 10 000 registered electors	\$639,000
(f) for an ECC election	\$213,000

[Ss 3, 4 and 4A of the Maximum Amount of the Election Expenses (Legislative Council Election) Regulation] *[Amended in July 2008, June 2012, June 2016, June 2020 and October 2021]*

17.17 A candidate and his/her election expense agents must not incur election expenses in excess of the maximum amount prescribed [s 24(1) of the ECICO]. *[Amended in June 2012, June 2016 and October 2021]*

Persons Authorised to Incur Election Expenses

17.18 Only a candidate or a person who has been duly authorised by a candidate as the candidate's election expense agent may incur election expenses [s 23(1) of the ECICO]. The authorisation should follow the procedures specified in Part VI of Chapter 8. *[Amended in June 2012 and October 2021]*

17.19 Any person who is going to carry out **negative campaigning (i.e. canvassing against other candidates)** for or for the benefit of a candidate and hence incurring expenses should obtain the prior authorisation of the candidate to act as the election expense agent of the candidate. The expenses will be counted towards the election expenses of the candidate. If the negative campaigning includes EAs, it should also comply with all the requirements of the ECICO and of the EAC (EP) (LC) Reg. *[Amended in October 2007, June 2012 and October 2021]*

17.20 Candidates who have the intention or plan to run for an election should inform the organisations, with which they are associated and which may incur expenses to support them, of these requirements as soon as possible, to prevent the organisations from committing an offence out of ignorance.

17.21 A candidate is responsible for the whole amount of his/her election expenses. If the total amount of expenses incurred by the candidate and/or the person acting on his/her behalf exceeds the prescribed limit, the candidate shall be liable for contravening the law, unless he/she can prove that the excess amount is incurred without his/her consent or authorisation and is not due to any negligence on his/her part. Besides, the election expense agent should not incur election expenses exceeding the limit authorised by the candidate, or else he/she contravenes s 23(4) of the ECICO. [Ss 23 and 24 of the ECICO] *[Amended in June 2012]*

PART IV : ELECTION DONATIONS

General Requirements

17.22 Any person who has made clear his/her intentions to stand as a candidate in an election may receive election donations for meeting his/her election expenses only.

17.23 Election donations can only be used for meeting, or contributing towards meeting, a candidate's election expenses. If an election donation consists of goods or services, it can only be used 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].

17.24 Election donations can be made in cash or in kind, and include any money value, 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, received before, during or after the election period (in relation to machinery of the election), are counted towards the total election expenses, and are subject to the maximum amount prescribed. *[Amended in June 2016]*

17.25 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] *[Amended in June 2012]*

17.26 Since it is only lawful for election donations to be spent for meeting or contributing towards meeting election expenses, donations are often regarded as election expenses. Every item of election expense which is avoided or reduced as a result of the provision of goods or services free of charge or at a discount normally involves a corresponding item of election donation. The only exception is voluntary services obtained which are not treated as election donations (however, any goods incidentally given to the provision of a voluntary service will be counted as an election donation). Relevant details are elaborated in paras. 17.29 to 17.31 below. *[Amended in June 2012]*

17.27 On receiving an election donation in the form 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 made available at the REO and will be given to a candidate when he/she submits the nomination form. Though it is common that some donors would like to make it anonymous, a donation, whether in cash or in kind, more than \$1,000 in value must not be

used for election-related purpose unless the donor's name and address (as supplied by the donor) are shown as required by the standard form of donation receipt. Donations over \$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. Instead, it must be given to a charitable institution or trust of a public character chosen by the candidate. [S 19(1) and (2) of the ECICO] *[Amended in October 2007, June 2012, June 2016 and October 2021]*

17.28 Any person or organisation (including a political party) acting as an agent to solicit, receive or collect election donations for a candidate or candidates should comply with all the requirements under the ECICO as in the case of election donations received by the candidate(s) direct. To avoid causing confusion to donors/members of the public, the agent is advised to note the points and adopt the good practice suggested in **Appendix 17**. *[Added in June 2016]*

Election Donations in Kind

17.29 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 loan conditions are generally available to others, the waived interest 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 determined as the assessed rental for the premises, and should be declared and included as an election donation and election expense in the election return.

17.30 For services or goods obtained free of charge, a candidate must

include in the election return their estimated value as in the case of expenses being incurred. Where the services or goods are furnished by a person who deals in similar services or goods with the public, the estimated value of such services or goods 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 that time.

17.31 **Voluntary service** is the only service rendered free of charge which can be excluded from being counted as election expenses. Nonetheless, goods or materials incidentally given to the provision of voluntary service will be counted as election donations. Apart from being provided 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 be counted towards election expenses at a fair estimated value. *[Amended in October 2007]*

PART V : ELECTION RETURN

17.32 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 constituency concerned (and in relation to all the constituencies/ concerned if the election is held for 2 or more constituencies) or within the extended period as permitted by the CFI under the relevant electoral law. The election return must be completed in the specified form. An election is settled in relation to a constituency on the date on which any of the following events occurs–**

- (a) the result of the election is notified in the Gazette;**
- (b) the election is declared to have failed.**

[S 37(1), (1B), (1C) and (1N) of the ECICO] *[Amended in October 2007, June 2012, June 2016, June 2020 and October 2021]*

17.33 The election return should set out all the election expenses incurred by the candidate and his/her election expense agent(s). For each election expense of \$500 or more, the return must be accompanied by an invoice and a receipt issued by the goods or service providers [s 37(2)(b) of the ECICO]. The invoice and receipt for an election expense may be submitted in separate documents, or may be included in the same document. Invoices and receipts submitted by a candidate should contain 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 which proves 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 payee or stamp of the organisation or signature of its authorised representative).

[Amended in June 2012, June 2016, June 2020 and October 2021]

17.34 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 exceeding 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] *[Amended in June 2012, June 2016 and June 2020]*

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

- (a) the specified form for election return mentioned in para. 17.32 above, together with a standard form of receipt for election donations mentioned in para. 17.27 above;
- (b) the standard form for advance return and declaration of election donations (see paras. 17.42 to 17.44 below);
- (c) a guide and a video on how to complete the election return; and
- (d) a full set of Frequently Asked Questions (“FAQs”) relating to the election return.

Candidates should read the explanatory notes attached to the election return carefully, and refer to the guide, the video and the FAQs before completing the election return. *[Amended in June 2016, June 2020 and October 2021]*

Statutory Relief Mechanism for Errors and False Statements

17.36 If a candidate is unable or fails to send to the CEO the election return before the statutory deadline (please see para. 17.32 above) due to his/her 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 other reasonable cause, and was not due to the candidate's bad faith, he/she can make an application to the CFI for an order allowing 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. For previous court's decisions regarding applications for the relief of election-related penalties and liabilities, please see para. 9.75 of Chapter 9 for the relevant judgments. *[Amended in June 2012, June 2016 and October 2021]*

17.37 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 other reasonable cause, and was not due to the candidate's bad faith, he/she may apply to the CFI for an order allowing 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. For previous court's decisions regarding applications for the relief of election-related penalties and liabilities, please see para. 9.75 of Chapter 9 for the relevant judgments. *[Added in June 2012, amended in June 2016 and October 2021]*

17.38 Notwithstanding the provision set out in para. 17.37 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 a GC election;
- (b) \$5,000 for an FC election;
- (c) \$5,000 for an ECC election,

[items (3) (4) and (4A) of the Schedule to the ECICO]

he/she may, subject to the conditions set out in para. 17.39 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 deems it 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 should be a copy of the original election return earlier submitted to the CEO marked with the necessary revision to have the error(s) or false statement(s) in question corrected. An error or false statement made in an election return also includes an error or false statement in any document accompanying the election return; or a failure to send any document required by s 37(2)(b) of the ECICO in relation to the election return [s 37A(12) of the ECICO]. *[Added in June 2012, amended in June 2016, June 2020 and October 2021]*

17.39 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. *[Added in June 2012, amended in June 2016 and June 2020]*

17.40 **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, the candidate engages in an illegal conduct under s 24 of the ECICO. In such case, the relief arrangement will not be applicable.** 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 (an act 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 liabilities for other offences provided under the ECICO if the election return concerned is in breach of any such provisions. [S 37A of the ECICO] *[Added in June 2012]*

17.41 If the candidate finds himself/herself in any of the situations set out in paras. 17.36 and 17.37 above, other than the situations where correction of errors or false statements is allowed under the relief arrangement in para. 17.38, it is advisable for him/her to make an application to the CFI and inform the REO as soon as possible. The legal costs so incurred will not be regarded as his/her election expenses. It is a corrupt conduct if a candidate who, in an election return lodged under s 37 of the ECICO or a copy of an election return lodged under s 37A of the ECICO, makes a statement that he/she knows or ought to know is materially false or misleading [s 20 of the ECICO]. *[Amended in October 2007 and June 2012]*

PART VI : ADVANCE RETURN OF ELECTION DONATIONS

17.42 Any candidate who is an incumbent public servant under the POBO, e.g. a serving member of the LegCo or a DC, etc., may disclose to the CEO in advance any election donations received. This may enable the 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 set out in the election return to be submitted to the CEO before the expiry of the period, or the extended period provided under s 37 of the ECICO for lodging an election return (see para. 17.32 above) [s 37(1), (1B), (1C) and (1N) of the ECICO]. Candidates must also observe the general provisions regarding election donations in Part IV. *[Amended in October 2007, June 2012 and June 2016]*

17.43 Any **advance return of election donations** must be made on the standard form mentioned in para. 17.35 above. *[Amended in June 2012]*

17.44 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

17.45 Under the Financial Assistance Scheme for candidates standing in LegCo elections in respect of election expenses, 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 in a contested constituency , 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 by the specified rate at \$15 per vote (from the seventh term LegCo general election onwards); *[Amended in July 2008, June 2012, June 2016, June 2020 and October 2021]*
 - (ii) 50% of the maximum amount of election expenses that may be incurred by or on behalf of the candidate as set out in ss 3, 4 or 4A of the Maximum Amount of Election Expenses (Legislative Council Election) Regulation; or *[Added in June 2012 and amended in October 2021]*
 - (iii) the declared election expenses of the candidate.

- (b) in respect of a candidate in an uncontested constituency, the amount payable is the lowest of the following:
- (i) for a GC or FC, the amount obtained by multiplying 50% of the number of registered electors by the specified rate at \$15 per registered elector (from the seventh term LegCo general election onwards); *[Amended in July 2008, June 2012, June 2016 and June 2020]*
 - (ii) for the ECC, the amount obtained by multiplying 50% of the number of EC members by the specified rate at \$15 per EC member; *[Added in October 2021]*
 - (iii) 50% of the maximum amount of election expenses that may be incurred by or on behalf of the candidate as set out in ss 3, 4 or 4A of the Maximum Amount of Election Expenses (Legislative Council Election) Regulation; or *[Added in June 2012 and amended in October 2021]*
 - (iv) the declared election expenses of the candidate.

[S 60E and Schedule 5 of the LCO]

The amount of election donations received by a candidate will not affect the calculation of the amount of financial assistance payable to the candidate. As election donations will not be netted off in calculating the amount of financial assistance payable to a candidate, the amount of financial assistance payable to a candidate in some cases may be greater than the amount of his/her net election expenses⁶². Any such ‘surplus’ financial assistance may be used by the candidates for their future political or community work, or it may be expended

⁶² This may occur if the candidate secures election donations which exceed 50% of his/her/their total election expenses.

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. *[Amended in October 2007, July 2008, June 2012, June 2016 and October 2021]*

17.46 In the claim for financial assistance, a candidate 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. *[Added in June 2012, amended in June 2016 and October 2021]*

Making Claims and their Submissions

Requirements to be complied with when making claims

17.47 A claim for financial assistance shall be made by a candidate 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. 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 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] *[Amended in October 2007 and October 2021]*

17.48 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.

17.49 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

17.50 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 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. 17.32 above) [s 37(1), (1B), (1C) and (1N) of the ECICO and s 4 of the EAC (FA) (APP) Reg]. *[Amended in October 2007, June 2012, June 2016 and October 2021]*

Verification of Claims

Verification by the CEO

17.51 On receiving a claim, the CEO will check the eligibility for financial assistance of the candidate. He/She will also verify whether the claim conforms to the requirements set out in the EAC (FA) (APP) Reg. *[Amended in October 2021]*

Requirement for further information

17.52 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] *[Amended in June 2012]*

Part processing of claims

17.53 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]. *[Amended in October 2007]*

Withdrawal of Claims

17.54 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 his/her agent. It must be in a specified form and signed by the candidate. [S 7 of the EAC (FA) (APP) Reg] *[Amended in October 2007, June 2016 and October 2021]*

Payment of Claim after Verification

Payment to be made by the Director of Accounting Services

17.55 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. [S 8 of the EAC (FA) (APP) Reg] *[Amended in October 2021]*

Recovery of Payment

17.56 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. Any amount that is not repaid may be recovered as a civil debt due to the Government. [S 60H(1) and (2) of the LCO and s 12(1) of the EAC (FA) (APP) Reg] *[Amended in June 2012 and October 2021]*

PART VIII : ENFORCEMENT AND PENALTY

Enforcement

17.57 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. 17.32 above). Copies of the election returns will be furnished to any person upon request subject to the payment of a copying fee at a fixed rate. [S 41 of the ECICO] *[Amended in June 2016]*

17.58 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.

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

Penalties

17.60 It is an illegal conduct for a candidate to incur election expenses in excess of the maximum amount prescribed, and for an election expense agent to incur election expenses in excess of the amount authorised. It is also an illegal conduct for a person, other than a candidate or a candidate's election expense agent, to incur election expenses. In these cases, the offender 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 a candidate or an election expense agent) 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 that purpose 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 authorised by a candidate or his/her election expense agent publishes an EA of the candidate on the Internet, any costs incurred should be included in the election expenses of the candidate even though the costs only involve electricity charges and/or charges necessary for accessing the Internet. *[Amended in June 2020]*

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

17.62 If a candidate fails to submit the election return by the prescribed date or 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 the recipient(s) of the payments, he/she commits an offence and shall be liable to a fine of \$200,000 and to imprisonment for 3 years. [S 38(1) of the ECICO] *[Amended in June 2012]*

17.63 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, engages in corrupt conduct and shall be liable to a fine of \$500,000 and to imprisonment for 7 years. [Ss 6 and 20 of the ECICO] *[Amended in June 2012 and June 2016]*

17.64 If a candidate, who, having been elected to the LegCo, acts in the office or participates in the affairs of the LegCo, without filing an election return before the statutory deadline, he/she commits an offence and shall be liable to a fine of \$5,000 for each day for acting in the office or participating in the affairs of the LegCo as a member, in contravention of s 37 of the ECICO [s 39(1) and (2) of the ECICO]. *[Amended in June 2016]*

17.65 A person convicted of a **corrupt or illegal conduct** of the ECICO will, in addition to the penalties set out in paras. 17.60 to 17.64 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 District Councils Ordinance (Cap 547) (“DCO”) and s 23 of the Rural Representative Election Ordinance (Cap 576) (“RREO”)]; and

- (b) from being nominated as a candidate at the EC Subsector Elections, and from being elected as a member of the EC if the election is held within 5 years after the date of conviction, or from being nominated as an EC member for 5 years from the date of conviction, or from being registered as an ex-officio member of the EC within 5 years after the date of conviction [ss 5M, 9 and 18 of the Schedule to the CEEO].

[Amended in October 2007, January 2010, June 2012, June 2016 and October 2021]

17.66 If a candidate is convicted of the offence under s 38(1) of the ECICO (i.e. having failed to lodge an election return as required by s 37), apart from facing the penalties set out in para. 17.62 above, he/she will also be subject to the same disqualifications as a person convicted of having engaged in illegal conduct (see para. 17.65 above). [S 38(4) of the ECICO] *[Added in October 2021]*

CHAPTER 18

CORRUPT AND ILLEGAL CONDUCT

PART I : GENERAL

18.1 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 due to oversight.

18.2 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 relevant webpage of the ICAC (www.icac.org.hk/elections). *[Amended in June 2012]*

18.3 A person who engages in:

- (a) a **corrupt conduct** will be liable to a fine of \$500,000 and to imprisonment for 7 years and to pay to the court the amount or value of any valuable consideration he/she or his/her agents received in connection with the conduct or such part of the amount or value as specified by the court [s 6(1) and (3) of the ECICO]; 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. 18.38 below. *[Amended in January 2010]*

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

18.5 Under no circumstances is it permissible to induce an elector to vote or not to vote for a particular candidate or particular candidates by offering advantages, food, drink or entertainment, by using force or duress against a person, or by a deception, and to wilfully obstruct or prevent an elector from voting at the election. Such acts violate 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 during the process to induce an elector to vote or not to vote for a particular candidate or particular candidates. *[Added in June 2020 and October 2021]*

18.6 According to s 27 of 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 written consent to the inclusion before the publication of the EA. Oral consent or retrospective written consent obtained after the publication of the EA does not comply with the legal requirements. For details, please refer to paras. 18.12 to 18.16 and Chapter 19. *[Added in June 2020]*

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

Offences Relating to Candidature

18.7 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. A person engages in corrupt conduct if the 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 his/her candidature 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]

18.8 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 other person or a third person. The use of deception to induce another

person to affect the candidature of that other person or a third person is also a corrupt conduct. [Ss 8 and 9 of the ECICO] *[Amended in June 2012]*

18.9 It is also a corrupt conduct if a person defaces or destroys a completed or partly completed nomination paper with intent to prevent or obstruct another person from standing for election [s 10 of the ECICO]. *[Amended in June 2012]*

PART III : ILLEGAL CONDUCT RELATING TO ELECTIONEERING

Publishing False Statement that a Person is or is not a Candidate

18.10 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].

Publishing False or Misleading Statement about a Candidate

18.11 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. *[Amended in June 2012]*

Claim of Support

(Please also see Chapter 19)

18.12 A candidate who uses the name, logo or a pictorial representation of a person or an organisation in any of his/her EAs as an indication of support from that person or organisation engages in illegal conduct if he/she fails to obtain **written consent** to the inclusion before the publication of the EA unless he/she has neither requested nor directed (nor authorised any person to request or direct) the inclusion of the aforesaid name, logo or pictorial representation in his/her EA. Under the ECICO, **support** (支持), in relation to a candidate, includes support for the policies or activities of the candidate. In addition, should any content of an EA (where either the candidate has obtained the prior written consent mentioned above or the candidate has neither requested nor 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] *[Amended in June 2020]*

18.13 Oral consent or retrospective written consent obtained after the publication of the EA does **not** comply with the legal requirements. The EAC

provides a sample form for candidates to seek **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. 9.59 of Chapter 9 [s 105(2) and (3) of the EAC (EP) (LC) Reg]. It is important to note that it still constitutes an offence even if such an EA contains a statement to the effect that it does not imply support by the person or organisation for a candidate or candidates [s 27(4) of the ECICO]. It is also an offence for a person to give information which he/she knows or ought to know is materially false or misleading to a candidate or candidates for promoting or prejudicing the election of the candidate or candidates [s 27(6) of the ECICO]. *[Amended in October 2007, June 2012, June 2016 and June 2020]*

18.14 Although confusion may be caused, a person or an organisation may support 2 or more candidates who are competing in the same constituency and this must be indicated in the written consent. A sample form prepared by the EAC for candidates to seek **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 the period and location for submitting nomination forms for the election. The forms may also 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 keep in mind that it is an offence to make a false claim of support (see Chapter 19). *[Amended in June 2012, June 2016 and October 2021]*

18.15 Consent given can be revoked. In case of a revocation, in order to avoid dispute, it is advisable for the person or organisation revoking the consent to send a notice of the revocation to the candidate concerned. The candidate is required to notify the relevant RO in writing of the 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. 9.59 of Chapter 9. The

candidate concerned should immediately cease to publish any EA which contains the support of the person or organisation who has made the revocation.
[Amended in June 2012 and June 2016]

18.16 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 constituency, his/her election agent, an elector of the constituency concerned and the person or body to whom or which the false information is related.

Inciting Another Person Not to Vote or to Cast Invalid Vote by Activity in Public

18.17 A person engages in illegal conduct if he/she carries out any activity in public during the election period that incites⁶³ another person not to vote or to cast an invalid vote, and will be liable to a fine of \$200,000 and to imprisonment for 3 years. According to s 27A(5) of the ECICO, activity in public includes any of the following activities, whether or not the person carrying out the activity is in a public place while carrying out the activity:

- (a) any form of communication to the public, including speaking, writing, printing, displaying notices, broadcasting, screening and playing of tapes or other recorded material;
- (b) any conduct (not being a form of communication referred to in paragraph (a)) observable by the public, including actions and gestures and the wearing or display of clothing, signs, flags, emblems and insignia;

⁶³ Although wording such as “encourage” or “advocate”, etc. has been used in the criminal legislation under some common law jurisdictions in recent years, there is no difference in the concept expressed in that of “incite” under the common law. There have been precedents pointing out that “incite” included “urge, encourage, persuade”. The prosecution must prove the relevant intent, i.e. the defendant intends to make the person being incited to do the incited act.

- (c) the distribution or dissemination of any matter to the public.

[Ss 22(1) and 27A of the ECICO] *[Added in October 2021]*

18.18 It should be noted that in determining whether any activity in public incites another person not to vote or to cast an invalid vote, regard may be had to the contents of the activity, the intended audience of the activity and the circumstances in which the activity is carried out. Besides, it is a defence for a person who had lawful authority or reasonable excuse for doing the act to which the charge relates. [S 27A of the ECICO] *[Added in October 2021]*

PART IV : CORRUPT CONDUCT RELATING TO ELECTIONEERING AND VOTING

Bribery

18.19 A person engages in corrupt conduct at an election, if he/she acts to affect a person's voting preference by offering, soliciting or accepting an advantage [s 11 of the ECICO]. Voting preference covers voting for a particular candidate or particular candidates, not voting at an election and not voting for a particular candidate or particular candidates.

18.20 During the election period, candidates are advised to refrain from engaging in any financial dealing which may be perceived as having an influence on a person's voting preference. Besides, during the election period, any person should avoid engaging in any act that may be perceived as electoral bribery, such as attaching election leaflets of candidate(s) to leaflets of community activities on free medical check-up, free legal consultation or discounted meals, etc. for distribution. *[Added in June 2020 and amended in October 2021]*

Treating

18.21 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, it is a corrupt conduct at an election to solicit or accept any of such treating [s 12 of the ECICO].

18.22 Serving only non-alcoholic drinks at an election meeting will not be deemed as engaging in corrupt conduct mentioned in para. 18.21 above [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 11)

18.23 Where 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, the candidate, if present, 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 occasion for promoting the candidate may also be liable to 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. (See paras. 11.2 and 11.3 of Chapter 11, and s 23 of the ECICO) *[Amended in June 2012 and June 2016]*

18.24 It is an offence under s 12 of the ECICO for any candidate or any person to offer food, drink or entertainment to affect another person's voting preference. *[Amended in June 2012 and June 2016]*

Force and Duress

18.25 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]. *[Amended in June 2012]*

18.26 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 or Obstruction

18.27 Furthermore, a person engages in corrupt conduct if he/she, by means of deception, induces another person (or gets another person to induce a third person) not to vote at an election, or to vote or not to vote for a particular candidate or particular candidates at an election. Besides, a person also engages in corrupt conduct if he/she wilfully obstructs or prevents another person (or gets another person to obstruct or prevent a third person) from voting at an election. Engaging in the above corrupt conduct will be liable to a fine of \$500,000 and to imprisonment for 7 years. [Ss 6(1), 14 and 14(1A) of the ECICO] As a matter of fact, it is also an offence to aid, abet, incite or attempt the said offence. *[Added in June 2020 and amended in October 2021]*

Voting Offences

18.28 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 *[Amended in June 2012]*
 - (iii) to vote at an election more than once in the ECC; or *[Added in October 2021]*
- (e) to invite or induce another person to commit (b), (c) or (d) above.

[Ss 15, 16(1) and (2) of the ECICO]

Candidates must note that all their electioneering and canvassing activities must be conducted within the confines of the ECICO. While candidates may engage in activities to promote themselves or to provide assistance or facilitation for 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 at any time. *[Amended in June 2012 and June 2016]*

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

18.29 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 17.

PART VI : POWER OF COURT TO EXCUSE INNOCENT ACTS

18.30 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. For previous court's decisions regarding applications for the relief of election-related penalties and liabilities, please see para 9.75 of Chapter 9 for the relevant judgments. 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. *[Amended in October 2021]*

18.31 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. 17.32 of Chapter 17) 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 to the CEO the election return within a further period as specified by the CFI [s 40(1) and (2) of the ECICO]. *[Amended in June 2012]*

18.32 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]. *[Added in June 2012]*

18.33 When the candidate finds himself/herself in any of the situations set out in paras. 18.31 and 18.32 above, other than the situations where correction of errors or false statements is allowed under the relief arrangement in para. 17.38 of Chapter 17, it would be wise of him/her to make the application to the CFI and inform the REO as soon as possible. *[Amended in October 2007 and June 2012]*

PART VII : NON-COMPLIANCE WITH THE LAW AND SANCTION

18.34 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. *[Amended in June 2016]*

18.35 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.

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

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

18.38 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. 18.3 above, be disqualified:

- (a) from being nominated as a candidate for the election of, or from being elected as, the CE, a member of the LegCo or DC, or 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 5 years after the date of conviction, or from being nominated as an EC member for 5 years from the date of conviction, or from being registered as an ex-officio member of the EC within 5 years after the date of conviction [ss 5M, 9 and 18 of the Schedule to the CEEO].

[Amended in October 2007, January 2010, June 2012, June 2016 and October 2021]

18.39 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. *[Amended in October 2007]*

CHAPTER 19

NAMEDROPPING

PART I : GENERAL

19.1 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 written consent to the inclusion before the publication of the EA. Oral consent or retrospective written consent obtained after the publication of the EA does not comply with the legal requirements. *[Added in June 2020]*

19.2 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 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. *[Added in June 2020 and amended in October 2021]*

19.3 When a candidate publishes EA through online platforms, a person or an organisation may show his/her/its support to the candidate out of his/her/its own volition by indicating “like”, giving response or including his/her/its name, logo or pictorial representation in the EA published by the candidate. 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. *[Added in June 2020 and amended in October 2021]*

PART II : CLAIM OF SUPPORT

19.4 A candidate who uses the name, logo or a pictorial representation of a person or an organisation in any of his/her EAs as an indication of support from that person or organisation engages in illegal conduct if he/she fails to obtain **written consent** to the inclusion before the publication of the EA unless he/she has neither requested nor directed (nor authorised any person to request or direct) the inclusion of the aforesaid name, logo or pictorial representation in his/her EA. It should be noted that there were legal proceedings over disputes concerning candidates claiming to have the support of certain individuals or organisations in their EAs. Two such cases involving a DC ordinary election were handled by the CFI of the High Court. In one of the cases, a candidate sought the court's order to relieve him from the consequences of breaching the relevant law (HCMP 1321/2012) and the trial judge referred to the legal stipulations and pointed out in the judgment that:

“The crucial issue is not whether the Applicant actually had the support of these 52 supporters, but whether he had their written consent for the inclusion of their names as his supporters in his election advertisements prior to their dispatch.”

The order of relief was eventually not granted. In another case involving an election petition (HCAL 247/2020), the trial judge put forward in his judgment that:

“to qualify as a written consent mentioned in section 27(1A) of the ECICO, the consent has to be a single document expressing consent to include one's name, logo or pictorial representation in the advertisement. It cannot be a composite document with more than one document read together. It cannot be permitted to be inferred from a chain of correspondence or messages.”

Therefore, a consent of support, regardless of the number of individual(s) signing to give consent, has to be a single document rather than a composite document comprising multiple letters, documents or a chain of correspondence messages. The EAC has prepared a sample form for candidates to seek **consent of support** in writing from a person or an organisation. *[Amended in October 2021]*

19.5 Under the ECICO, **support** (支持), in relation to a candidate, includes the support for the policies or activities of the candidate. In the case that the content of an EA (where either the candidate has obtained the prior written consent mentioned above or the candidate has neither requested nor directed (nor authorised any person to request or direct) the inclusion of the name, logo or pictorial representation in his/her EAs) is 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 the person or organisation concerned has **consented in writing** to the inclusion of the modified name, logo, pictorial representation or content in the EA **before** such modification. [S 27(1), (1A), (1B) and (7) of the ECICO] Moreover, when including personal data⁶⁴ (which may include the name, logo or pictorial representation and/or the content) of a person in the EA, all practicable steps shall be taken to ensure that the personal data is correct and accurate. Otherwise, it may contravene the Data Protection Principle 2(1)⁶⁵ in Schedule 1 to the PD(P)O. *[Amended in June 2012, June 2020 and October 2021]*

(Please also refer to paras. 18.12 to 18.16 of Chapter 18.)

⁶⁴ S 2(1) of the PD(P)O provides that “personal data” means any data:

- (a) relating directly or indirectly to a living individual;
- (b) from which it is practicable for the identity of the individual to be directly or indirectly ascertained;
- and
- (c) in a form in which access to or processing of the data is practicable.

⁶⁵ 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 data is or is to be used.

19.6 It is not uncommon that a candidate publishes EAs through online platforms such as social networks or communication websites to promote his/her candidature. There may be cases that a person shows his/her support to the candidate 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 nor 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] *[Added in June 2020 and amended in October 2021]*

19.7 Oral consent or retrospective written consent obtained after the publication of the EA does **not** comply with the legal requirements. As set out in para. 19.4 above, a 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 candidates to seek **consent of support** in writing 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 towards 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 opposed to the candidate or any other person publishing or authorising the publication of the EA, will have the perception that the person(s) appearing in the EA support the candidate after seeing the pictorial representation. *[Amended in June 2012 and June 2016]*

19.8 It is important to note that it is still an offence even if such an EA contains a statement to the effect that the EA does not imply support by the person or organisation for a candidate or candidates[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 the purpose of promoting or prejudicing the election of the candidate or candidates [s 27(6) of the ECICO].

19.9 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 the office title of the supporter should not be mentioned in the candidate's EAs and campaign activities;
- (b) by a supporter with the mention of his/her office title (bearing no reference to the name of the organisation concerned) - in which case the consent should indicate whether the supporter consents to the mention of his/her office title(s) and the description of the title(s). If office title(s) is/are to be mentioned in an EA, the supporter and the candidate should take particular care to ensure that the usage of the information does not give a misleading impression that the candidate has obtained the support of the organisation(s) concerned.

For example, if an 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 that the EA is to be posted in the school or the building in which the person is serving, it will be desirable for the candidate to seek the relevant organisation’s prior written approval;

- (c) by a supporter with the mention of his/her office title and the name of the organisation concerned - in which case the candidate should ensure that the supporter has obtained the prior written approval of the organisation, in accordance with the organisation's internal rules and procedures or any established convention (e.g. approved by the governing body of the organisation or by a resolution of that organisation passed at a general meeting) for the candidate to use both the supporter's office title(s) and the name of the organisation. In case of doubt, the candidate or his/her supporter should consult the organisation concerned on the aforesaid internal rules and procedures. The candidate should be careful not to give the impression that he/she has obtained 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 the director, chairman or chief executive, etc. of the organisation concerned.

[Amended in June 2016 and October 2021]

19.10 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**.

19.11 Although confusion may be caused, consent may be given to 2 or more candidates even if they are competing in the same constituency. A consent given can be revoked. In case of revocation, in order to avoid dispute, it is advisable for the person or organisation revoking the consent to send a notice

of the revocation to the candidate concerned. 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. 9.59 of Chapter 9. *[Amended in June 2012, June 2016 and October 2021]*

19.12 After a revocation of consent is made, the candidate should handle with care and immediately cease to use 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 necessary⁶⁶, particularly if his/her consent of support has been 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. *[Amended in June 2016 and June 2020]*

19.13 If candidate A's name or photograph appears in an EA of candidate B to indicate support for candidate B, the issue of whether the expenditure incurred for the EA should be borne by candidate A will 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 the name and photograph 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

⁶⁶ Personal data should not be kept longer than is necessary for the fulfillment of the purpose for which the data is used.

consent of support from candidate A before using candidate A's names or photographs in his/her EAs [s 27 of the ECICO].

Scenario B

If candidate B wishes to publish the EA for promoting himself/herself and candidate A as well, he/she must obtain prior written authorisation from candidate A to act as candidate A's election expense agent and the expenses so incurred will have to be borne by candidate A and candidate B in equal or proportional shares as their respective election expenses, to be calculated according to their respective sizes.

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 candidate A and candidate B should seek written consent of support from each other before publishing the joint EA. *[Added in June 2012]*

19.14 It is not uncommon for candidates to put photographs with the appearance of other persons (which may include other candidates in the same election) in their EAs to show their past activities. However, electors may 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 persons in attendance, a caption specifying the particular nature of the event could be added underneath the photograph in such a way that, to any reasonable person (as opposed to the candidate or any other person publishing or authorising the publication of the EA), it will not imply, or likely to cause electors to believe, that the candidate has obtained the support of those persons appearing in the photograph. If the photograph is likely to cause electors to believe that the candidate has obtained the support of those persons appearing in the

photograph, prior written consent of support should be obtained by the candidate.

[Amended in June 2012 and October 2021]

19.15 To avoid misleading the electors to believe that a candidate has obtained support from a certain person, organisation, government agency or department when it 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.

19.16 According to the PD(P)O, any data (including images) relating to a living individual and from which it is practicable to ascertain the identity of the individual⁶⁷, constitutes personal data of the individual. The use of such images(s) without the consent of the person concerned for a purpose other than the original purpose of data collection, or for a purpose that is not directly related to the original purpose of data collection, constitutes infringement of personal data. Therefore, when using such image(s), candidates should 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 10**. *[Added in June 2012, amended in June 2016, June 2020 and October 2021]*

Written Consent

19.17 As stated in para. 19.4 above, a written consent cannot consist of several documents, nor can it be inferred from a chain of correspondence or messages. The EAC has prepared a sample form for candidates to seek **consent of support in writing from a person or an organisation**. After the publication in the Gazette of the notice specifying the period and place for the submission of nominations forms, the form of written consent will be available at the offices of

⁶⁷ For example, it can be an image with a caption, from which it is practicable for the identity of the individual in the image to be directly ascertained; or it can be an image with no caption and additional information, but it is practicable for the identity of the individual in the image to be indirectly ascertained (the individual in the image is generally recognised by the public).

the REO and the relevant RO and for download from the REO website. The form will also be provided to candidates upon their submission of nomination forms for the election. *[Amended in June 2012, June 2016, June 2020 and October 2021]*

19.18 Among the allegations and complaints received in the past, there were cases where the compliance of the law by a candidate had to be ascertained. Therefore, candidates are required to post the written consent for EAs onto the Candidate's Platform or Central Platform, or deposit with the relevant RO a copy of the written consent in the manner as set out in para. 9.59 of Chapter 9 [s 105(2) and (3) of the EAC (EP) (LC) Reg]. If consent has been revoked, candidates are 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. 9.59 of Chapter 9. Copies of the written consent and notice 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 a specified location. *[Amended in June 2012]*

Powers of the Court to Grant Relief

19.19 Under s 31 of the ECICO, if a candidate breaches any offences of illegal conduct due to inadvertence, an accidental miscalculation or any reasonable cause (and not due to bad faith), the candidate may apply to the CFI for an order exempting him/her from the criminal liability (for details please refer to Part VI of Chapter 18). For previous court's decisions regarding applications for the relief of election-related penalties and liabilities, please see para. 9.75 of Chapter 9 for the relevant judgments. *[Added in October 2021]*

Penalty

19.20 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. 18.3(b) and Part VII of Chapter 18. *[Amended in June 2012]*

CHAPTER 20

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

20.1 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 (“politically appointed officials”) 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 government staff (please refer to para. 8.6 of Chapter 8 for the definition of non-civil service government staff).

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].

[Amended in June 2012, June 2020 and October 2021]

PART II : PARTICIPATION IN ELECTIONEERING ACTIVITIES BY CIVIL SERVANTS

20.2 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 constituency or have extensive contacts with the public in a constituency are strongly advised not to accept appointment by a candidate in that constituency to be his/her agent and/or participate in electioneering activities in the constituency 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. *[Amended in October 2007, June 2012, June 2016 and October 2021]*

20.3 The guidelines set out in para. 20.2 above are equally applicable to the non-civil service government staff. *[Added in June 2016]*

PART III : ATTENDANCE OF PUBLIC FUNCTIONS BY CIVIL SERVANTS

On the Occasion of Being Invited

20.4 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”). *[Amended in June 2012]*

20.5 They should take such care when any person has publicly declared an intention to run for election in respect of a particular constituency or when the nomination commences, whichever is the earlier, up to the end of the polling day. *[Amended in June 2012]*

20.6 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.

[Amended in June 2012]

When Attending

20.7 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 constituency.

[Amended in June 2012]

20.8 The guidelines set out from paras. 20.4 to 20.7 above are equally applicable to the non-civil service government staff. *[Added in June 2012]*

PART IV : ATTENDANCE OF PUBLIC FUNCTIONS BY CANDIDATES

20.9 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 constituency.

[Amended in June 2012]

PART V : OFFICIALS UNDER THE POLITICAL APPOINTMENT SYSTEM

20.10 The term “civil servants” used in the earlier parts of this chapter does not include politically appointed officials. Politically appointed officials are political appointees and they may belong to or be affiliated with political organisations. Politically appointed officials have to comply with a “Code for Officials under the Political Appointment System”. *[Amended in July 2008 and June 2012]*

20.11 Politically appointed officials may, subject to the guidelines below, participate in election-related activities. *[Amended in July 2008]*

20.12 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. 5.16 in Chapter 5). *[Amended in July 2008 and June 2012]*

20.13 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. *[Amended in July 2008]*

CHAPTER 21

COMPLAINTS PROCEDURE

PART I : GENERAL

21.1 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 conducting public elections under the principles of openness, fairness and honesty.

21.2 A complaint against criminal, corrupt or illegal 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.

21.3 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.
[Added in June 2020]

21.4 If the complaint is substantiated, the EAC may, if necessary, make a censure in a public statement to enable the electors/ARs 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. *[Added in June 2020]*

PART II : TO WHOM A COMPLAINT MAY BE MADE

21.5 The EAC is an impartial, independent 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. *[Amended in June 2012 and June 2020]*

21.6 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 constituency 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).

[Amended in June 2012 and June 2020]

21.7 **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

21.8 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. *[Amended in June 2012]*

21.9 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. *[Amended in June 2012]*

21.10 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**. *[Amended in June 2016 and June 2020]*

PART IV : COMPLAINTS INSIDE A POLLING STATION

21.11 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 Deputy PRO or an Assistant PRO immediately;
- (b) if the matter is not resolved, or if the complainant still feels aggrieved or if his/her complaint is directed at the PRO, the Deputy PRO or an Assistant PRO, he/she should as soon as possible report the matter to the RO of the relevant constituency 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/AR 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.

21.12 The PRO or his/her Deputy PRO or Assistant PRO must record any complaint mentioned in para. 21.11(a) and (b) and any other complaints and enquiries concerning an elector/AR's data.

PART V : THE PROCESSING OF COMPLAINT

21.13 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.

21.14 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.

21.15 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].

21.16 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; *[Amended in October 2007]*
- (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].

21.17 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. *[Amended in June 2016]*

PART VI : ELECTORAL AFFAIRS COMMISSION'S REPORT ON COMPLAINTS

21.18 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

21.19 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. *[Amended in June 2012]*

PART VIII : SANCTION FOR FALSE COMPLAINT

21.20 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].

[Amended in October 2007]

APPENDICES

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> <p>(a) Nomination Form;</p> <p>(b) grid paper for the production of the “Introduction to Candidates” and the “Guide on Completion of Grid Paper”;</p> <p>(c) the form of “Request by a Candidate for a Legislative Council Geographical Constituency, a Legislative Council Functional Constituency or a District Council Constituency to Print Particulars relating to the Candidate on a Ballot Paper”;</p> <p>(d) the form of “Consent Form of a Prescribed Body in relation to the Request by a Candidate to Print its Particulars as Particulars relating to the Candidate on a Ballot Paper”; and</p> <p>(e) the form of “Intention to Display Election Advertisements at Designated Spots”.</p>
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> <p>(a) the duly completed Nomination Form; and</p> <p>(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”.</p>

In order to avoid the risk of invalidation of the nomination due to dishonoured cheques, candidates should submit the election deposit in cash or cashier order as far as practicable.

3. Apply to Hongkong Post for written approval of the 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 the postal requirements and from the REO on other matters as appropriate if in doubt; 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 when 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.
 - (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.

Any time before,
during or after
handing in
Nomination Form

(c) (i) Candidates who choose to post the electronic copy of the EAs 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 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 the publication of the first EA.** The Candidate’s Platform, as well as the attachments uploaded, should be maintained and kept by the candidate(s) till the end of the period during which copies of the “Return and Declaration of Election Expenses and Election Donations” (hereafter 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) Candidates who choose to post the electronic copy of the EAs and relevant information/documents onto the open platform maintained by the CEO or a person authorised by the CEO (“Central Platform”) for public inspection 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”.

The CEO will provide each candidate with a username and two sets of passwords **within 3 working days** upon receipt of the duly completed application and undertaking.

(d) Make available a copy of each of the EAs and relevant information/documents, including publication information, permission/consent of support in relation to the EAs, for public inspection **within 1 working day** after the

publication of the EA by:

- (i) posting an electronic copy of each of his/her EAs and relevant information/documents onto the Central Platform in accordance with the procedures set out in **Appendix 6**;
- (ii) posting an electronic copy of each of his/her EAs and relevant information/documents onto the Candidate's Platform and providing the CEO with the **electronic address** of the platform **at least 3 working days before the publication of the first EA (for details, please see Appendix 6)**;
- (iii) if it is technically impracticable to comply with (i) or (ii) above for EAs published through an open platform on the Internet (for example, when messages are exchanged on social network or communication websites on the Internet, such as Instagram, Twitter, Facebook, or blogs in a real-time interactive manner), posting a hyperlink of each of the EAs 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 dedicated social media page) 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 6**;
- (iv) providing 2 hardcopies of each of the EAs (or 2 identical full colour photographs/printouts/photocopies of each EA which cannot be practically or conveniently produced in actual form) and 1 hardcopy of information/documents in relation to the EA to the RO; or

- (v) providing 2 identical copies of a CD-ROM or DVD-ROM each containing the EAs and 1 hardcopy of information/documents in relation to the EA to the RO.

Candidates may make submission as required from time to time. Candidates should keep records of all relevant information/documents and the EAs uploaded onto the Central Platform or lodged with the RO.

7.
 - (a) Record all election expenses incurred and all election donations received.
 - (b) Keep all original invoices and receipts issued by the goods or service providers for each item of expenditure of \$500 or above.
 - (c) Issue a receipt to the donor for any non-anonymous donation of more than \$1,000 and keep a copy of the receipt. (Candidates 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 the election period

8. Appointment of Election Expense Agent(s):
 - (a) Lodge with the RO (or the CEO if the RO has not yet been appointed) “Authorization to Incur Election Expenses”.
 - (b) Each candidate may authorise 1 person or more as the election expense agents to incur election expenses on his/her behalf (at a prescribed amount specified by the candidate). A candidate **may** also authorise his/her election agent as an election expense agent. These agents can only incur election expenses upon authorisation by the candidate. It is important to note that the authorisation is not effective until it has been

received by the RO or the CEO (if the RO has not yet been appointed).

- (c) An election expense agent must be a person who has attained the age of 18 years.

Any time after handing in Nomination Form

9. Appointment of Election Agent:

- (a) Lodge with the RO a “Notice of Appointment of Election Agent”.

- (b) Each candidate can only appoint 1 election agent. An election agent has the authority to handle all affairs a candidate is authorised to handle under the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap 541D) for the purposes of the election, **except:**

(i) to sign the nomination form or make any declaration required 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 must be a holder of the Hong Kong Identity Card and has attained the age of 18 years.

Any time after handing in Nomination Form, but before the end of the Nomination Period

10. (a) If a candidate wishes to have his/her photograph and electoral message printed in the “Introduction to Candidates”, he/she should :

- (i) lodge with the RO a duly completed grid paper affixed with a colour photograph of the candidate which must be in a specified size and taken within the last 6 months; and
- (ii) provide 2 additional copies of the photograph identical to the one affixed to the grid paper with the candidate's name label affixed on the back.

(If a candidate does not submit the grid paper, the "Introduction to Candidates" will only show the name and the number/alphabet of the candidate , with the sentence "Relevant information has not been provided by the candidate" 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 Geographical Constituency, a Legislative Council Functional Constituency or a District Council Constituency to Print Particulars relating to the Candidate on a Ballot Paper";
 - (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 Form of a Prescribed Body in relation to

the Request by a Candidate to Print its Particulars as Particulars relating to the Candidate on a Ballot Paper”.

(If a candidate does not submit the duly completed form(s) of request and consent, if any, specified above, only his/her name and candidate number/alphabet will be printed on a ballot paper.)

Any time after handing in Nomination Form, but not later than 3 weeks before the polling day

11. Make a request to the CEO for the provision of 1 set of mailing labels in respect of electors’ addresses and/or a set of USB flash drives containing information of electors in the constituency in the Candidate Mailing Label System (“CMLS”) (Candidates or their election agents are required to sign the “Undertaking on the Use of Electors’ Information” when making the request).

(Note: Relevant information will be provided to validly nominated candidates. To protect the environment and respect the preferences of the electors, the CEO will not provide mailing labels in respect 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.)

Any time after handing in Nomination Form, but at least 7 days before the polling day

12. Lodge with the CEO the “Notice of Appointment of Polling Agents for a Polling Station not Situated in a Penal Institution” by hand, by post, by electronic mail or by facsimile transmission.
13. Lodge with the RO the “Notice of Appointment of Counting Agents” by hand, by post, by electronic mail or by facsimile transmission.
14. Lodge with the CEO the “Notice of Appointment of Polling Agent for a Dedicated Polling Station Situated in a Penal Institution (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 Penal Institution (other than a Maximum Security Prison)” to seek consent from 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. Similarly, 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 the end of the Nomination Period

15. Attend the lots drawing session held by the RO to determine the candidate numbers and the designated spots allocated for the display of EAs, 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. Receive from the RO a copy of the permission/authorisation for the display of EAs at designated spots allocated to the candidate (except for uncontested candidates who will not be allocated with designated spots).

17. Attend the briefing session for candidates (which will be conducted online).

After the end of the 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 constituency, if any).

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| Around 7 days after the end of the Nomination Period | 19. | Before the deadline specified by the REO, send the completed e-form of the text version of “Introduction to Candidates” (available on website) by e-mail to e-intro_to_can@reo.gov.hk for uploading onto the dedicated election website.

(If a candidate fails to submit the electronic file by the said deadline, his/her “Introduction to Candidates” will only include his/her name and candidate number/alphabet, with the sentence “Relevant information has not been provided by the candidate” printed in the appropriate space.) |
| Within 10 days after the end of the Nomination Period | 20. | Receive from the RO information about the election agents appointed by other candidates of the same constituency. |
| Around 14 days after the end of the Nomination Period | 21. | Check the ballot paper printing proof and verify the particulars relating to the candidate to be printed on the ballot paper. If a candidate or his/her election agent cannot perform the checking in person, the candidate may authorise a representative in writing to check the particulars concerned on the ballot paper printing proof on his/her behalf.

(If a candidate or his/her election agent/authorised representative does not perform the checking at the date and venue specified by the REO, the printing proof of the ballot paper will be printed without further notice.) |
| At least 10 days before the polling day | 22. | Receive notification from the RO of the time and place for the counting of votes. |
| Not later than 7 days before the polling day | 23. | Receive from the RO information regarding the delineation of the no canvassing zones and no staying zones for the polling stations (including the dedicated polling stations). |
| During the week before the polling day | 24. | Lodge with the CEO the “Notice of Appointment of Polling Agent for a Dedicated Polling Station Situated in a Penal Institution (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 Penal Institution (other than a Maximum Security Prison)” **only when** –

- (a) during the week before the polling day, 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 penal institution; 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. Notify Hongkong Post of the date of posting the postage-free election mail by submitting the “Notice of Posting of Election Mail” (in duplicate), and submit 3 specimens of unsealed election mail to the designated manager(s) of Hongkong Post for inspection and approval.

Send postage-free election mail before the deadline as specified by Hongkong Post

26. Post the postage-free election mail and present to Hongkong Post the “Declaration for Posting of Election Mail” (in duplicate). Furnish a copy of the election mail to 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 “Declaration of Secrecy” (a declaration of secrecy should be made by all candidates, their election agents, polling agents and counting agents).

Any time before the polling day

28. Lodge with the CEO or RO, as the case may be, the “Notice of Revocation of Appointment of Agent”, if any, by hand, by post, by electronic mail or by facsimile transmission.

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|---|---|
| On the polling day | 29. Attend and observe the poll and the count if so wishes, bringing along the “Declaration of Secrecy”. |
| | 30. If the “Notice of Appointment of Polling Agents for a Polling Station not Situated in a Penal Institution” and “Notice of Revocation of Appointment of Agent” are not submitted in manners specified in paras. 12 and 28 respectively, candidates or their election agents should lodge such notices with the relevant Presiding Officers (“PRO”) (except for the PROs at dedicated polling stations situated in penal institutions) in person. |
| | 31. If it is necessary to revoke the appointment of a polling agent for a dedicated polling station situated in a penal institution but the “Notice of Revocation of Appointment of Agent” is not lodged in manners specified in para. 28, the notice must be delivered to the CEO by hand, by electronic mail or by facsimile transmission |
| | 32. If the “Notice of Appointment of Counting Agents” and the “Notice of Revocation of Appointment of Agent” are not lodged in manners specified in paras. 13 and 28 respectively, candidates or their election agents must deliver the notices to the relevant PRO (or to the relevant RO if the counting agents are appointed for the central counting station) in person. |
| Within 3 working days after the polling day | 33. Post the corrected EA particulars onto the Candidate’s Platform or the Central Platform and place them next to the original version, together with the date of correction; or submit the “Notification of Corrected Information in relation to Election Advertisements” to the RO. |
| Within 10 days after the polling day | 34. Remove all EAs on display on government land/ property. |
| Within 2 weeks after the polling day | 35. Destroy the USB flash drives containing the CMLS, unused mailing labels(if any), and all electors’ information copied (candidates are advised to use a data erasure software to erase the information completely), and return the reply slip on “Confirmation of Destruction of CMLS in the USB Flash Drives and the Relevant Electors’ Information” to the REO. |

Before the statutory deadline for the submission of election returns as required under section 37 of the ECICO

(The REO will issue letters to inform candidates of the deadline for lodging election returns)

36. (a) Lodge with the CEO an election return setting out all election expenses incurred by the candidate and the election expense agents on his/her behalf and all election donations received by or on behalf of the candidate.

Candidates are required to submit an election return even if no election expenses have been incurred or no election donation has been received.

- (b) As required under section 37 of the ECICO, candidates should ensure that the election return is accompanied by invoices and receipts for each election expense of \$500 or more, copies of standard receipts issued to donors 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 election donations, anonymous donations of more than \$1,000 in value and election donations exceeding the limit of election expenses (see Chapter 17 of the Guidelines for details).
- (c) Candidates must make a 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 practising certificate.
- (d) Any candidate who is unable/fails to lodge the election return before the deadline may apply to the CFI for an order allowing him/her to lodge the election return within an extended period as specified by the CFI.
- (e) Any candidate who has submitted an election return and wishes to make amendments to the election return before the deadline may lodge with the CEO before the deadline a supplementary declaration stating the amendments and the relevant supporting documents (e.g. receipts) as appropriate.

- (f) Any candidate who wishes to correct any error or false statement in his/her election return (including any document accompanying his/her election return) after the deadline must apply to the CFI for an order allowing him/her to do so. Nevertheless, if the aggregate value of the error or false statement in the election return does not exceed the prescribed relief limit for election as stipulated in section 37A of the ECICO, the candidate may, upon receipt of notification from the CEO of the error and/or false statement in the election return, rectify the error or false statement in the election return within a specified period in accordance with the simplified relief arrangement for minor errors or false statements in section 37A of the ECICO (see paras. 17.36 to 17.41 of the Guidelines).

37. Eligible 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 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 public inspection under section 41 of the ECICO

38. Maintain the Candidate's Platform for public inspection of the EAs and relevant information/documents. If the hyperlink of a website on which an EA is published has been uploaded onto the Central Platform, candidates should ensure that 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.)

[Amended in July 2008, January 2010, June 2012, June 2016, June 2020 and October 2021]

**Specified Persons Eligible to Inspect
Registers for Geographical Constituencies
and Functional Constituencies**

(With effect from the 2022 voter registration cycle)

(I) Registers for Geographical Constituencies (“GCs”)

Registers	Specified Persons
(1) Omissions List for GCs	<p>(a) a person who is a subscriber to the Government News and Media Information System maintained by the Director of Information Services; or</p> <p>(b) a body or organisation that is incorporated, or is registered or exempt from registration, under any law of Hong Kong and—</p> <p style="padding-left: 40px;">(i) was provided an extract of the registers by the Electoral Registration Officer (“ERO”) for a purpose related to a previous election^{Note 1};</p> <p style="padding-left: 40px;">(ii) was represented by a validly nominated candidate at a previous election; or</p> <p style="padding-left: 40px;">(iii) has publicly declared an intention to arrange for any person (including a person yet to be specified) to stand as a candidate at a coming election^{Note 2}.</p>

Note 1 In relation to a register for GCs, “previous election” means—

- (a) the last Legislative Council (“LegCo”) general election that was held before the publication date;
- (b) any LegCo by-election for a GC that was held after the election mentioned in paragraph (a) and before the publication date;
- (c) the last District Council (“DC”) ordinary election that was held before the publication date; or
- (d) any DC by-election that was held after the election mentioned in paragraph (c) and before the publication date.

Note 2 In relation to a register for GCs, “coming election” means any of the following elections that is held within 1 year after the publication date—

- (a) a LegCo general election;
- (b) a LegCo by-election for a GC;
- (c) a DC ordinary election; or
- (d) a DC by-election.

Registers	Specified Persons
	<p>[S 10 of the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap 541A) (“EAC (ROE) (GC) Reg”)] (The relevant legislative provision has been enacted and published in the Gazette to take effect from 1 May 2022)</p>
<p>(2) Provisional Register for GCs</p>	<p>(a) a person who is a subscriber to the Government News and Media Information System maintained by the Director of Information Services; or</p> <p>(b) a body or organisation that is incorporated, or is registered or exempt from registration, under any law of Hong Kong and—</p> <p>(i) was provided an extract of the registers by the ERO for a purpose related to a previous election;</p> <p>(ii) was represented by a validly nominated candidate at a previous election; or</p> <p>(iii) has publicly declared an intention to arrange for any person (including a person yet to be specified) to stand as a candidate at a coming election.</p> <p>[S 13 of the EAC (ROE) (GC) Reg] (The relevant legislative provision has been enacted and published in the Gazette to take effect from 1 May 2022)</p>
<p>(3) Final Register for GCs</p>	<p>(a) a person who is a subscriber to the Government News and Media Information System maintained by the Director of Information Services; or</p> <p>(b) a body or organisation that is incorporated, or is registered or exempt from registration, under any law of Hong Kong and—</p>

Registers	Specified Persons
	<p>(i) was provided an extract of the registers by the ERO for a purpose related to a previous election;</p> <p>(ii) was represented by a validly nominated candidate at a previous election; or</p> <p>(iii) has publicly declared an intention to arrange for any person (including a person yet to be specified) to stand as a candidate at a coming election; or</p> <p>(c) at a coming election—</p> <p>(i) a person who is a validly nominated candidate for a LegCo constituency; or</p> <p>(ii) a person who is a validly nominated candidate for a DC constituency.</p> <p>[S 20 of the EAC (ROE) (GC) Reg] (The relevant legislative provision has been enacted and published in the Gazette to take effect from 1 May 2022)</p>

(II) Registers for Functional Constituencies (“FCs”)

Registers	Specified Persons
(1) Omissions List for FCs	<p><u>(A) For an omissions list containing entries of individual electors—</u></p> <p>(a) a person who is a subscriber to the Government News and Media Information System maintained by the Director of Information Services; or</p> <p>(b) a body or organisation that is incorporated, or is registered or exempt from registration, under any law of Hong Kong and—</p>

Registers	Specified Persons
	<p>(i) was provided an extract of the registers by the ERO for a purpose related to a previous election ^{Note 3};</p> <p>(ii) was represented by a validly nominated candidate at a previous election; or</p> <p>(iii) has publicly declared an intention to arrange for any person (including a person yet to be specified) to stand as a candidate at a coming election ^{Note 4}.</p> <p><u>(B) For an omissions list containing only entries of corporate electors—</u></p> <p>➤ any member of the public</p> <p>[S 25 of 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”)] (The relevant legislative provision has been enacted and published in the Gazette to take effect from 1 May 2022)</p>
(2) Provisional Register for FCs	<p><u>(A) For a provisional register containing entries of individual electors—</u></p> <p>(a) a person who is a subscriber to the Government News and Media Information System maintained by the Director of Information Services; or</p>

Note 3 In relation to a register for FCs, “previous election” means—

- (a) the last LegCo general election that was held before the publication date; or
- (b) any LegCo by-election for an FC that was held after the election mentioned in paragraph (a) and before the publication date.

Note 4 In relation to a register for FCs, “coming election” means any of the following elections that is held within 1 year after the publication date—

- (a) a LegCo general election; or
- (b) a LegCo by-election for an FC.

Registers	Specified Persons
	<p>(b) a body or organisation that is incorporated, or is registered or exempt from registration, under any law of Hong Kong and—</p> <ul style="list-style-type: none"> (i) was provided an extract of the registers by the ERO for a purpose related to a previous election; (ii) was represented by a validly nominated candidate at a previous election; or (iii) has publicly declared an intention to arrange for any person (including a person yet to be specified) to stand as a candidate at a coming election. <p><u>(B) For a provisional register containing only entries of corporate electors—</u></p> <ul style="list-style-type: none"> ➤ any member of the public <p>[S 29 of the EAC (ROE) (FCSEC) Reg] (The relevant legislative provision has been enacted and published in the Gazette to take effect from 1 May 2022)</p>
(3) Final Register for FCs	<p><u>(A) For a final register containing entries of individual electors—</u></p> <ul style="list-style-type: none"> (a) a person who is a subscriber to the Government News and Media Information System maintained by the Director of Information Services; or (b) a body or organisation that is incorporated, or is registered or exempt from registration, under any law of Hong Kong and— <ul style="list-style-type: none"> (i) was provided an extract of the registers by the ERO for a purpose related to a previous election;

Registers	Specified Persons
	<p>(ii) was represented by a validly nominated candidate at a previous election; or</p> <p>(iii) has publicly declared an intention to arrange for any person (including a person yet to be specified) to stand as a candidate at a coming election; or</p> <p>(c) a person who is a validly nominated candidate for an FC at a coming election.</p> <hr/> <p><u>(B) For a final register containing only entries of corporate electors—</u></p> <p>➤ any member of the public</p> <p>[S 38 of the EAC (ROE) (FCSEC) Reg] (The relevant legislative provision has been enacted and published in the Gazette to take effect from 1 May 2022)</p>

[Added in October 2021]

The Functional Constituencies and their Electors

<u>Item</u>	<u>Column 1</u> <u>Functional</u> <u>Constituency</u>	<u>Column 2</u> <u>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>(i) Hong Kong Fishermen Consortium;</p> <p>(j) Federation of Hong Kong Agricultural Associations.</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>

<u>Item</u>	<u>Column 1</u> <u>Functional</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
2.	Agriculture and fisheries functional constituency (<i>Cont'd</i>)	(18) Hong Kong Fishermen's Association. (19) Hong Kong Fishing Vessel Owners Association, Ltd. (20) Hong Kong Florists Association. (21) Hong Kong Graziers Union. (22) Hong Kong Liner & Gill Netting Fisherman Association. (23) Hong Kong Livestock Industry Association. (24) Hong Kong N.T. Fish Culture Association. (25) Hong Kong N.T. Poultry (Geese & Ducks) Mutual Association. (26) Hong Kong Netting, Cultivation and Fisherman Association. (27) Hong Kong Off-shore Fishermen's Association. (28) The Lam Ti Agricultural Credit Co-operative Society, Limited. (29) Lamma Island Lo Dik Wan Aquaculture Association. (30) Lau Fau Shan Oyster Industry Association, New Territories. (31) Ma Wan Fisheries Rights Association Ltd. (32) The Mui Wo Agricultural Products Marketing & Credit Co-operative Society, Ltd. (33) Mui Wo Fishermen Fraternity Society. (34) N.T. Oyster and Aquatic Products United Association. (35) The New Territories Chicken Breeders Association, Ltd. (36) The New Territories Fishermen Fraternity Association Ltd. (37) New Territories Florist Association, Ltd. (38) North District Florists Association. (39) Outlying Islands Mariculture Association (Cheung Chau). (40) Peng Chau Fishermen Association Ltd. (41) Quality Broiler Development Association. (42) Sai Kung (North) Sham Wan Marine Fish Culture Business Association. (43) Sai Kung Po Toi O Fish Culture Business Association. (44) Sai Kung Tai Tau Chau Fish Culture Business Association. (45) Sai Kung Tai Wu Kok Fishermen's Association. (46) The Sha Tau Kok Marine Fish Culture Association. (47) The Sha Tau Kok Small Long Liner and Gill Net Fishermen's Credit Co-operative Society, Unlimited. (48) The Shan Tong Vegetable Marketing Co-operative Society, Ltd. (49) Shatin Ah Kung Kok Fishermen Welfare Association. (50) Shatin Florists Association. (51) Shau Kei Wan Deep Sea Capture Fishermen's Credit Co-operative Society, Unlimited. (52) Shau Kei Wan Fishermen Friendship Association.

Item	Column 1 <u>Functional Constituency</u>	Column 2 <u>Electors</u>
2.	Agriculture and fisheries functional constituency (Cont'd)	<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> <p>(55) Tai O Fishermen (Coastal Fishery) Association.</p> <p>(56) The Tai O Sha Chai Min Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(57) The Tai Po Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(58) Tai Po Florists and Horticulturists Association.</p> <p>(59) The Tai Po Purse Seiner and Small Long Liner Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(60) The Tsuen Wan Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(61) The Tuen Mun Mechanized Fishing Boat Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(62) Tuen Mun Agricultural Association.</p> <p>(63) Tung Lung Chau Mariculture Association.</p> <p>(64) The Hong Kong Branch of the World's Poultry Science Association.</p> <p>(65) Yuen Long Agriculture Productivity Association.</p> <p>(66) Yung Shue Au Marine Fish Culture Business Association.</p> <p>(67) Tsing Yi Residents Association.</p> <p>(68) 荃灣葵青居民聯會(漁民組).</p> <p>(69) 荃灣葵青漁民會.</p> <p>(70) The Shau Kei Wan Stern Trawler Fishermen's Credit Co-operative Society, Unlimited.</p> <p>(71) Sustainable Ecological Ethical Development Foundation Limited.</p> <p>(72) N. T. North District Fishermen's Association.</p> <p>(73) Tai Po Off Shore Fishermen's Association.</p> <p>(74) Aberdeen Fisherwomen Association.</p> <p>(75) 香港新界本地農協會.</p> <p>(76) The Hong Kong Veterinary Association Limited.</p>
3.	Insurance functional constituency	Bodies that are insurers authorized or deemed to be authorized under the Insurance Ordinance (Cap 41).
4.	Transport functional constituency	<p>(1) Parking Management and Consultancy Services Limited.</p> <p>(2) Airport Authority.</p> <p>(3) Hong Kong Driver's Training Association.</p> <p>(4) The Association of N.T. Radio Taxicabs Ltd.</p> <p>(5) Autotoll Limited.</p>

<u>Item</u>	<u>Column 1</u> <u>Functional</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
4.	Transport functional constituency (<i>Cont'd</i>)	(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 Limited. (10) Chuen Lee Radio Taxis Association Ltd. (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 Company Limited. (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) HongKong 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.

Item	Column 1 <u>Functional</u> <u>Constituency</u>	Column 2 <u>Electors</u>
4.	Transport functional constituency (<i>Cont'd</i>)	(45) Hong Kong Taxi Owners' Association Limited. (46) The Hong Kong Liner Shipping Association. (47) H.K. Motor Car Driving Instructors' Association Limited. (48) Hong Kong Pilots Association Ltd. (49) Hong Kong Public & Maxicab Light Bus United Associations. (50) Hong Kong Public Cargo Working Areas Traders Association Ltd. (51) Hong Kong Scheduled (GMB) Licensee Association. (52) The Hong Kong School of Motoring Ltd. (53) Hong Kong Sea Transport and Logistics Association Limited. (54) The Hong Kong Shipowners Association Ltd. (55) Hong Kong Shipping Circles Association Ltd. (56) Hong Kong Shipping Industry Institute. (57) Hong Kong Logistics Management Staff Association. (58) The Hong Kong Stevedores Employers' Association. (59) Hong Kong Tele-call Taxi Association. (60) Hong Kong Tramways, Limited. (61) Hong Kong Transportation Warehouse Wharf Club. (62) The Hongkong & Yaumati Ferry Co., Ltd. (63) Hongkong International Terminals Ltd. (64) Institute of Advanced Motorists (Hong Kong) Limited. (65) Institute of Seatransport. (66) Institute of Transport Administration (Hong Kong, China). (67) Kowloon Fung Wong Public Light Bus Merchants & Workers' Association Ltd. (68) The Kowloon Motor Bus Company (1933) Limited. (69) Kowloon Motor Driving Instructors' Association Ltd. (70) The Kowloon PLB Chiu Chow Traders & Workers Friendly Association. (71) The Kowloon Taxi Owners Association Ltd. (72) Kowloon Truck Merchants Association Ltd. (73) Kwik Park Limited. (74) Lam Tin Wai Hoi Public Light Bus Association. (75) Lantau Taxi Association. (76) Lei Yue Mun Ko Chiu Road Public Light Bus Merchants Association Ltd. (77) Lok Ma Chau China—Hong Kong Freight Association. (78) Long Win Bus Company Limited. (79) Mack & Co. Carpark Management Limited. (80) Marine Excursion Association Limited. (81) Maritime Affairs Research Association Ltd. (82) MTR Corporation Limited. (83) Merchant Navy Officers' Guild—Hong Kong.

Item	Column 1 <u>Functional Constituency</u>	Column 2 <u>Electors</u>
4.	Transport functional constituency (Cont'd)	(84) Metropark Limited. (85) Mid-stream Holdings (HK) Limited. (86) Mixer Truck Drivers Association. (87) Modern Terminals Ltd. (88) N.T. San Tin PLB (17) Owners Association. (89) N.T. Taxi Merchants Association Ltd. (90) N.T. Taxi Owners & Drivers Fraternal Association. (91) N.W. Area Taxi Drivers & Operators Association. (92) New Lantao Bus Co., (1973) Ltd. (93) New Territories Cargo Transport Association Ltd. (94) New World First Bus Services Limited. (95) North District Taxi Merchants Association. (96) Organisation of Hong Kong Drivers. (97) Public and Private Light Buses Driving Instructors' Society. (98) The Public Cargo Area Trade Association. (99) Public Light Bus General Association. (100) The Public Omnibus Operators Association Ltd. (101) Public Vehicle Merchants Fraternity Association. (102) River Trade Terminal Co. Ltd. (103) Route 3 (CPS) Company Limited. (104) Sai Kung Taxi Operators Association Ltd. (105) CSX World Terminals Hong Kong Limited. (106) Serco Group (HK) Limited. (107) The "Star" Ferry Co., Ltd. (108) Sun Hing Taxi Radio Association. (109) Taxi Association Limited. (110) Taxi Dealers & Owners Association Ltd. (111) The Taxi Operators Association Ltd. (112) Transport Infrastructure Management Limited. (113) Tuen Mun Public Light Bus Association. (114) Tung Yee Shipbuilding and Repairing Merchants General Association Limited. (115) United Friendship Taxi Owners & Drivers Association Ltd. (116) Wai Fat Taxi Owners Association Ltd. (117) Wai Yik Hong Kong & Kowloon & NT Taxi Owners Association. (118) West Coast International (Parking) Limited. (119) Western Harbour Tunnel Co. Ltd. (120) Wilson Parking (Hong Kong) Limited. (121) Wing Lee Radio Car Traders Association Ltd. (122) Wing Tai Car Owners & Drivers Association Ltd. (123) Wu Gang Shipping Co. Ltd. (124) Xiamen United Enterprises (H.K.) Ltd. (125) School Buses Operators Association Limited. (126) Sun Ferry Services Company Limited.

Item	Column 1 <u>Functional</u> <u>Constituency</u>	Column 2 <u>Electors</u>
4.	Transport functional constituency (<i>Cont'd</i>)	(127) Shun Tak-China Travel Macau Ferries Limited. (128) Hong Kong Container Drayage Services Association Limited. (129) Hong Kong Kowloon & N.T. Grab-Mounted Lorries Association Limited. (130) Hong Kong Waste Disposal Industry Association. (131) HK Public-light Bus Owner & Driver Association. (132) Logistics Industry & Container Truck Drivers Union. (133) The Concrete Producers Association of Hong Kong Limited. (134) Hongkong Guangdong Boundary Crossing Bus Association Limited. (135) Tsui Wah Ferry Service Company Limited. (136) Quality Driver Training Centre Limited. (137) Public and Private Commercial Driving Instructors' Society. (138) Shun Tak-China Travel Ship Management Limited. (139) Cruise Ferries (HK) Limited. (140) Asia Airfreight Terminal Company Limited. (141) The Hong Kong Joint Branch of The Royal Institution of Naval Architects and The Institute of Marine Engineering, Science and Technology. (142) The Hongkong Salvage & Towage Company Limited. (143) The Institute of Chartered Shipbrokers, Hong Kong Branch. (144) Hongkong United Dockyards Limited. (145) Guangdong and Hong Kong Feeder Association Limited. (146) Hong Kong Right Hand Drive Motors Association Limited. (147) The Institute of the Motor Industry Hong Kong. (148) Hong Kong Vehicle Repair Merchants Association Limited. (149) Environmental Vehicle Repairers Association Limited. (150) The Hong Kong Taxi and Public Light Bus Association Limited. (151) Park Island Transport Company Limited. (152) Discovery Bay Road Tunnel Company Limited. (153) International Association of Transport Officers. (154) Hong Kong Express Airways Limited. (155) Hong Kong (Cross Border) Transportation Drivers' Association. (156) Hong Kong Logistics Association Limited. (157) Hong Kong Container Depot and Repairer Association Limited. (158) New World Parking Management Limited. (159) The Nautical Institute—Hong Kong Branch. (160) Worldwide Flight Services, Inc.

<u>Item</u>	<u>Column 1</u> <u>Functional</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
4.	Transport functional constituency (<i>Cont'd</i>)	(161) NT Taxi Operations Union. (162) Sun Star Taxi Operators Association. (163) Taxi & P.L.B. Concern Group. (164) Tai Wo Motors Limited. (165) Tuen Mun District Tourists and Passengers Omnibus Operators Association Limited. (166) Tsuen Wan District Tourists and Passengers Omnibus Operators Association Limited. (167) Yuen Long District Tourists and Passengers Omnibus Operators Association Limited. (168) Kowloon District Tourists and Passengers Omnibus Operators Association Limited. (169) Hong Kong District Tourists and Passengers Omnibus Operators Association Limited. (170) Sino Parking Services Limited. (171) Urban Parking Limited. (172) Greater Lucky (HK) Company Limited. (173) China Hongkong and Macau Boundary Crossing Bus Association Limited. (174) Ground Support Engineering Limited. (175) Cathay Pacific Services Limited. (176) Cathay Pacific Catering Services (H.K.) Limited. (177) LSG Lufthansa Service Hong Kong Limited. (178) Gate Gourmet Hong Kong, Limited. (179) ECO Aviation Fuel Services Limited. (180) Hong Kong Aircraft Engineering Company Limited. (181) China Aircraft Services Limited. (182) Dah Chong Hong – Dragonair Airport GSE Service Limited. (183) Jardine Air Terminal Services Limited. (184) Service Managers Association. (185) Driving Instructors Association. (186) The Chamber of Hong Kong Logistics Industry Limited. (187) New Horizon School of Motoring Limited. (188) Leinam School of Motoring Limited. (189) TIML MOM Limited. (190) Hong Kong Taxi Association. (191) Chung Shing Taxi Limited. (192) Hong Kong Air Cargo Carrier Limited. (193) Hong Kong Dumper Truck Drivers Association. (194) Shun Fung Motors Investment Management Company Limited. (195) Taxi Drivers and Operators Association. (196) Yiu Lian Dockyards Limited. (197) China Merchants Port Holdings Company Limited. (198) China Merchants Container Services Limited.

Item	Column 1 <u>Functional Constituency</u>	Column 2 <u>Electors</u>
4.	Transport functional constituency (Cont'd)	<p>(199) China Merchants Logistics Holding Hong Kong Company Limited.</p> <p>(200) China Merchants Energy Shipping (Hong Kong) Company Limited.</p> <p>(201) COSCO SHIPPING (Hong Kong) Co., Limited.</p> <p>(202) Cosco (H.K.) Shipping Co., Limited.</p> <p>(203) COSCO SHIPPING Container Line Agencies Limited.</p> <p>(204) COSCO SHIPPING International (Hong Kong) Co., Ltd.</p> <p>(205) China Travel Tours Transportation Services Hong Kong Limited.</p> <p>(206) Sky Shuttle Helicopters Limited.</p> <p>(207) Hong Kong-Zhuhai-Macao Bridge Shuttle Bus Company Limited.</p> <p>(208) Hong Kong & Macao International Airport Transportation Service Co. Limited.</p> <p>(209) Hong Kong International Airport Ferry Terminal Services Limited.</p> <p>(210) Ocean Shipbuilding & Engineering Limited.</p> <p>(211) China Ferry Terminal Services Limited.</p> <p>(212) Turbojet Shipyard Limited.</p> <p>(213) Hong Kong Association of Aircargo Truckers Limited.</p> <p>(214) Hong Kong Auto (Parts & Machinery) Association Limited.</p> <p>(215) China Aviation Express (Hong Kong) Limited.</p> <p>(216) Chu Kong Godown Wharf & Transportation Company Limited.</p> <p>(217) Chu Kong Transshipment & Logistics Company Limited.</p> <p>(218) Chu Kong Transportation (H.K.) Limited.</p> <p>(219) Chu Kong Agency Company Limited.</p> <p>(220) Cotai Chu Kong Shipping Management Services Company Limited.</p> <p>(221) Yuet Hing Marine Supplies Company Limited.</p> <p>(222) Chu Kong Group Shipyard Company Limited.</p> <p>(223) Dong An Marine Safety Equipment Trading Limited.</p> <p>(224) Fortune Ferry Company Limited.</p> <p>(225) Hong Kong Wing Hing Marine Engineering Company Limited.</p> <p>(226) China National Aviation Leasing Limited.</p> <p>(227) Yuantong Marine Service Co. Limited.</p> <p>(228) Wang Tak Engineering & Shipbuilding Company Limited.</p> <p>(229) The Motor Transport Company of Guangdong and Hong Kong Limited.</p> <p>(230) Weisheng Transportation & Enterprises Company Limited.</p>

<u>Item</u>	<u>Column 1</u> <u>Functional</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; and</p> <p>(l) Board of Governors of post secondary colleges registered under the Post Secondary Colleges Ordinance (Cap 320).</p> <p>(4) Registered teachers registered under the Education Ordinance (Cap 279).</p> <p>(5) Permitted teachers engaged in full-time employment in schools registered or provisionally registered under the Education Ordinance (Cap 279).</p>

<u>Item</u>	<u>Column 1</u> <u>Functional</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
5.	Education functional constituency (<i>Cont'd</i>)	<p>(6) Teachers and principals of schools entirely maintained and controlled by the Government.</p> <p>(7) Persons whose principal or only employment is that of full-time teaching with the following institutions—</p> <p>(a) technical institutes, industrial training centres or skills centres established under the Vocational Training Council Ordinance (Cap 1130);</p> <p>(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);</p> <p>(ii) industrial training centres established under the Construction Industry Council Ordinance (Cap 587);</p> <p>(c) industrial training centres established under the Industrial Training (Clothing Industry) Ordinance (Cap 318);</p> <p>(d) Hong Chi Associations—Hong Chi Pinehill Integrated Vocational Training Centre;</p> <p>(e) Caritas Lok Mo Integrated Vocational Training Centre of Caritass—Hong Kong incorporated under the Caritass—Hong Kong Incorporation Ordinance (Cap 1092).</p> <p>(8) Registered managers of schools registered under the Education Ordinance (Cap 279).</p>
6.	Legal functional constituency	<p>(1) Members of The Law Society of Hong Kong entitled to vote at general meetings of the Society; and</p> <p>(2) Members of the Hong Kong Bar Association entitled to vote at general meetings of the Association; and</p> <p>(3) Legal officers within the meaning of the Legal Officers Ordinance (Cap 87); and</p> <p>(4) Persons appointed under section 3 of the Legal Aid Ordinance (Cap 91); and</p> <p>(5) Persons deemed to be legal officers for the purpose of the Legal Officers Ordinance (Cap 87) by section 75(3) of the Bankruptcy Ordinance (Cap 6) or section 3(3) of the Director of Intellectual Property (Establishment) Ordinance (Cap 412); and</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>

<u>Item</u>	<u>Column 1</u> <u>Functional</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
7.	Accountancy functional constituency	Certified public accountants registered under the Professional Accountants Ordinance (Cap 50).
8.	Medical and health services 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> <p>(3) Chiropractors registered under the Chiropractors Registration Ordinance (Cap 428).</p> <p>(4) Nurses registered or enrolled or deemed to be registered or enrolled under the Nurses Registration Ordinance (Cap 164).</p> <p>(5) Midwives registered or deemed to be registered under the Midwives Registration Ordinance (Cap 162).</p> <p>(6) Pharmacists registered under the Pharmacy and Poisons Ordinance (Cap 138).</p> <p>(7) Medical laboratory technologists registered under the Medical Laboratory Technologists (Registration and Disciplinary Procedure) Regulations (Cap 359 sub. leg. A).</p> <p>(8) Radiographers registered under the Radiographers (Registration and Disciplinary Procedure) Regulation (Cap 359 sub. leg. H).</p> <p>(9) Physiotherapists registered under the Physiotherapists (Registration and Disciplinary Procedure) Regulation (Cap 359 sub. leg. J).</p> <p>(10) Occupational therapists registered under the Occupational Therapists (Registration and Disciplinary Procedure) Regulations (Cap 359 sub. leg. B).</p> <p>(11) Optometrists registered under the Optometrists (Registration and Disciplinary Procedure) Regulation (Cap 359 sub. leg. F).</p> <p>(12) Dental hygienists enrolled under the Ancillary Dental Workers (Dental Hygienists) Regulations (Cap 156 sub. leg. B).</p> <p>(13) Audiologists, audiology technicians, chiropodists (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>

<u>Item</u>	<u>Column 1</u> <u>Functional</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
8.	Medical and Health services functional constituency (<i>Cont'd</i>)	<ul style="list-style-type: none"> (a) Public hospitals within the meaning of the Hospital Authority Ordinance (Cap 113); (b) Hospitals within the meaning of the Private healthcare Facilities Ordinance (Cap 633) for each of which a licence under that Ordinance is in force; (c) Clinics maintained or controlled by the Government or The Chinese University of Hong Kong or by the University of Hong Kong; (d) Services subvented by the Government; and <p>(14) Chinese medicine practitioners who are members of any of the following bodies and entitled to vote at general meetings of the respective bodies—</p> <ul style="list-style-type: none"> (a) The Hong Kong Association of Traditional Chinese Medicine Limited; (b) International General Chinese Herbalists and Medicine Professionals Association Limited; (c) Sin-Hua Herbalists' and Herb Dealers' Promotion Society Limited; (d) Society of Practitioners of Chinese Herbal Medicine Limited; (e) The Hong Kong T.C.M. Orthopaedic and Traumatic Association Limited; (f) The Hong Kong Federation of China of Traditional Chinese Medicine; (g) Hong Kong Acupuncturists Association; (h) Hong Kong Chinese Herbalists Association Limited; (i) Association of Hong Kong & Kowloon Practitioners of Chinese Medicine, Limited; (j) Hong Kong Chinese Medicine Practitioners Association Limited; and <p>(15) Registered Chinese medicine practitioners registered under the Chinese Medicine Ordinance (Cap 549).</p>
9.	Engineering functional constituency	<ul style="list-style-type: none"> (1) Professional engineers registered under the Engineers Registration Ordinance (Cap 409); and (2) Members of the Hong Kong Institution of Engineers entitled to vote at general meetings of the Institution.
10.	Architectural, surveying, planning and landscape functional constituency	<ul style="list-style-type: none"> (1) Architects registered under the Architects Registration Ordinance (Cap 408). (2) Members of The Hong Kong Institute of Architects entitled to vote at general meetings of the Institute. (3) Landscape architects registered under the Landscape Architects Registration Ordinance (Cap 516). (4) Members of The Hong Kong Institute of Landscape Architects entitled to vote at general meetings of the Institute.

<u>Item</u>	<u>Column 1</u> <u>Functional</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
10.	Architectural, surveying, planning and landscape functional constituency <i>(Cont'd)</i>	<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>
11.	Labour functional constituency	Bodies that are trade unions registered under the Trade Unions Ordinance (Cap 332) of which all the voting members are employees.
12.	Social welfare functional constituency	Social workers registered under the Social Workers Registration Ordinance (Cap 505).
13.	Real estate and construction functional constituency	<p>(1) Corporate members of The Real Estate Developers Association of Hong Kong entitled to vote at general meetings of the Association.</p> <p>(2) Corporate members of The Hong Kong Construction Association, Limited entitled to vote at general meetings of the Association.</p> <p>(3) Corporate members of The Hong Kong E&M Contractors' Association Limited entitled to vote at general meetings of the Association.</p>
14.	Tourism functional constituency	<p>(1) Bodies that are travel agents holding licences as defined by section 2 of the Travel Agents Ordinance (Cap 218); and any of the following—</p> <p>(a) corporate members of the Travel Industry Council of Hong Kong entitled to vote at the Board of Directors of the Council;</p> <p>(b) corporate members of Hong Kong Association of China Travel Organisers Limited entitled to vote at the Executive Committee of the company;</p> <p>(c) corporate members of International Chinese Tourist Association Limited entitled to vote at the Executive Committee of the company;</p> <p>(d) corporate members of The Federation of Hong Kong Chinese Travel Agents Limited entitled to vote at the Executive Committee of the company;</p> <p>(e) corporate members of Hong Kong Outbound Tour Operators' Association Limited entitled to vote at the Executive Committee of the company;</p>

<u>Item</u>	<u>Column 1</u> <u>Functional</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
14.	Tourism functional constituency (Cont'd)	<ul style="list-style-type: none"> (f) corporate members of Hong Kong Association of Travel Agents Limited entitled to vote at the Executive Committee of the company; (g) corporate members of Hongkong Taiwan Tourist Operators Association entitled to vote at the Executive Committee of the Association; (h) corporate members of Hongkong Japanese Tour Operators Association Limited entitled to vote at the Executive Committee of the company; (i) corporate members of Society of IATA Passenger Agents Limited entitled to vote at the Executive Committee of the company; and <ul style="list-style-type: none"> (2) Bodies that are corporate members of The Board of Airline Representatives in Hong Kong entitled to vote at the Executive Committee of the Board. (3) Bodies that are corporate members of the Federation of Hong Kong Hotel Owners Limited entitled to vote at general meetings of the company.
15.	Commercial (first) functional constituency	Corporate members of The Hong Kong General Chamber of Commerce entitled to vote at general meetings of the Chamber.
16.	Commercial (second) functional constituency	Corporate members of The Chinese General Chamber of Commerce entitled to vote at general meetings of the Chamber.
17.	Commercial (third) functional constituency	Corporate members of the Hong Kong Chinese Enterprises Association entitled to vote at general meetings of the Association.
18.	Industrial (first) functional constituency	Corporate members of the Federation of Hong Kong Industries entitled to vote at general meetings of the Federation.
19.	Industrial (second) functional constituency	Corporate 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> <ul style="list-style-type: none"> (1) banks within the meaning of the Banking Ordinance (Cap 155). (2) restricted licence banks within the meaning of the Banking Ordinance (Cap 155). (3) Deposit-taking companies within the meaning of the Banking Ordinance (Cap 155).

Item	Column 1 <u>Functional Constituency</u>	Column 2 <u>Electors</u>
21.	Financial services functional constituency	(1) Exchange participants of a recognized exchange company. (2) Corporate members of The Chinese Gold & Silver Exchange Society entitled to vote at general meetings of the Society.
22.	Sports, performing arts, culture and publication functional constituency	(1) Corporate members of the Sports Federation & Olympic Committee of Hong Kong, China; and (2) Hong Kong Sports Institute Limited; and (3) Corporate members of the Hong Kong Publishing Federation Limited entitled to vote at general meetings of the company; and (4) Hong Kong Motion Picture Industry Association Limited. (5) Hong Kong Film Awards Association Ltd. (6) Association for Betterment of Hong Kong's Entertainment Industry in Mainland China Limited. (7) Federation of Hong Kong Filmmakers Limited. (8) Movie Producers and Distributors Association of Hong Kong Ltd. (9) Hong Kong Chamber of Films Limited. (10) Hong Kong Theatres Association Ltd. (11) 華南電影工作者聯合會. (12) International Federation of the Phonographic Industry (Hong Kong Group) Limited. (13) Music Publishers Association of Hong Kong Limited. (14) Hong Kong Recording Industry Alliance Limited. (15) Television Broadcasts Limited. (16) HK Television Entertainment Company Limited. (17) Fantastic Television Limited. (18) Hong Kong Commercial Broadcasting Company Limited. (19) Metro Broadcast Corporation Limited. (20) The Hong Kong Film Development Council. (21) The Hong Kong International Film Festival Society Limited. (22) Hong Kong Film & Television Association Limited. (23) Hong Kong Arts Development Council. (24) The Hong Kong Academy for Performing Arts. (25) West Kowloon Cultural District Authority. (26) The Hong Kong Philharmonic Society Limited. (27) Hong Kong Chinese Orchestra Limited. (28) Hong Kong Repertory Theatre Limited. (29) Chung Ying Theatre Company (HK) Limited. (30) Hong Kong Dance Company Limited. (31) The Hong Kong Ballet Limited. (32) Hong Kong Sinfonietta Limited.

<u>Item</u>	<u>Column 1</u> <u>Functional</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
22.	Sports, performing arts, culture and publication functional constituency (<i>Cont'd</i>)	(33) City Contemporary Dance Company Limited. (34) Zuni Icosahedron. (35) Hong Kong Arts Festival Society Limited. (36) China Federation of Literary and Art Circles Hong Kong Member Association Limited. (37) China Theatre Association Hong Kong Member Branch. (38) China Film Hong Kong Association Limited. (39) Chinese Musicians Association—Hong Kong Members Branch. (40) China Artists Association Hong Kong Chapter. (41) China Opera Performing Artists Hong Kong Association. (42) Chinese Dancre Association Hong Kong Member Branch. (43) China Photographers Association Hong Kong Member Branch. (44) China Calligraphers Association Hong Kong Member Branch. (45) China Literature and Art Critics Association Hong Kong Member Branch. (46) The Association of Chinese Culture of Hong Kong. (47) Hong Kong Culture Association Limited. (48) The Chinese Artists Association of Hong Kong. (49) Hong Kong Chinese Opera Promotion Association Limited. (50) Cantonese Opera Musician and Vocalist Association Limited. (51) HK Chinese Opera and Performing Arts Group Association. (52) Hong Kong Cantonese Opera Artists Club Limited. (53) Hong Kong Association of Cantonese Opera Scholars Limited. (54) Hong Kong Federation of Drama Societies. (55) Actors' Family Limited. (56) The Nonsensemakers Limited. (57) Tang Shu-Wing Theatre Studio Limited. (58) Shakespeare4All Company Limited. (59) Spring-Time Experimental Theatre Limited. (60) Perry Chiu Experimental Theatre Limited. (61) Performing Arts Asia Limited. (62) Composers and Authors Society of Hong Kong Limited. (63) Hong Kong Composers' Guild Limited. (64) Hong Kong Chinese Instrumental Music Association. (65) Hong Kong Association of Choral Societies. (66) Hong Kong Music Tutors Union. (67) Opera Hong Kong Limited. (68) Hong Kong String Orchestra Limited. (69) Global Symphony Orchestra Society Limited.

Item	Column 1 <u>Functional</u> <u>Constituency</u>	Column 2 <u>Electors</u>
22.	Sports, performing arts, culture and publication functional constituency (Cont'd)	(70) The Hong Kong Children's Choir. (71) Yip's Children's Choir Limited. (72) Allegro Singers. (73) Hong Kong City Chinese Orchestra. (74) Hong Kong Dance Federation Limited. (75) Association of Hong Kong Dance Organizations. (76) Hong Kong Dance Alliance Limited. (77) The Hong Kong Ballet Group Limited. (78) Hong Kong Dance Sector Joint Conference. (79) The Association of Hong Kong Youth Dancers. (80) Miranda Chin Dance (Mirandance) Company Limited. (81) Budlet Folk Dance Club. (82) Starwave Production. (83) Xiang Gang Mei Xie. (84) Chinese Ink Painting Institute Hong Kong. (85) Hong Kong Water Colour Research Society. (86) Hong Kong Lan Ting Society. (87) Hong Kong Culture and Art Promotion Association. (88) Hong Kong Art Researching Association. (89) Hong Kong Modern Ink Painting Society Co. Limited. (90) Hong Kong Oil Painting Research Society. (91) Hong Kong Artists Society. (92) The Hong Kong Art Club. (93) Chung Fung Art Club. (94) To-day's Chinese Art Association. (95) Ling Ngai Art Association. (96) Hong Kong Graphics Society. (97) 中國書協香港分會. (98) Hong Kong Chinese Calligraphy and Art Association. (99) China Hong Kong Institute of Calligraphy. (100) Calligraphy and Painting Study Association of Hong Kong Fukienese. (101) Hong Kong Association of Amateur Calligraphers. (102) Hong Kong Calligraphers' Association (103) Hong Kong International Calligraphy and Seal Cutting Society. (104) Hong Kong Hard Pen Calligraphists' Association. (105) Friends of Shizhai. (106) The Jiazi Society of Calligraphy. (107) The Photographic Society of Hong Kong. (108) The Chinese Photographic Association of Hong Kong. (109) Sea Gull Photographic Association Limited. (110) The Photographic Salon Exhibitors Association. (111) Grace Photographic Club. (112) Hong Kong Camera Club, Limited. (113) United Artist Photographic Association Limited.

Item	Column 1 <u>Functional</u> <u>Constituency</u>	Column 2 <u>Electors</u>
22.	Sports, performing arts, culture and publication functional constituency (Cont'd)	<p>(114) The Society of Worldwide Ethnic Chinese Photographers Limited.</p> <p>(115) The Hong Kong 35mm Photography Society, Limited.</p> <p>(116) The Hong Kong Miniature Cameras Photography Society.</p> <p>(117) Hong Kong CreArt Photographic Association Limited.</p> <p>(118) Overseas Chinese Photographers Association of Hong Kong.</p> <p>(119) The Art of Photography Association Limited.</p> <p>(120) The Federation of Hong Kong Writers.</p> <p>(121) The House of Hong Kong Literature Limited.</p> <p>(122) Hong Kong Writers Association Company Limited.</p> <p>(123) Hong Kong Society for Study of Poetry, Calligraphy and Couplet.</p> <p>(124) Hong Kong Literature Promoted Association.</p> <p>(125) 國際華文詩人協會.</p> <p>(126) Magicians' Association of Hong Kong.</p> <p>(127) Hong Kong & Macau Intangible Cultural Heritage Research Centre Limited.</p> <p>(128) Wing Lung Art.</p> <p>(129) Hong Kong Book Reviewers Association.</p> <p>(130) Hong Kong Film Critics Association Limited.</p> <p>(131) Hong Kong Literary Criticism Society Company Limited.</p> <p>(132) Oriental Education Alliance Limited.</p> <p>(133) Hong Kong International Music Festival Limited.</p> <p>(134) The Association of Zhuangzi Culture & Research of Hong Kong.</p> <p>(135) Hong Kong Cantonese Opera Chamber of Commerce Limited.</p> <p>(136) Jingkun Theatre Limited.</p>
23.	Import and export functional constituency	Corporate members of The Hong Kong Chinese Importers' and Exporters' Association entitled to vote at general meetings of the Association.
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> <p>(a) The Federation of Hong Kong Cotton Weavers;</p> <p>(b) The Federation of Hong Kong Garment Manufacturers;</p> <p>(c) Hong Kong Chinese Textile Mills Association;</p> <p>(d) The Hongkong Cotton Spinners Association;</p> <p>(e) Hong Kong Garment Manufacturers Association Ltd.;</p>

<u>Item</u>	<u>Column 1</u> <u>Functional</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
24.	Textiles and garment functional constituency (Cont'd)	(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.
25.	Wholesale and retail functional constituency	Corporate members of each of the following bodies entitled to vote at general meetings of the body— (1) Association of Better Business & Tourism Services. (2) Chinese Medicine Merchants Association Ltd. (3) Chinese Merchants (H.K.) Association Limited. (4) Chinese Paper Merchants Association Limited. (5) The Cosmetic & Perfumery Association of Hong Kong Ltd. (6) Eastern District Fresh Fish Merchants' Society. (7) Federation of Hong Kong Kowloon New Territories Hawker Associations. (8) The Federation of Hong Kong Watch Trades and Industries Ltd. (9) HK Vegetable Wholesaler Community. (10) Hong Kong and Kowloon Bamboo Goods Merchants Association Limited. (11) Hong Kong and Kowloon Electrical Appliances Merchants Association Ltd. (12) Hong Kong Electro-Plating Merchants Association Limited. (13) Hong Kong & Kowloon Fruit & Vegetable Employees & Employers Guild. (14) Hong Kong & Kowloon General Association of Liquor Dealers and Distillers. (15) Hong Kong and Kowloon Machinery and Instrument Merchants Association Ltd. (16) Hong Kong & Kowloon Marine Products Merchants Association Ltd. (17) Hong Kong & Kowloon Plastic Products Merchants United Association Limited. (18) The Hong Kong & Kowloon Provisions, Wine & Spirit Dealers' Association Limited. (19) Hong Kong and Kowloon Rattan Ware Merchants Association (Wing-Hing-Tong). (20) Hong Kong & Kowloon Sauce & Preserved-Fruit Amalgamated Employers Association.

Item	Column 1 <u>Functional Constituency</u>	Column 2 <u>Electors</u>
25.	Wholesale and retail functional constituency (Cont'd)	<p>(21) Hong Kong & Kowloon Tea Trade Merchants Association Ltd.</p> <p>(22) Hong Kong & Kowloon Timber Merchants Association Limited.</p> <p>(23) Hong Kong & Kowloon Vermicelli & Noodle Manufacturing Industry Merchants' General Association Limited.</p> <p>(24) Hong Kong Art Craft Merchants Association, Ltd.</p> <p>(25) Hong Kong Dried Seafood and Grocery Merchants Association Limited.</p> <p>(26) Hong Kong Egg Merchants Association (Fung-Kwai-Tong).</p> <p>(27) Hong Kong Embroidery Merchants Association Limited.</p> <p>(28) Hong Kong Flower Retailers Association.</p> <p>(29) The Hong Kong Food Council Limited.</p> <p>(30) Hong Kong Fresh Fish Merchants Association.</p> <p>(31) Hong Kong Fur Federation.</p> <p>(32) Hong Kong Furniture & Decoration Trade Association Limited.</p> <p>(33) Hong Kong General Chamber of Pharmacy Limited.</p> <p>(34) Hong Kong Glass and Mirror Merchants and Manufacturers Association Company Limited.</p> <p>(35) Hong Kong Jewellers' & Goldsmiths' Association Limited.</p> <p>(36) The Federation of Hong Kong Footwear Limited.</p> <p>(37) The Hong Kong Medicine Dealers' Guild.</p> <p>(38) Hong Kong Metal Merchants Association.</p> <p>(39) Hong Kong Petroleum, Chemicals and Pharmaceutical Materials Merchants Association Ltd.</p> <p>(40) Hong Kong Photo Marketing Association Limited.</p> <p>(41) Hong Kong Piece Goods Merchants' Association.</p> <p>(42) Hong Kong Plastic Material Suppliers Association Ltd.</p> <p>(43) Hong Kong Plumbing and Sanitary Ware Trade Association Ltd.</p> <p>(44) Hong Kong Provision & Grocery General Commercial Chamber.</p> <p>(45) Hong Kong Record Merchants Association Ltd.</p> <p>(46) Hong Kong Rice Suppliers' Association Limited.</p> <p>(47) Hong Kong Retail Management Association Limited.</p> <p>(48) Hong Kong Yee Yee Tong Chinese Medicine Merchants Association Ltd.</p> <p>(49) The Hong Kong & Kowloon General Merchandise Merchants' Association Limited.</p> <p>(50) Kowloon Cheung Sha Wan Wholesale Vegetable Market (Importers) Recreation Club Limited.</p> <p>(51) Kowloon Fresh Fish Merchants Association Limited.</p>

<u>Item</u>	<u>Column 1</u> <u>Functional</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
25.	Wholesale and retail functional constituency (<i>Cont'd</i>)	<p>(52) The Kowloon Pearls, Precious Stones, Jade, Gold & Silver Ornament Merchants Association.</p> <p>(53) The Merchants Association of First Wholesalers/Jobbery of Imported Fresh Fruits & Vegetables Limited.</p> <p>(54) Mongkok Vegetable Wholesale Merchants Association Company Limited.</p> <p>(55) The Motor Traders Association of Hong Kong.</p> <p>(56) Nam Pak Hong Association.</p> <p>(57) Po Sau Tong Ginseng & Antler Association Hong Kong Ltd.</p> <p>(58) The Rice Merchants' Association of Hong Kong Limited.</p> <p>(59) Kowloon Fruit & Vegetable Merchants Association Limited.</p> <p>(60) The Hong Kong And Kowloon Electric Trade Association.</p> <p>(61) Hong Kong Poultry Wholesalers Association.</p> <p>(62) Diamond Federation of Hong Kong, China Limited.</p> <p>(63) Tobacco Association of Hong Kong Limited.</p> <p>(64) Hong Kong Chinese Prepared Medicine Traders Association Limited.</p> <p>(65) Hong Kong Chinese Medicine Industry Association Limited.</p> <p>(66) Hong Kong Chinese Patent Medicine Manufacturers' Association Ltd.</p>
26.	Technology and innovation functional constituency	<p>(1) State Key Laboratory of Emerging Infectious Diseases (The University of Hong Kong).</p> <p>(2) State Key Laboratory of Brain and Cognitive Science (The University of Hong Kong).</p> <p>(3) State Key Laboratory of Translational Oncology (The Chinese University of Hong Kong).</p> <p>(4) State Key Laboratory of Terahertz and Millimeter Waves (City University of Hong Kong).</p> <p>(5) State Key Laboratory of Agrobiotechnology (The Chinese University of Hong Kong).</p> <p>(6) State Key Laboratory of Ultraprecision Machining Technology (The Hong Kong Polytechnic University).</p> <p>(7) State Key Laboratory of Molecular Neuroscience (The Hong Kong University of Science and Technology).</p> <p>(8) State Key Laboratory of Marine Pollution (City University of Hong Kong).</p> <p>(9) State Key Laboratory of Research on Bioactivities and Clinical Applications of Medicinal Plants (The Chinese University of Hong Kong).</p> <p>(10) State Key Laboratory of Liver Research (The University of Hong Kong).</p>

<u>Item</u>	<u>Column 1</u> <u>Functional</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
26.	Technology and innovation functional constituency (<i>Cont'd</i>)	<ul style="list-style-type: none"> (11) State Key Laboratory of Synthetic Chemistry (The University of Hong Kong). (12) State Key Laboratory of Chemical Biology and Drug Discovery (The Hong Kong Polytechnic University). (13) State Key Laboratory of Environmental and Biological Analysis (Hong Kong Baptist University). (14) State Key Laboratory of Pharmaceutical Biotechnology (The University of Hong Kong). (15) State Key Laboratory of Digestive Disease (The Chinese University of Hong Kong). (16) State Key Laboratory of Advanced Displays and Optoelectronics Technologies (The Hong Kong University of Science and Technology). (17) Hong Kong Branch of National Engineering Research Center for Application Specific Integrated Circuit System. (18) Hong Kong Branch of National Engineering Research Center for Steel Construction. (19) Hong Kong Branch of National Rail Transit Electrification and Automation Engineering Technology Research Center. (20) Hong Kong Branch of National Precious Metals Material Engineering Research Center. (21) Hong Kong Branch of National Engineering Research Center for Tissue Restoration & Reconstruction. (22) Hong Kong Branch of Chinese National Engineering Research Center for Control & Treatment of Heavy Metal Pollution. (23) Hong Kong Institute of Science & Innovation, Chinese Academy of Sciences Limited. (24) Centre for Regenerative Medicine and Health, Hong Kong Institute of Science & Innovation, Chinese Academy of Sciences Limited. (25) Centre for Artificial Intelligence and Robotics, Hong Kong Institute of Science & Innovation, Chinese Academy of Sciences Limited. (26) Hong Kong Applied Science And Technology Research Institute Company Limited. (27) Logistics and Supply Chain MultiTech R&D Centre Limited. (28) The Hong Kong Research Institute of Textiles and Apparel Limited. (29) Nano and Advanced Materials Institute Limited. (30) Hong Kong Cyberport Management Company Limited. (31) Hong Kong Science and Technology Parks Corporation. (32) The Hong Kong Institute of Biotechnology Limited. (33) Hong Kong Productivity Council.

<u>Item</u>	<u>Column 1</u> <u>Functional</u> <u>Constituency</u>	<u>Column 2</u> <u>Electors</u>
26.	Technology and innovation functional constituency (<i>Cont'd</i>)	(34) Hong Kong Internet Registration Corporation Limited. (35) Hong Kong-Shenzhen Innovation and Technology Park Limited. (36) Automotive Platforms and Application Systems R&D Centre. (37) The Hong Kong Academy of Sciences. (38) Hong Kong Academy of Engineering Sciences. (39) The Hong Kong Young Academy of Sciences. (40) The Society of Hong Kong Scholars. (41) Internet Professional Association Limited. (42) Hong Kong Information Technology Joint Council Limited. (43) Hong Kong Computer Society. (44) Hong Kong Software Industry Association Limited. (45) Communications Association of Hong Kong Limited. (46) Hong Kong Society of Artificial Intelligence and Robotics Limited. (47) Hong Kong Biotechnology Organization. (48) HK Bio-Med Innotech Association Limited. (49) Hong Kong Data Centre Association Limited. (50) Hong Kong Federation of Innovative Technologies and Manufacturing Industries Limited. (51) Smart City Consortium Limited. (52) E-Commerce Association of Hong Kong Limited. (53) The Hong Kong Association for the Advancement of Science and Technology Limited. (54) Hong Kong Digital Entertainment Association Limited. (55) Esports Association of Hong Kong Limited. (56) The Hong Kong Electronic Industries Association Limited. (57) The Hong Kong Association for Computer Education. (58) eHealth Consortium Limited. (59) The Institution of Engineering and Technology Hong Kong. (60) Information Systems Audit and Control Association China Hong Kong Chapter Limited. (61) The Association for Computing Machinery, Hong Kong Chapter. (62) Cyberport Startup Alumni Association. (63) Hong Kong O2O E-Commerce Federation Limited. (64) Hong Kong Innovative Technology Development Association Limited. (65) The Chamber of Hong Kong Computer Industry Limited. (66) Hong Kong Electronic Sports Federation Limited. (67) The Hong Kong Institution of Engineers, Information Technology Division. (68) Hong Kong Public Key Infrastructure Forum Limited.

Item	Column 1 <u>Functional</u> <u>Constituency</u>	Column 2 <u>Electors</u>
26.	Technology and innovation functional constituency (Cont'd)	(69) Hong Kong Internet Service Providers Association Limited. (70) Hong Kong Life Sciences Society Limited. (71) Hong Kong Netpreneurs Association Limited. (72) Hong Kong Wireless Technology Industry Association Limited. (73) Hong Kong Information Technology Federation Limited. (74) British Computer Society (Hong Kong Section) Limited. (75) Professional Information Security Association Limited. (76) Information Security and Forensics Society. (77) Hong Kong Retail Technology Industry Association Limited.
27.	Catering functional constituency	Bodies that are holders of food business licences under the Public Health and Municipal Services Ordinance (Cap 132) and— (1) are entitled to vote at the Board of The Association for Hong Kong Catering Services Management Limited; (2) are entitled to vote at the Board of The Association of Restaurant Managers Limited; or (3) are entitled to vote at the Board of Hong Kong Catering Industry Association Limited.
28.	Hong Kong Special Administrative Region deputies to the National People's Congress, Hong Kong Special Administrative Region members of the National Committee of the Chinese People's Political Consultative Conference and representatives of relevant national organisations functional constituency	(1) Hong Kong Special Administrative Region deputies to the National People's Congress. (2) Hong Kong Special Administrative Region members of the National Committee of the Chinese People's Political Consultative Conference. (3) Hong Kong Special Administrative Region delegates of the All-China Women's Federation. (4) Hong Kong Special Administrative Region executive members of the All-China Federation of Industry and Commerce. (5) Hong Kong Special Administrative Region committee members of the All-China Federation of Returned Overseas Chinese. (6) Hong Kong Special Administrative Region committee members of the All-China Youth Federation. (7) Hong Kong Special Administrative Region directors of the China Overseas Friendship Association.

[Amended in June 2012, June 2016, June 2020 and October 2021]

Sectors and Subsectors of the Election Committee**FIRST SECTOR**

<u>Item</u>	<u>Subsector</u>	<u>Number of members</u> ^{Note}			<u>Total</u>
		<u>Number of ex-officio members</u>	<u>Number of members to be nominated</u>	<u>Number of members to be elected</u>	
1.	Catering	0	0	16	16
2.	Commercial (first)	0	0	17	17
3.	Commercial (second)	0	0	17	17
4.	Commercial (third)	0	0	17	17
5.	Employers' Federation of Hong Kong	0	0	15	15
6.	Finance	0	0	17	17
7.	Financial services	0	0	17	17
8.	Hotel	0	0	16	16
9.	Import and export	0	0	17	17
10.	Industrial (first)	0	0	17	17
11.	Industrial (second)	0	0	17	17
12.	Insurance	0	0	17	17

^{Note} Hong Kong Special Administrative Region (“HKSAR”) deputies to the National People’s Congress (“NPC”) and HKSAR members of the National Committee of the Chinese People’s Political Consultative Conference (“CPPCC”) may choose to register as an ex-officio member of a subsector (excluding the Members of the Legislative Council subsector, the religious subsector and the representatives of associations of Hong Kong residents in the Mainland subsector) other than the NPC and CPPCC subsector in accordance with section 5I(4) of the Schedule to the Chief Executive Election Ordinance (Cap 569). In such case, the number of ex-officio members of that subsector will increase while the number of members to be returned through election will reduce correspondingly. Within the same term of office of the Election Committee, the numbers of ex-officio members, members to be nominated and members to be elected of each subsector shall remain unchanged. Regarding the number of members to be elected for each subsector in the current Election Committee subsector ordinary elections, the notice published in the Gazette by the Chief Electoral Officer under section 4(3) of the Electoral Affairs Commission (Electoral Procedure) (Election Committee) Regulation (Cap 541I) shall prevail.

13.	Real estate and construction	0	0	17	17
14.	Small and medium enterprises	0	0	15	15
15.	Textiles and garment	0	0	17	17
16.	Tourism	0	0	17	17
17.	Transport	0	0	17	17
18.	Wholesale and retail	0	0	17	17
					300

SECOND SECTOR

<u>Item</u>	<u>Subsector</u>	<u>Number of members</u>			<u>Total</u>
		<u>Number of ex-officio members</u>	<u>Number of members to be nominated</u>	<u>Number of members to be elected</u>	
1.	Accountancy	0	15	15	30
2.	Architectural, surveying, planning and landscape	15	0	15	30
3.	Chinese medicine	0	15	15	30
4.	Education	16	0	14	30
5.	Engineering	15	0	15	30
6.	Legal	6	9	15	30
7.	Medical and health services	15	0	15	30
8.	Social welfare	15	0	15	30
9.	Sports, performing arts, culture and publication	0	15	15	30
10.	Technology and innovation	0	15	15	30
					300

THIRD SECTOR

<u>Item</u>	<u>Subsector</u>	<u>Number of members</u>			<u>Total</u>
		<u>Number of ex-officio members</u>	<u>Number of members to be nominated</u>	<u>Number of members to be elected</u>	
1.	Agriculture and fisheries	0	0	60	60
2.	Associations of Chinese fellow townsmen	0	0	60	60
3.	Grassroots associations	0	0	60	60
4.	Labour	0	0	60	60
5.	Religious	0	60	0	60
					300

FOURTH SECTOR

<u>Item</u>	<u>Subsector</u>	<u>Number of members</u>			<u>Total</u>
		<u>Number of ex-officio members</u>	<u>Number of members to be nominated</u>	<u>Number of members to be elected</u>	
1.	Members of the Legislative Council	90	0	0	90
2.	Heung Yee Kuk	0	0	27	27
3.	Representatives of associations of Hong Kong residents in the Mainland	0	27	0	27
4.	Representatives of members of Area Committees, District Fight Crime Committees, and District Fire Safety Committees of Hong Kong and Kowloon	0	0	76	76

	Representatives of members of Area Committees, District				
5.	Fight Crime Committees, and District Fire Safety Committees of the New Territories	0	0	80	80
					300

FIFTH SECTOR

<u>Item</u>	<u>Subsector</u>	<u>Number of members</u>			<u>Total</u>
		<u>Number of ex-officio members</u>	<u>Number of members to be nominated</u>	<u>Number of members to be elected</u>	
1.	Hong Kong Special Administrative Region deputies to the National People's Congress and Hong Kong Special Administrative Region members of the National Committee of the Chinese People's Political Consultative Conference	190	0	0	190
2.	Representatives of Hong Kong members of relevant national organisations	0	0	110	110
					300

[Added in October 2021]

**The Combined Polling Arrangements –
Polling Stations for Various Types of Electors
in a Legislative Council General Election**

1. A Legislative Council (“LegCo”) general election consists of elections of 10 geographical constituencies (“GCs”), 28 functional constituencies (“FCs”) and the Election Committee constituency (“ECC”).
2. Elections of GCs adopt the “double seats and single vote” voting system, i.e. there are 2 seats in each GC and each elector may vote for 1 candidate on the ballot paper. The 2 candidates who obtain the greatest numbers of votes will be returned as the LegCo members of the relevant GC. For FCs, the “first past the post” voting system applies. Electors for an FC may vote for candidates up to the number of seats to be elected for the relevant FC. Candidates who obtain the greatest numbers of votes shall be returned in the election. For the ECC, the “block vote” voting system is adopted, i.e. each elector shall vote for no more or no less than 40 candidates on the ballot paper. A ballot paper marked with more than or less than 40 choices will be considered invalid. The 40 candidates who obtain the greatest numbers of votes shall be returned in the election.
3. An elector can simply be an elector for a GC, whereas an individual elector in an FC must be a registered GC elector who has also been registered as an elector in the FC and remains qualified to be so registered. An elector for the ECC must be a member of the Election Committee (“EC”) and must also be a registered GC elector.
4. A person cannot be an elector for more than one of the FCs.
5. All electors for the 10 GCs are individual electors. Meanwhile, there are corporate electors in some of the 28 FCs. To vote in the relevant FC, a corporate elector must appoint an authorised representative (“AR”) to cast the vote on its behalf. An AR must be a GC elector (see para. 3.22 of Chapter 3). A person who is an AR of a corporate elector in one FC cannot be appointed as the AR of a corporate elector in another FC, but he/she can be an elector in another FC. Therefore, a person can be an elector in an FC and also an AR in another FC.
6. An elector needs to go to one polling station only to cast all the votes to which he/she is entitled. Under the combined polling

arrangements, 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 dedicated polling stations as appropriate. At the polling station or dedicated polling station, the number of ballot papers to be issued to an elector will be in accordance with his/her overall entitlement as a GC elector, an FC elector, an AR for an FC and/or an ECC elector. No separate polling stations will be designated for FCs, and hence FC electors and ARs will have to cast their votes at the polling stations designated for GCs. ECC electors will have to cast their votes at the polling station designated for the ECC.

7. A colour cardboard attached with a chop of the tick “✓” sign will be provided to an elector/AR when he/she is issued with one or more ballot papers. The colour coding will help check if all the ballot papers collected by the elector/AR have been put into the ballot boxes before he/she leaves the polling station. A **green** cardboard stands for 1 GC ballot paper only; a **red** cardboard for 1 GC ballot paper and 1 FC ballot paper; a **blue** cardboard for 1 GC ballot paper and 2 FC ballot papers; a **white** cardboard for 1 GC ballot paper and 1 ECC ballot paper; an **orange** cardboard for 1 GC ballot paper, 1 FC ballot paper and 1 ECC ballot paper; and a **purple** cardboard for 1 GC ballot paper, 2 FC ballot papers and 1 ECC ballot paper. The cardboard with the chop must be handed back to the polling staff manning the ballot boxes after the elector/AR has put his/her ballot papers into the ballot boxes before leaving the polling station.
8. 2 or 3 kinds of ballot boxes (as the case may be) in different colours will be provided in each polling station:
 - (a) ballot box for GCs;
 - (b) ballot box for FCs (combined); and
 - (c) ballot box for the ECC.
9. Overall, 6 scenarios may arise under the aforementioned polling arrangements. The scenarios are individually explained below, and then summarised in table form for easy reference.

THE 6 SCENARIOS**At a local GC polling station, the ECC polling station or a dedicated polling station:**

1. **A GC elector who is entitled to vote in respect of his/her GC only** — 1 GC ballot paper for the relevant GC. [The person shall insert his/her GC ballot paper into the GC ballot box.]
2. **An FC elector/AR** — 1 GC ballot paper for the relevant GC + 1 FC ballot paper. [The person shall insert his/her GC ballot paper into the GC ballot box and his/her FC ballot paper into the FC ballot box.]
3. **An FC elector who is also an AR of another FC** — 1 GC ballot paper for the relevant GC + 1 FC ballot paper + 1 FC ballot paper as an AR. [The person shall insert his/her GC ballot paper into the GC ballot box, and both his/her two FC ballot papers into the FC ballot box.]
4. **An ECC elector (i.e. a member of the EC)** — 1 GC ballot paper for the relevant GC + 1 ECC ballot paper. [The person shall insert his/her GC ballot paper into the GC ballot box, and his/her ECC ballot paper into the ECC ballot box.]
5. **An ECC elector who is also an FC elector** — 1 GC ballot paper for the relevant GC + 1 ECC ballot paper + 1 FC ballot paper. [The person shall insert his/her GC ballot paper into the GC ballot box, his/her ECC ballot paper into the ECC ballot box and his/her FC ballot paper into the FC ballot box.]
6. **An ECC elector who is also an FC elector and an AR of another FC** — 1 GC ballot paper for the relevant GC + 1 ECC ballot paper + 1 FC ballot paper + 1 FC ballot paper as an AR. [The person shall insert his/her GC ballot paper into the GC ballot box, his/her ECC ballot paper into the ECC ballot box and both his/her two FC ballot papers into the FC ballot box.]

The 6 Scenarios under the Polling Arrangements

Type of Elector/AR			No. of Ballot Papers Issued	Cardboard Issued
GC	FC	ECC		
Yes			1	Green
Yes	Elector or AR		2	Red
Yes	Elector and AR		3	Blue
Yes		Yes	2	White
Yes	Elector or AR	Yes	3	Orange
Yes	Elector and AR	Yes	4	Purple

[Amended in January 2010, June 2012, June 2016 and October 2021]

**Submission Method, Format and Standard for 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 requirement on public inspection of election advertisements (“EAs”) under s 105(2) of the Electoral Affairs Commission (Electoral Procedure) (Legislative Council) Regulation (Cap 541D) regarding the electronic submission of EAs, a candidate must post the following EA particulars as applicable, **within 1 working day**^{Note 1} after the publication of an EA, onto either an **open platform** maintained by the Chief Electoral Officer (“CEO”) (“Central Platform”) or one maintained by the candidate himself/herself or 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 dedicated social media page) where it is technically impracticable to produce an electronic copy of the EA [for example when messages are exchanged in a real-time interactive manner through social network or communication websites on the Internet such as Instagram, Twitter, Facebook, blogs, etc.];
- (c) printing/publication information pertaining to the EA including:
 - name and address of the producer/printer;
 - date of production/printing;
 - dimension/size;
 - manner of publication;
 - date of publication;

^{Note 1} A “working day” means any day other than a general holiday and 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.

- number of copies published; and
 - number of copies produced/printed
- as applicable;
- (d) an electronic copy of each 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 of each document giving consent of support.

Central Platform

2. If a candidate chooses to post the EA particulars onto the Central Platform, he/she must comply with the requirements set out in the ensuing paragraphs.

Submission Method

3. A candidate is required to apply to the CEO in a specified form for the creation of an account to access the Central Platform before posting the EA particulars onto the platform for public inspection. Each candidate can only create one account

4. The CEO will inform the candidate concerned upon the creation of the account and provide the candidate with a username and two sets of passwords (which can be changed subsequently by the candidate) **within 3 working days** after the application has been received. Afterwards, the candidate can access the platform by using the registered username and passwords.

5. EA particulars uploaded onto the platform at any one time by a candidate will be treated and referred to as one single submission. As long as the size of the file(s) does not exceed the limit as stated in para. 7 below, there is no restriction on the number of EAs or other documents to be attached in each submission. If subsequent correction to any submitted EA particulars is

required, the candidate must 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 will be displayed alongside for public inspection. The corrected 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 uploaded will be automatically generated and displayed on the computer screen for reference by the candidate after each successful submission. In addition, the acknowledgement of receipt will also be sent to the e-mail address and mobile phone number as specified on the application form for account creation.

File Size

7. The size of each file to be uploaded **must not exceed 50 MB (Megabyte)** or else the submission will be rejected.

8. Files attached to a submission may be compressed in the format of Zip (.zip), RAR (.rar) or GNU zip (.gz).

9. A file exceeding the above size limit will not be accepted. In such a case, the candidate may upload the EA particulars in separate files.

Format

10. Files attached to 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 should arrange to upload files (including text and video, etc.) onto the Central Platform to provide greater access for 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 chooses to maintain a platform of his/her own for the posting of EA particulars for public inspection, he/she must provide the electronic address of the platform to the CEO **at least 3 working days before the 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. Though candidates of different constituencies are allowed to use a common platform, they should ensure that their EA particulars should be presented in a way that will not cause confusion to the public inspection. The EA particulars posted onto the platform should be virus-free and should be arranged in descending order of the date of submission. The required printing/publication information should also be posted alongside the corresponding EA particulars. To maintain the consistency in design and 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 a candidate wishes to correct any uploaded EA particulars on 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. Candidates are not allowed to remove any EA particulars that have already been uploaded onto the platform, unless such removal is directed by the CEO, the EAC or the Court (as applicable) due to unlawful or non-EA related content/information. 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 inform the public about the removal of the EA and the reason for such removal. Other information/documents 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 on 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 Notes

17. EA particulars must conform to the requirements as set out above. Any electronic file containing images should have sufficient resolution to ensure that the content is both legible and readable.

18. Each candidate must be solely responsible for (and that the CEO has no responsibility to him/her or any third party for) the content/information of the EA particulars uploaded and posted onto the Central Platform, including hyperlinks to external websites. The CEO reserves the right to remove any of the EA particulars posted on the Central Platform containing unlawful, non-EA related or computer virus-affected content/information. In the event that the EA has to be removed due to computer virus contamination, the candidate will be informed to upload the relevant EA particulars onto the Central Platform again.

19. Candidates should observe all existing legal requirements on personal data privacy when uploading information onto the aforesaid platforms for public inspection. In particular, for 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) therein (if any), of the person(s) providing such permission/authorisation and/or consent of support before uploading them onto the platforms.

20. When posting a hyperlink of an EA onto the Central Platform or Candidate's Platform, candidates 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 public inspection pursuant to s 41 of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554)^{Note 3} to facilitate public inspection of the EAs.

[Added in June 2012, amended in June 2016, June 2020 and October 2021]

^{Note 3} Pursuant to s 41 of the Elections (Corrupt and Illegal Conduct) Ordinance, the CEO 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 (regardless of any relief granted by the CFI to candidates in certain circumstances).

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/Election Committee Constituency).
2. The name of the constituency should be shown on the candidate's platform.
3. The name(s) of the candidate(s) should be shown on the candidate's platform.
4. Once confirmed, the candidate number or alphabet should be shown on the candidate's platform.
5. The EA particulars (including the electronic copy, hyperlink, consent, permission or authorisation documents, etc. of the EA) 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 placed next to or under the original version.
8. Candidates are not allowed to remove any EA particulars that have already been uploaded onto the candidate's platform, unless such removal is directed by the CEO, the EAC or the Court (as applicable) due to unlawful or non-EA related content/information. 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 inform the public about the removal of the EA and the reason for such removal. Other information/documents 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 6 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, Hong Kong Identity Card Number(s) shown on the consent

form should be masked before it is/they are uploaded onto the candidate's platform.

11. Candidates should, where applicable, provide an email address and/or a telephone number on the platform for public enquiries and offer technical assistance when necessary.

Security Measures

1. The candidate's platform should be installed with firewall and/or an Intrusion Protection System to prevent intruder attacks.
2. All files should be properly scanned by anti-virus software before they are posted onto the candidate's platform.
3. To protect against data loss of the candidate's platform, backup exercises should be conducted on a regular basis.
4. The hyper-links to external websites should be checked regularly in order to ensure that they are up-to-date.
5. For more information and resources on online information security, please visit 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 have sufficient resolution to ensure that the content is both legible and readable.
3. The platform should be available in both English and Chinese, and the text should be readable and understandable. Suitable instructions should also be provided for easy navigation of the platform.
4. The candidate's platform should be easily accessible to persons with visual impairment as far as possible.

[Added in June 2012, amended in June 2016, June 2020 and October 2021]

候選人平台建議版面設計 Proposed Layout Design of a 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／選舉委員會界別)

20 XX* Legislative Council General Election/Legislative Council By-election (XX Geographical Constituency/ Functional Constituency/ Election Committee Constituency)

地方選區／選舉界別名稱 (註 1)

Name of Constituency (Note1): 香港島東 HONG KONG ISLAND EAST

候選人編號 Candidate No.: 1

候選人姓名 Name of Candidate: 陳大文 Chan Tai Man

選舉廣告詳情(依發布日期降序排列) Election Advertisement Particulars (in descending order according to the '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 Dimension/ Size	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)	發布的方式 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	15-11-20XX	A4	100	100	17-11-20XX	街頭派發 Distributed on street	AA 印刷公司 AA Printing Company	地址 Address	File1.jpg	-	-
2	-	橫額 Banners	11-11-20XX	1 米 x 2.5 米 1m x 2.5m	20	20	17-11-20XX	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	18-11-20XX	-	-	-	-	-	-	-	-	-	File2 (Revised).jpg	-	-
3	-	電子海報 Electronic posters	10-11-20XX	10Mb	1501	3	17-11-20XX	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 the corrected particular(s) will be shown.

* 請刪去不適用者。 Please delete as appropriate.

同意書 Consent

項目 Item	檔案 File	備註 Remark
1	Consent1.jpg	
2	Consent2.jpg	同意書已於 18-11-20XX 撤銷 Consent revoked on 18-11-20XX

[Added in June 2012 and amended in June 2016, June 2020 and October 2021]

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

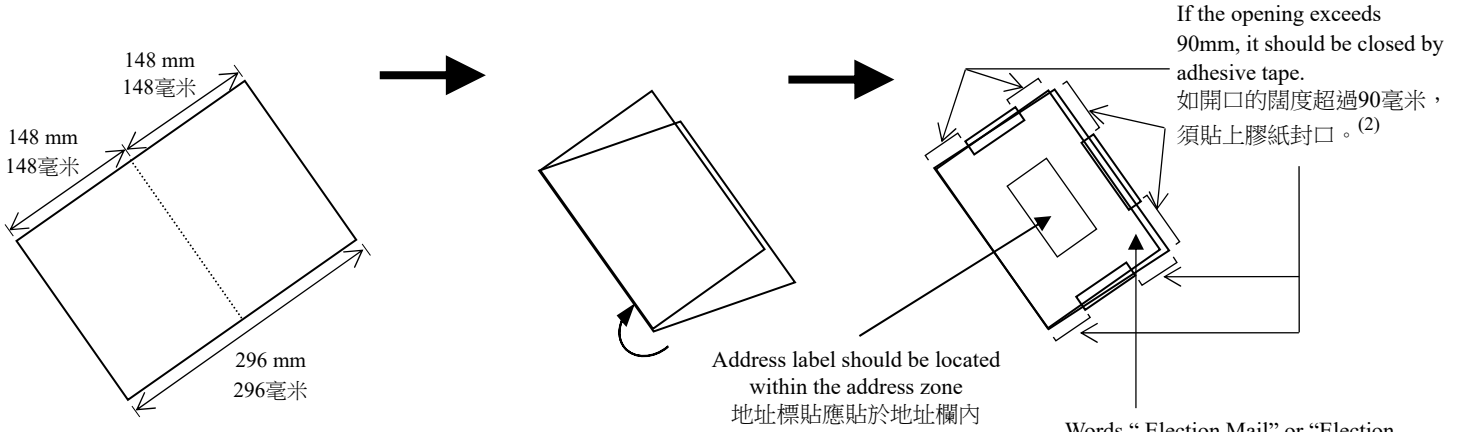


Figure 2 : Folder of A4 (296mm) size with 2 folds
圖示二：兩摺的A4（296毫米）尺寸紙張

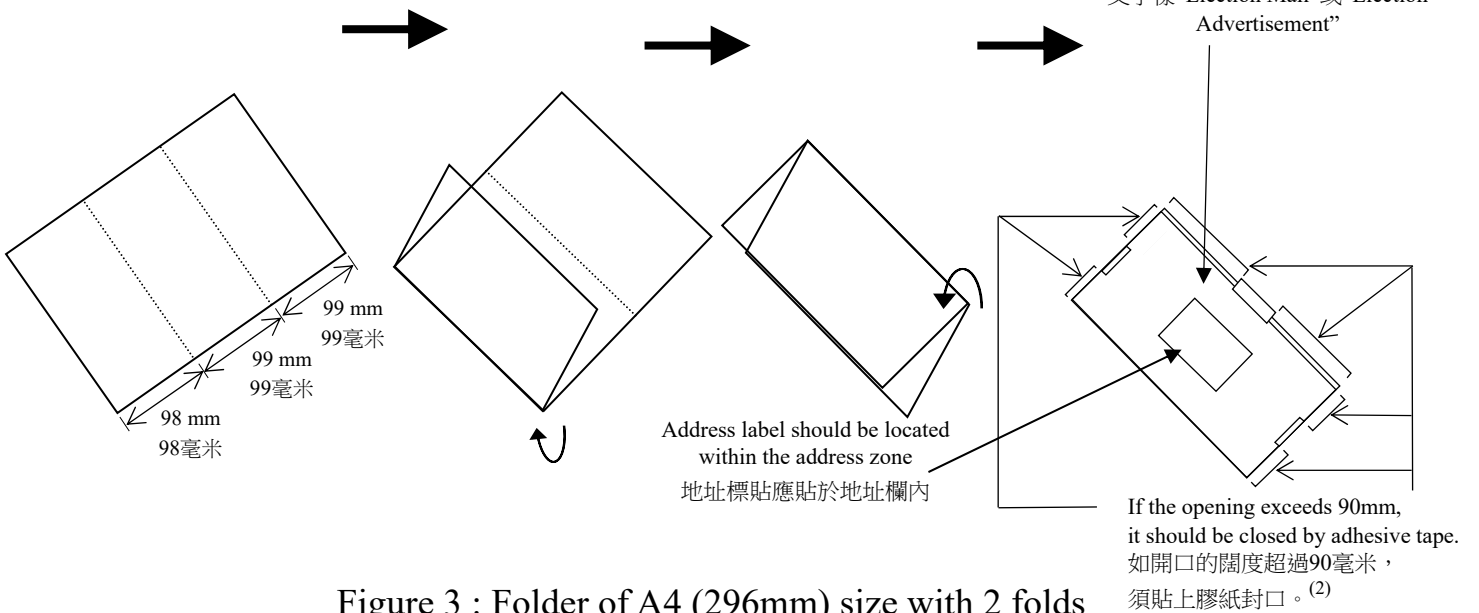
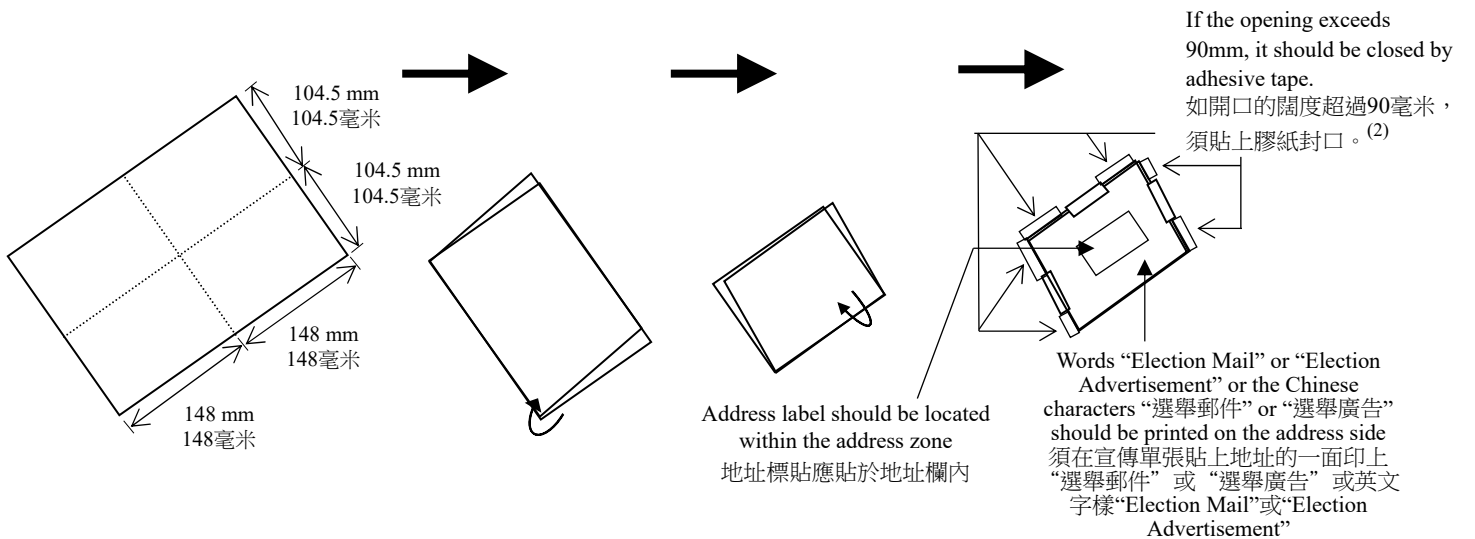


Figure 3 : Folder of A4 (296mm) size with 2 folds
圖示三：兩摺的A4（296毫米）尺寸紙張



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

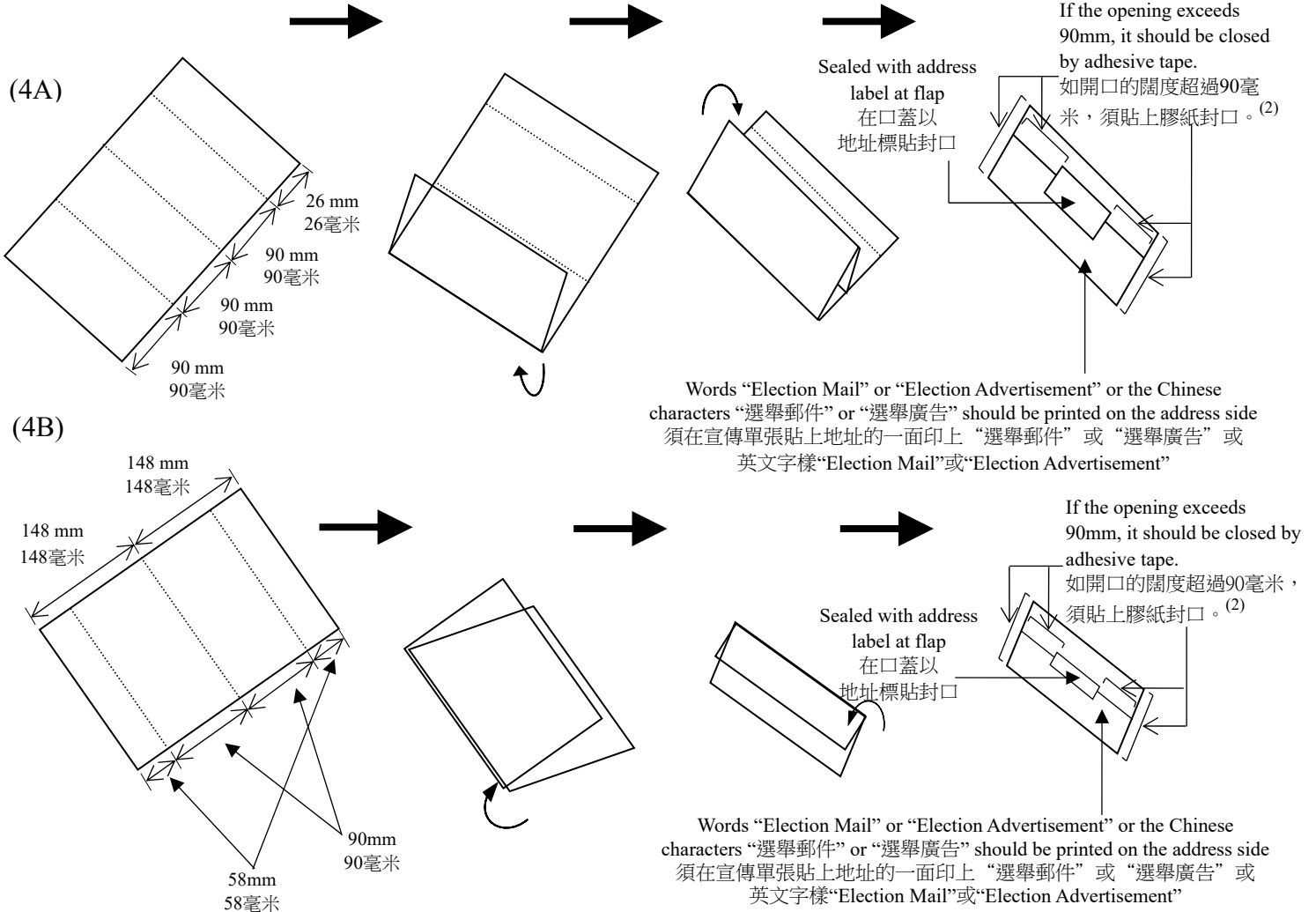
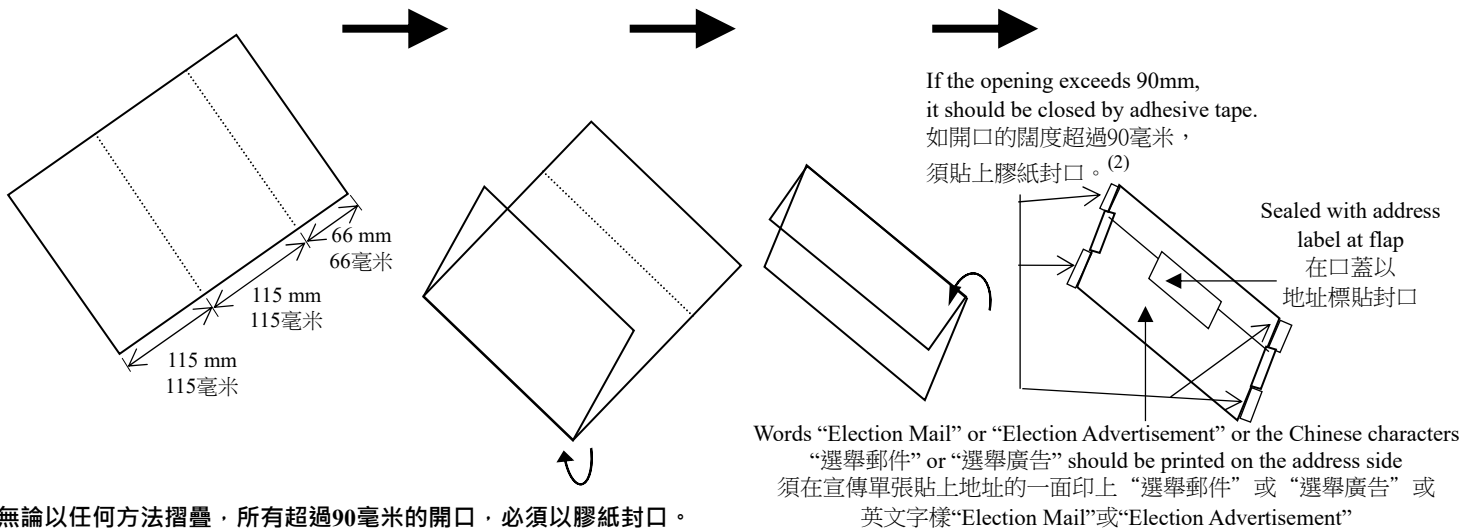


Figure 5 : Folder of A4 (296mm) size sealed with address label
圖示五：以地址標貼封口的A4（296毫米）尺寸紙張



(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. excluding the storey at the street level) in a building** (including residential 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 penal institutions). **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.

[Amended in October 2007, June 2012, June 2016 and June 2020]

**Conduct of Electioneering Activities and Election Meetings in
Premises under the Management of the Housing Department and
the Hong Kong Housing Society**

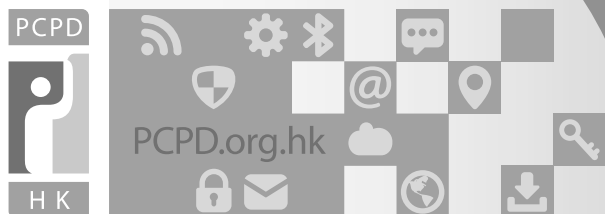
Validly nominated candidates must obtain **prior approval**^{Note} from an estate manager or officer-in-charge before conducting any electioneering activity or election meeting within a housing estate, in addition to compliance with regulations and conditions imposed by other relevant authorities. An **application** for approval **should be made at least 2 clear working days (excluding Saturday, Sunday or public holiday) before the date of the proposed election meeting/electioneering activity**, and the applicant will be notified as soon as practicable after a decision is arrived at. To avoid any conflict that may arise from allowing 2 or more candidates and their supporters to hold election meetings/electioneering 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 election meeting/electioneering 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 office;
- (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

^{Note} The Housing Department and the Hong Kong Housing Society stipulate that candidates must be validly nominated and submit relevant proof before they can apply for approval to conduct electioneering activities or election meetings within a housing estate. Upon approval from the Housing Department and the Hong Kong Housing Society, the validly nominated candidates will be allowed to commence their electioneering activities within the housing estate at the earliest on the day following the lots drawing session for candidates conducted by the Returning Officer.

- (d) the relevant estate office should send a copy of the letter of approval to the respective Returning Officer for record and for public inspection.

[Added in October 2007, amended in June 2020 and October 2021]



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.

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 1

A candidate of the District Council election collected feedback from members of the public on community affairs by distributing flyers. In the flyer, members of the public were requested to provide their names and contact details. However, there was no PICS in the questionnaire and some members of the public were worried about how their personal data would be used.

When the candidate solicited personal data directly from individuals (such as by distributing a flyer for filling in personal data), the candidate should have provided a PICS to the individuals so that they could decide whether their personal data should be provided.

Case 3

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".

Case 2

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.

Case 4

The complainant had been a member of a trade union for years. In a recent election, the complainant received a telephone call from the trade union canvassing votes for a candidate. The complainant stated that the trade union had never informed him that his personal data would be used for election purposes when he joined the union.

Upon the PCPD's enquiry, it was found that the latest version of the PICS in the membership application form had stated that the trade union would use the members' personal data for election purposes. However, the trade union did not provide the latest version of the PICS to those members who had their membership renewed. The PCPD thus requested the trade union to provide the latest version of the PICS to the members when they renewed their membership in future.

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

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.

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 5

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.

Case 6

The PCPD has received complaints against councillors for not respecting the residents' privacy, for example, by uploading photos or videos which contained close-up facial images of individuals involved in disputes in the neighbourhood, or by disclosing the full addresses of patients confirmed of having contracted epidemic diseases.

The PCPD understands that councillors or political bodies may from time to time report on the local affairs in the community through social media, upload photos to reflect actual situations, or provide information to residents for combatting pandemic. However, if the information contains an individual's facial image, full address or any other personal data, councillors should take into account the data subject's wish and feeling. Individual's privacy right should be respected when sharing information on topical affairs and incidents on the social media.

Disclosing personal data on social media

3.7 Social networks are rapidly evolving and developing. It is becoming common for political bodies, district councillors and community officers to provide information relating to the district to the residents and to stay connected with them through social media. Political bodies and district councillors must ensure that the personal data privacy of the residents is protected when sharing information that involves personal data.

Registers of Electors

- 3.8 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 (the prevailing amount is HK\$5,000) and to imprisonment for 6 months.
- 3.9 Besides, the PCPD noted that the Court of Appeal handed down a judgment on 21 May 2020 and a decision on 27 May 2020 regarding an appeal⁷ regarding the dismissal of an application for judicial review on whether the requirement of showing the names of the registered electors together with their principal residential addresses ("Linked Information") in the electoral registers for public inspection or provision to candidates is constitutional⁸. The Court of Appeal held, amongst others, that displaying the Linked Information of

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.

⁷ Junior Police Officers' Association of the Hong Kong Police Force and Anor (as the applicants) v Electoral Affairs Commission, Chief Electoral Officer, Electoral Registration Officer (as the respondents) Hong Kong Journalists Association (as the intervener) (CACV 73/2020, Date of Judgment: 21 May 2020).

⁸ In this appeal, the applicants challenged the constitutionality of section 20(3) of the Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap.541A) and Section 38(1) of the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap.541F) (together as "Impugned Provisions"). Under the Impugned Provisions, the Linked Information of a registered elector as recorded in the Final Register would be available (1) to the public for inspection at place(s) specified by the Electoral Registration Officer and (2) to the candidate(s) for the constituency to which the elector belongs.

List of “No”

electors in the electoral registers to an individual's right to privacy and is thus protected generally under Article 14 of section 8 in Part II of the Hong Kong Bill of Rights Ordinance⁹ (c.f. from Article 17(1) of the International Covenant on Civil and Political Rights). Hence, the requirement of displaying publicly the names and residential addresses of some individuals (for example victims of stalking or family violence) may cause a real risk of harm to them. As the ultimate guardian of the law, the Court of Appeal is obliged to consider if a proportionate balance is struck between the right of privacy and the right to vote (particularly the measures adopted in the current electoral system to achieve the transparent election aim)¹⁰. Nevertheless, the Court of Appeal also ruled that it is not its function to formulate electoral policy or to devise a particular electoral system. The PCPD suggests the candidates and stakeholders pay attention to the relevant election policy and amendment in law (if applicable) published by the Registration and Electoral Office in future¹¹.

- 3.12 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

- 3.13 When conducting election activities, candidates and their Agents should take all practicable steps to protect personal data of electors against accidental or unauthorised access¹³. 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.

Personal Data in Other Public Domains

- 3.10 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 expectation¹² of the data subjects.

Option to Decline

- 3.11 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.

Case 7

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).

⁹ Article 14 of section 8 in Part II of the Hong Kong Bill of Rights Ordinance (Cap. 383): (1) No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. (2) Everyone has the right to the protection of the law against such interference or attacks.

¹⁰ See paragraphs 95-96 of the judgment.

¹¹ This paragraph is updated as of 10 June 2020.

¹² 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).

¹³ 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.

Data Disposal

- 3.14 Personal data collected for election purposes should not be retained for a period beyond completion of all the election activities¹⁴. 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 processors¹⁵ 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 purposes¹⁶; and (ii) unauthorised or accidental access, processing, erasure, loss or use¹⁷.

Distributing or Providing Assistance in Purchasing Supplies

- 3.15 Political bodies and councillors may from time to time distribute supplies to the residents and they may collect the residents' personal data for identification purposes. Political bodies and councillors should respect the residents' privacy and comply with the Ordinance when collecting, using and retaining the residents' personal data.

Case 8

Political bodies, councillors and community officers provided assistance in purchasing anti-epidemic items through the internet or distributed anti-epidemic items to members of the public at roadside booths. This aroused a number of privacy concerns:

Case 8 (continued)

- 1) Even if there is a practical need for the organiser to collect personal data, for instance for the purposes of registration, compiling a waiting list, and collection or delivery of products, the organiser should collect the minimum amount of personal data in a lawful and fair manner¹⁸. As in the circumstances of shopping in the supermarket, providers of goods and services should not collect personal data that is unrelated to the transactions. Hence, the organiser should not collect data that is unrelated to and unnecessary for the transactions or delivery (for example, date of birth, income, family status, family members' personal data and identity card copy).
- 2) No matter whether the organiser collects personal data through paper or electronic form, the organiser should inform members of the public of the purpose of collection, the classes of transferees and whether it is obligatory or voluntary to supply the data¹⁹. The good practice is to provide a PICS to them.
- 3) The organiser should not use the personal data collected for other purposes without the data subjects' consent²⁰ (for example, for purposes other than the directly related purposes for which the data was collected, including marketing of commercial products or to advance political publicity)²¹. If the organiser intends to use the personal data collected for other purposes, the organiser should explain clearly to the data subject and seek the data subject's consent. The consent given by the data subject must be express and voluntary.

¹⁴ 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.

¹⁵ "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. Reference can be made to the information leaflet *Outsourcing the Processing of Personal Data to Data Processors* issued by the PCPD.

¹⁶ 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.

¹⁷ 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.

¹⁸ See footnote 2 and footnote 5.

¹⁹ See footnote 3.

²⁰ See footnote 6.

²¹ Except for those scenarios that are exempted under Part 8 of the Ordinance.

Case 8 (continued)

- 4) For the retention period of personal data, notwithstanding that the Ordinance does not require data users to inform data subjects of the retention period of personal data, data users are required to erase personal data that is no longer needed for the purpose for which the data is used²². Hence, the organiser should erase the personal data collected after distributing the supplies or providing the services (in other words, after fulfilling the purpose for which the data is used), in order to avoid potential data security problem.

4. Guidance for the Relevant Government Departments

Security Measures

- 4.1 In campaigns launched by government departments for the purpose of promoting elector registration or updating electors' particulars, such activities 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 parties²³. 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). The data should be returned to the office or delivered to a safe place for proper storage as soon as possible upon completion of the activities.
- 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 use²⁴. 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 volume of 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 commensurate with the quantity and sensitivity of the data should be adopted 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)²⁵.
- 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

²² See footnote 14.

²³ See footnote 13.

²⁴ See footnote 13.

²⁵ Reference can be made to the *Guidance on the Use of Portable Storage Devices* issued by the PCPD.

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.

- 4.5 The multiple transfers and storage venues for the election documents increased the risk and harm of losing the documents. For the purposes of monitoring and reviewing the implantation of the security measures, government departments should set up procedures in respect of proper recording of movements of electoral documents, retrieval systems and dossier reviews.

Case 9

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 names 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 (Privacy Commissioner) 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)²⁶ of the Ordinance. An enforcement notice was served on the government department to remedy and prevent recurrence of the contravention²⁷.

Case 10

A government department lost a marked final register of electors after an election. The register contained the unique and sensitive information about electors' identity card numbers and their polling statuses.

The Privacy Commissioner found that there were no specific guidelines or standing procedures as security standards for managing the marked final register. Its inventory and movements were not properly and adequately documented. There were no dossier reviews, and retrieval systems for storerooms were not put in place.

In addition, human errors in handling physical and tangible records of personal data could have been caused by overly long work hours, scarce resources, inexperienced or under-trained staff, etc. The Privacy Commissioner served an Enforcement Notice to direct the government department to remedy and prevent any recurrence of the contraventions.

- 4.6 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 3²⁸. In making such a determination, the exemptions provided in Part 8 of the Ordinance²⁹ 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 Ordinance³⁰.

²⁶ See footnote 13.

²⁷ The investigation report (R17-6249) is available on the PCPD website.

²⁸ See footnote 6.

²⁹ 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.

³⁰ See footnote 3.

- 5.2 For the purpose of gauging public views on candidates' approval ratings and the electors' voting preferences, public opinion research organisations need only the overall results of the survey and some macro parameters (for example, gender, age group, occupation categories, area of residence and income group). Hence, it is generally not necessary for the public opinion research organisations to indiscriminately collect the respondents' personal data (such as names, identity card numbers, telephone numbers and addresses). If data subjects are asked to provide these kinds of personal data for research purpose, they must check clearly the purpose of collection before considering to disclose such data, and should do so only on a well-informed and voluntary basis.

Case 11

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 was 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 was to be used, whether it was obligatory or voluntary for participants to provide the data, the classes of person to whom the data might be transferred, and their right to request access to a copy of their personal data and to request correction of the data.

Lawful and Fair Collection

- 5.3 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 data³¹.

Case 12

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; it 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.

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 Security

- 5.4 If collection of personal data is involved, organisers of opinion or mock polls should still safeguard personal data collected against accidental or unauthorised access by unrelated parties.³² When employing the

³¹ See footnote 5.

³² See footnote 13.

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.

Data Disposal

- 5.5 Organisers should not retain personal data collected in opinion or mock polls after completion of these activities³³. 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 3.14 above).

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 Ordinance³⁴. In case of doubts, enquiries should be made to the organisers.

- 6.7 If personal data is collected by political bodies in their activities such as distribution of or providing assistance in making purchases of supplies, the participants should ascertain whether the data collected will be used in subsequent elections. If the participants do not consent to such use, they should not provide their personal data.
- 6.8 Members of the public should not give up their personal data for small gains. Personal data belongs to the data subjects themselves. They are advised to be vigilant about protecting their own personal data. Before providing personal information through whatever channels, they should first read the PICS and the privacy policy, and get to know the other party's identity and background, as well as their purposes of collection, the classes of transferees and whether the other party is collecting excessive personal data, etc.
- 6.9 If members of the public believe that their personal data have been collected or used improperly, they can consider raising their queries and negotiating with the individuals or organisations concerned. If they are dissatisfied with the individuals' or organisations' response, they can complain to the PCPD.

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 notifications³⁵. In the unfortunate event of a data breach, data users should consider issuing notifications to lessen the harm caused by the breach.

The PCPD 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.

³³ See footnote 14.

³⁴ footnote 3.

³⁵ Reference can be made to the *Guidance on Data Breach Handling and the Giving of Breach Notifications* issued by the PCPD.



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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)
 June 2020 (Seventh 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 11 Part III 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 12 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 of Electors

6. Chapter 10 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.

[Amended in October 2007]

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 S4(17) application(s) to the Secretary for Home Affairs by the applicant, or the organisations named in 5(i) and 6(i) above, or any of the persons named in 5(iii) and 6(iii) above :

<u>Name of Applicant</u>	<u>Date of Application</u>	<u>Approved or Rejected</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

14. State here any additional information which the applicant wishes to provide in support of this application (e.g. reasons for requesting that the administrative guidelines or licensing conditions for the issue of permit be waived in whole or in part.)

I declare that to the best of my knowledge and belief, the information supplied by me in this form is true and correct.

Signed : _____
(Applicant)

(Chop of organisation, if applicable) Date : _____

* Delete where applicable

(If there is not enough space in this form for the filling in of the required information, the applicant may provide details on a separate sheet of paper and attach it to the form.)

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 in the same constituency in each relevant episode; and (b) the episode which will cover or has covered the candidate(s) who is/are not introduced in the current episode. Such an arrangement will ensure that the audience will be fully aware of the total number of candidates 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 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.

[Added in June 2012 and amended in October 2021]

Fair and Equal Treatment of Candidates by the Print Media

1. Fairness and equality will in each case be viewed by the Electoral Affairs Commission with reference to the surrounding circumstances.
2. Practical problems that may be experienced by publishers like limitation of column space and staff resources, and situations such as some candidates who have extensive arguments and opinions on issues of public relevance and those who have none, candidates who have made newsworthy statements or speeches as opposed to those who have not uttered a word, and the difference in status and standing of candidates as public figures, etc., are examples of circumstances against which the criteria of fairness and equality are to be judged.
3. What is important is that practical problems, in general terms without specifics, should not be allowed to be used as pretexts for not giving fair and equal treatment and coverage to all candidates competing in the same constituency. Merely saying that practical problems gave rise to the selective reporting will be viewed as a lame excuse, but if the other candidates had been approached and they refused to offer any interview, and this fact is made known in the same article, there can hardly be any suspicion or complaint that the guidelines have been breached.
4. Equal treatment and coverage are not necessarily equal space and equal number of words written on each candidate of the same 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 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 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. The guidelines do not seek to impose any shackle on the expression of such ideas.

[Amended in June 2012 and October 2021]

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
(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.

[Amended in June 2012]

**Items of Expenses to be
Counted towards Election Expenses**

(Note: This 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 election 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 the 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 used to express gratitude for electors' support after the election will not be counted as election expenses.)

4. Costs incurred for the 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 government departments should also be included.

5. Costs incurred by relevant authorities for the removal of EAs displayed without authorisation.
6. Costs incurred for renting office space for electioneering purposes. (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, an appropriate apportionment of the rentals paid should be declared in the candidate's election return and relevant invoices and receipts 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, an appropriate apportionment of the rentals paid should be declared in the candidate's election return and relevant invoices and receipts 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 expenses.)
9. Postage for the mailing of publicity materials.
10. Costs incurred for the hire of transport in connection with the election.
11. Costs of deploying vehicles for publicity. (Remarks: If a vehicle is lent to the candidate by any person(s) free of charge, the candidate should, apart from reporting the free goods or service as an election donation, declare the estimated market value of rental of similar vehicles in his/her election return.)
12. Costs of advertisements by means of the media, taxis or other public transport.
13. Costs for organising election meetings, including venue charges.
14. Costs of T-shirts, armbands, caps and other identification materials for election agents and assistants.
15. Costs incurred for refurbishing old publicity boards and the estimated value of the boards.

16. Costs incurred in the publication by a candidate during the election period (i.e. from the commencement of the nomination period to the day on which a declaration is made under s 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 the work done by the candidate in the capacity of:
- (a) the Chief Executive;
 - (b) a member of the Election Committee;
 - (c) a member of the LegCo, a District Council or the Heung Yee Kuk;
 - (d) the Chairman, Vice-chairman or a member of the Executive Committee of a Rural Committee; or
 - (e) 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. In addition, for the avoidance of doubt, costs of electioneering activities (e.g. campaign rallies) participated by an uncontested candidate after declaration of the election result in respect of his/her constituency to promote the election of 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 of an election (e.g. (a) where a candidate hires a lawyer to vet an election publicity pamphlet to make sure that there is no libellous content in the text; and (b) where a candidate engages a building professional to advise on or carry out building works for the 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 election campaign of a candidate. (For an interest-free loan, the interest waived should be declared as an election donation and should be correspondingly counted as election expenses. A reasonable amount should be determined after assessment with reference to

the market interest rate.)

20. Allowance for organising activities to promote one's candidature is a form of election donation which should be counted as election expenses (e.g. (a) an allowance paid to workers in the activities organised by political party(ies) for promoting the election of candidate and/or (b) the sponsorship made by the party(ies) for the said activities).
21. Although some people may not charge the candidate for the work or goods supplied and labour or services rendered (except voluntary services), the difference between the reasonable sum estimated for relevant charges and any allowance or discount generally available to customers is in itself an election expense (which should be correspondingly counted as an election donation made by these people).
22. Goods incidentally given to the provision of a voluntary service.
23. Costs for charitable activities organised to promote one's candidature.
24. Costs for any negative publicity launched against one's rival candidates.

[Amended in October 2007, June 2012, June 2016, June 2020 and October 2021]

Collection of Election Donations

1. Any person or organisation^{Note} (including a political party) acting as an agent for a candidate or candidates to solicit, receive or collect election donations is advised to:

- (1) have the prior consent/authorisation of the candidate(s);
- (2) set up a dedicated ledger account for receiving and handling election donations;
- (3) state the apportionment of donations between candidates or other parties if more than one candidate 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 in the case of donations received by the candidate(s) direct. For example, for donation of more than \$1,000, a receipt should be issued to the donor by the candidate concerned instead of the agent;
- (5) ensure that donors are clearly advised of the purpose(s)/use of their donations; and
- (6) apply for permission from the Secretary for Home Affairs if the donations are collected through fund-raising activities in a public place for non-charitable purposes.

2. On the other hand, though there is no prohibition against the solicitation of donations by a candidate on the behalf of a political party or any other organisation, he/she must make sure that the message conveyed is clear enough so that members of the public are well advised of the purpose and nature of the donation and that in no circumstances would they be misled to believe that the donation is solicited and used for the election of the candidates.

[Added in June 2016 and amended in October 2021]

^{Note} In this context, all costs incurred by any person or organisation in the course of rendering relevant service to the candidate(s) should be counted towards election expenses, and are therefore subject to the relevant requirements governing the authorisation of election expense agents as set out in Chapter 8. If the person renders his/her service to the candidate free of charge, voluntarily, personally 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 is, therefore, not required to include the costs of such service in his/her election expenses (this exemption does not apply to service(s) rendered by an organisation).

**Guidelines for Mutual Aid Committees
Participating in Electioneering Activities**

1. Chapter 19 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 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 MAC^{Note}, and signed by the incumbent Chairman of the MAC.

 - (b) If the support to a candidate 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 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, 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.

[Amended in June 2012 and October 2021]

^{Note} 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 that certain mail items 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 hence will be rejected. The list of items set out below is by no means exhaustive.)

For security reasons and to maintain good order and discipline in penal institutions, any election advertisement (“EA”) mailed to registered electors/ARs in the custody of the CSD will be subject to security check; an EA will be rejected if it falls within any of the following categories:-

Materials

- (a) metal or plastic materials;
- (b) laminated materials;
- (c) sharp objects; or
- (d) materials coated with powder-like substance.

Content/Information

- (a) on how to manufacture arms, ammunition, weapon, explosives, harmful or deleterious substance, intoxicating liquor or any dangerous drugs within the meaning of the Dangerous Drugs Ordinance (Cap 134);
- (b) that depicts, describes or encourages violence in the penal institutions, or the escape by any inmate/prisoner from the penal institutions;
- (c) that encourages gambling in the penal institutions, or adversely affects the rehabilitation of electors/ARs in the custody of the CSD;
- (d) that abets or induces electors/ARs in the custody of the CSD to commit offences enumerated in the Prison Rules (Cap 234A) or any other criminal offences;
- (e) that poses threat to any individual’s personal safety or to the security, good order and discipline of the penal institutions; or

(f) that is obscene/indecent.

Size & volume

- (a) items larger than A4 size; or
- (b) oversized items.

Remarks: For enquiries, please contact the Principal Officer (Penal Operations)3 of the CSD at 2582 4023.

Correctional Services Department

January 2015

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