

CHAPTER 1

INTRODUCTION

PART I : THE DISTRICT COUNCIL ELECTION

1.1 The District Councils (“DCs”) are constituted under the District Councils Ordinance (Cap 547) (“DCO”) for the purpose of advising the Government on district affairs and promoting recreational and cultural activities, and environmental improvements within the districts [s 61 of the DCO].

1.2 According to Schedule 1 to the DCO, there are 18 districts, and the area of each district is delineated in a map deposited in the office of the Director of Home Affairs. Schedule 2 provides that a DC should be established in each of the 18 districts. Schedule 3 sets out the composition of the 18 DCs.

1.3 With effect from 1 January 2016, each DC comprises elected members and, in the case of DCs in rural areas, the chairmen of Rural Committees as ex officio members. The term of office of an elected member is 4 years beginning on 1 January next following the ordinary election in which the member was elected [s 22(1) of the DCO]. An ordinary election will be held in each subsequent fourth year after the first ordinary election, which was held in 1999, and on a date specified by the Chief Executive (“CE”) [s 27 of the DCO]. A by-election will be held to fill a vacancy in the office of an elected member. However, no by-election is to be held within the 4 months preceding the end of the current term of office of the elected member [s 33 of the DCO].
[Amended in September 2007 and September 2015]

Governing Legislation

1.4 The DC elections are governed by the statutory requirements provided in 4 different ordinances, namely the DCO, the EACO, the Legislative Council Ordinance (Cap 542) (“LCO”) and the Elections (Corrupt and Illegal Conduct) Ordinance (Cap 554) (“ECICO”). *[Amended in September 2007]*

1.5 The DCO provides for the declaration of districts, the establishment, composition and functions of DCs, the declaration of constituencies, the procedures for election of persons to be members of DCs, and other related matters. The number of elected members to be returned to the 18 DCs is set out in s 5(1) of, and Part I of Schedule 3 to, the DCO. There are to be 452 DC constituencies for the 2019 DC Ordinary Election and each constituency is to return 1 elected member. Under s 6(1) of the DCO, the CE in Council may declare any area within a district to be a constituency for the purpose of an election to elect the members of the DC established for that district. *[Amended in September 2007, September 2011, September 2015 and September 2019]*

1.6 The EACO tasks the EAC with making recommendations regarding the delineation of DC constituencies for the DC election and demarcation of their boundaries. The EAC is also responsible for the conduct and supervision of the DC elections, and matters incidental thereto.

1.7 The LCO stipulates the qualification for registration as an elector. *[Added in September 2007]*

1.8 The ECICO prohibits election-related corrupt and illegal conduct and is administered by the Independent Commission Against Corruption (“ICAC”). *[Added in September 2007]*

1.9 These ordinances are complemented by 8 pieces of subsidiary legislation, which provide the detailed procedures for the conduct of the DC elections. *[Added in September 2007]*

1.10 The electoral procedures for conducting the DC elections are provided in the Electoral Affairs Commission (Electoral Procedure) (District Councils) Regulation (Cap 541F) (“EAC (EP) (DC) Reg”). *[Amended in September 2019]*

1.11 The Electoral Affairs Commission (Registration of Electors) (Legislative Council Geographical Constituencies) (District Council Constituencies) Regulation (Cap 541A) (“EAC (ROE) (GC) Reg”) sets out the procedures for registration of eligible persons as electors for the DC elections. *[Added in September 2007]*

1.12 The Electoral Affairs Commission (Nominations Advisory Committees (District Councils)) Regulation (Cap 541E) (“EAC (NAC) (DC) Reg”) stipulates the appointment and functions of the NACs and the procedures for seeking the NAC’s advice on the candidates’ eligibility for nomination for the DC elections. *[Added in September 2007]*

1.13 The District Councils (Subscribers and Election Deposit for Nomination) Regulation (Cap 547A) (“DC Subscribers & Deposit Reg”) sets out the requirements for subscription and the payment and return of election deposit for the DC elections. *[Added in September 2007]*

1.14 The Particulars Relating to Candidates on Ballot Papers (Legislative Council and District Councils) Regulation (Cap 541M) (“PCBP (LC & DC) Reg”) sets out the procedures for printing specified particulars relating to candidates on ballot papers for use in the DC elections. *[Added in September 2007]*

1.15 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 DC elections. *[Added in September 2007]*

1.16 The Maximum Amount of Election Expenses (District Council Election) Regulation (Cap 554C) sets out the maximum amount of election expenses that can be incurred by or on behalf of a candidate at a DC election. *[Added in September 2007]*

1.17 The District Councils (Election Petition) Rules (Cap 547C) sets out the procedures for lodgement of election petitions against the result of a DC election to the High Court. *[Added in September 2019]*

PART II : THE GUIDELINES

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

- (a) the conduct or supervision of or procedure at an election;
- (b) the activities of a candidate, an agent of a candidate or any other person assisting a candidate, or any other person;
- (c) election expenses;
- (d) the display or use of EAs or other publicity material; and
- (e) the procedure for making a complaint.

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

[Amended in September 2012 and September 2019]

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

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

PART III : SANCTION

1.22 Electors, candidates and their agents, government officials engaged in election-related duties, and other persons involved in election-related activities should read, familiarise themselves with, and strictly observe, the Guidelines. *[Amended in September 2019]*

1.23 The EAC is committed to ensuring that all elections are conducted openly, fairly and honestly. If it comes to know that any candidate or person is in breach of the Guidelines, apart from notifying the relevant authorities for actions to be taken, it may make a reprimand or censure in a public statement which will include the name of the candidate or person concerned and, where appropriate, other relevant parties (if any) to allow full disclosure of the relevant facts to the public. If the candidate, the person or persons concerned committed any offences under the electoral legislation, he/she will also bear criminal liability responsibility. *[Amended in August 2008 and September 2019]*